Responses to the January 4, 2012 USACE Request for Additional Information

DCP Searsport, LLC
Searsport LPG Terminal

January 12, 2012

USACE Application No.: NAE-2010-02347

Prepared for:

U.S. Army Corps of Engineers
New England District Regulatory Division
CENAE-R-51
696 Virginia Road
Concord, MA 01742-2751

400 Southborough Drive
South Portland, ME 04106

207.879.1930 PHONE
207.879.9293 FAX

www.TRCsolutions.com

January 12, 2012

Mr. Jay Clement
U.S. Army Corps of Engineers
Maine Project Office
675 Western Avenue, #3
Manchester, ME 04351

Dear Jay:

This letter provides the response of DCP Searsport, LLC, to your letter of January 4, 2012. Your letter notes that the Regulatory Division is carefully considering whether the placement of fill material within a stream and adjacent wetlands in connection with the Searsport LPG project is eligible for coverage under the Maine General Permit ("Maine GP"), and requests additional information with respect to specific items. We are happy to take this opportunity to address each of the items in your letter. As soon as you have had a chance to review this response, we would like to arrange to meet with you and District reviewers at the earliest opportunity to address any further questions.

The U.S Army Corps of Engineer's (USACE) use of the Maine GP is fully supported and appropriate in light of the minimal impacts to USACE jurisdictional waters and the strong public benefits that the project provides to the area. In particular, these benefits include meeting the State's growing need for additional LPG, which is an increasingly important component of Maine's clean energy mix. More than 26,000 Maine households heat with propane, and up to 90 million gallons of LPG are used per year in the state for industrial, commercial and residential heating. The need for additional LPG in Maine is expected to continue to grow in response to environmental requirements that demand increasingly lower emissions of air pollutants, and in response to anticipated volatility in the price and supply of heating oil in the State.[1] The benefits of dependable, diverse, and competitively-priced sources of clean energy to the economic and environmental health of the State are well recognized. In addition, DCP is an experienced importer of propane, and its use of an existing deepwater cargo pier rather than construction of a new marine terminal provides clear environmental benefits.[2] The benefits of the project also include increased employment, increased local tax revenue, replacement of a local culvert to improve the functions and value of Long Cove Book, and contribution of over $300,000.00 to the Maine Natural Resources Conservation Fund. A prompt

[1] Propane deliveries in Maine had to be rationed in 2007 due to a Canadian railroad strike, an interruption in pipeline imports into New York State and severe weather at sea.

[2] DCP's wholesale propane business segment, Gas Supply Resources, currently imports propane through marine import terminals in Rhode Island and in Virginia.

USACE decision on the use of the GP is critical to achieving these benefits and moving the project forward on schedule.[3]

As you know, Congress authorized the use of general permits like the Maine GP for categories of discharges of dredged or fill material that cause only minimal impacts to waters of the United States. 33 U.S.C. § 1344(e). A state programmatic permit has been in place in Maine since 1993, and was recently reviewed and reauthorized in 2010. The Maine GP, which was issued based on a thorough National Environmental Policy Act ("NEPA") review, ensures through specified eligibility criteria that authorized activities result in no more than minimal impacts to waters of the United States. Projects eligible for coverage under Category 2 of the Maine GP include projects with a total of less than 3 acres of inland waterway and wetland fill and associated secondary impacts. The Searsport LPG project will result in a total of only 2.04 acres of impacts to jurisdictional waters. The level and nature of these impacts is minimal, falls well within the Maine GP eligibility criteria, is fully offset by compensatory mitigation, and is in the range of impacts already addressed by the USACE in its NEPA analysis of the Maine GP. DCP Searsport provided a detailed analysis of site resources, impacts, alternative sites and facility layouts, erosion control measures, and mitigation, all of which further demonstrate the minimal impacts of the work subject to the USACE's jurisdiction.

DCP Searsport appreciates the USACE's obligation to consider the public interest with respect to the work to be authorized under the Maine GP. In this regard, DCP Searsport notes that most of the comments that the USACE has received concern matters that do not involve the discharge of dredged or fill material to waters of the United States, but instead involve matters within the jurisdiction of – and which have been addressed by – the Maine Department of Environmental Protection in connection with its September 2011 issuance of a land use permit for the project.[4] The USACE's regulations recognize that the "primary responsibility for determining zoning and land use matters rests with state, local and tribal governments," and that a "permit will generally be issued following a favorable state determination" where USACE requirements are otherwise met and in the absence of overriding national factors of the public interest. 33 C.F.R. § 320.4(j)(2) and (4). Moreover, several of the other issues raised in the comments are addressed through compliance under other state and federal statues.

[3] The target date for beginning commercial operations of the DCP Searsport Project is August 2013, and it will take up to 18 months to construct. Accordingly, construction needs to begin as soon as possible in 2012 to ensure that the scheduled date for commercial operations is met and to avoid the costs and consequences of project delay. Prior to the commencement of construction, DCP must receive local permit approvals in accordance with the Town of Searsport Land Use, Site Plan Review, Shoreland Zoning and Floodplain Management Ordinances. Those applications are ready for submittal now; however, the Land Use Ordinance requires that all other necessary state and federal permits (including the Corps permit) be secured before the local applications can be considered complete for processing. The local applications have not been submitted because DCP does not have the USACE approval. All other relevant state and federal permits have been obtained.

[4] Specifically, MDEP received "numerous comments from concerned citizens regarding visual impact, safety and traffic" as well as concerns from an abutting property owner "regarding odor, visual impacts and noise." MDEP Land Use Permit Decision, p. 1 (September 24, 2011). The types of resource impacts addressed by MDEP include noise, visual impacts, wildlife and fisheries, historic sites and natural areas, soils, stormwater management, groundwater, water supply, wastewater disposal, solid waste management, flooding, and wetland impacts. MDEP approved the permit based on its consideration of these and other factors. The thoroughness of Maine DEP's consideration of these issues is further addressed in item (b) attached.

The foregoing factors, and the specific responses in the attached document to the questions in your letter, demonstrate that use of the Maine GP is appropriate and warranted.

Sincerely,

TRC
Steven Wallace
Senior Project Manager
Cc: Kate Brown

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

a. Please summarize the status of the Town of Searsport's review of the project. It would be of great assistance to understand the scope of their review and the key factors they consider under their ordinance. Might there be issues raised in the public comments that are clearly and more appropriately under the purview of the town? How, if at all, will the town consider issues like noise, visual impact, height of the tank, traffic, safety, fire protection, effect on local roads and municipal infrastructure, lighting, and odors?

Response a:

Prior to the commencement of construction of the LPG terminal, DCP will need local permit approvals in accordance with the Town of Searsport Land Use, Site Plan Review, Shoreland Zoning and Floodplain Management Ordinances. Those applications have been ready for submittal for several weeks now; however, the Land Use Ordinance requires that all other state and federal permits be secured before the local applications can be considered complete for processing. As a result, the local applications have not been submitted because DCP does not have the USACE approval. All other relevant state and federal permits have been obtained.

The scope of the local review is indeed very broad and comprehensive, and includes all of the issues mentioned in request a. The local review process will include multiple Planning Board meetings which are open to the public, and a Public Hearing at which time all relevant public concerns will be heard. In addition, Town officials have indicated there is a very good possibility that they will require DCP to reimburse the Town for its costs associated with obtaining a Third Party Peer Review of the facility design for compliance with all applicable safety codes and requirements.

The following provides a summary of the local land use and performance standards, application requirements and review criteria applicable to the proposed LPG terminal. There is considerable overlap between the several ordinances, so the following is a composite of the requirements that apply from one or more ordinances, without reference to which ordinance(s), and requirements that apply to more than one ordinance are not repeated. DCP's local applications will document its compliance with all applicable requirements. Excerpts from that documentation that apply to comments and concerns raised by public comments received by the USACE are provided in this response to the USACE's request for additional information.

<u>APPLICATION REQUIREMENTS</u>

- Comprehensive pre- and post-development site plans and other mapping are required and are essentially the same set of drawings that were provided in DCP's USACE application, but with a few additional details such as the location of local zoning boundaries, nearby building locations and heights, the location(s) of any shoreline that is currently eroding, etc. Copies of the updated drawings will be provided to the USACE if requested.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

- Evidence of right, title or interest in the property to be developed and financial and technical capacity to complete the project.
- Descriptions of proposed uses, floor area and/or ground coverage of buildings and structures, existing and proposed easements and covenants on the property, if any, and the method of solid waste disposal.
- An erosion and sedimentation (E&S) control plan. The same E&S Plan will be provided to the Town as was included in the state and federal applications.
- Copies of correspondence with Town officials regarding the ability of local infrastructure (water supply, fire protection, roads) to meet the requirements of the project, as well as notification of the project provided to abutters and other public outreach efforts.
- The applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water, streets, parking, solid waste and schools.
- The anticipated construction schedule.

GENERAL LAND USE STANDARDS

- Conformance with the Comprehensive Plan. All proposed development must conform to the Searsport Comprehensive Plan and Policy Statements therein. See response d for additional details.
- Access Requirements. Provision must be made for adequate access from public roads to safeguard against hazards to traffic and pedestrians in the road and within a developed area, to avoid traffic congestion on any road and to provide safe and convenient circulation on public roads. All state roads are subject to MDOT's Access Management Standards. See response g for additional details.
- Buffers. All industrial and commercial development adjacent to residential dwellings must provide landscaped buffer strips in the form of evergreen, deciduous vegetation or fencing sufficient to minimize the impacts of expected uses such as exposed machinery, outdoor storage areas, vehicle loading and parking, mineral extraction and waste collection, disposal areas, noise, odor and light pollution. DCP is using a variety of methods in the terminal design to minimize impacts on adjacent residential dwellings from exposed machinery, outdoor storage areas, vehicle loading and parking, noise, odor and light pollution. These methods include the installation of perimeter fencing; using a combination of existing and proposed topography and forest vegetation; limiting the location, design and amount of exterior lighting to avoid off-site illumination to the extent allowed by safety and security requirements; and ensuring that the facility will comply with the applicable provisions of the Maine Department of Environmental Protection (MDEP) noise standards. The propane odorizing system is being designed to prevent the presence of detectible odor outside DCP property boundaries. See responses b, g & q for additional documentation regarding buffers.
- Industrial Performance Standards.
    1. Danger – The proposed DCP Terminal is being designed and will be operated in accordance with all applicable state and federal design codes and regulations. A listing of applicable design codes and standards is provided in Attachment A. See response l for additional details.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

2. Vibration - No perceptible vibration will be transmitted outside the DCP property boundaries during operation.
3. Wastes - No wastes will be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Wastewater will be discharged to the municipal sewer system in accordance with the Waste Discharge Permit to be issued by the Searsport Wastewater Superintendent. Solid or non-aqueous liquid wastes will be collected and stored on-site and disposed of off-site in accordance with applicable federal and state laws and regulations. The Maine Site Location of Development permit could not be issued without a finding that adequate provisions had been made for waste disposal. See response b for additional details.
4. Noise – The Maine Site Location of Development permit could not be issued without a finding that adequate provisions had been made to control noise. See response b and the above discussion of buffers.

- Lighting Design Standards. All exterior lighting shall be designed to minimize adverse impact on neighboring properties. All exterior lighting is being designed to minimize adverse impact on neighboring properties by limiting the location, design and amount of exterior lighting to avoid off-site illumination to the extent allowed by safety and security requirements. Exterior lighting will be directed inward and toward the ground or terminal operational areas. A Proposed Lighting Plan is provided for review by the Town in the local applications and can be forwarded to the USACE if requested.
- Signs. Requirements for the size, location and illumination of signs are established and will be met by DCP.

PERFORMANCE STANDARDS (not otherwise addressed above)

- Preserve and Enhance the Landscape. The landscape must be preserved in its natural state insofar as is practicable by minimizing tree removal, disturbance of soil, by retaining existing vegetation during construction, and by revegetating exposed soils disturbed during construction. DCP has preserved the existing tree cover and will enhance the landscaping of the developed site as much as practicable, given the constraints imposed by the size of the parcel and facility safety and security requirements. Two significant forested areas on property to be owned by DCP will remain unaffected by construction or operation (see response q for more details). Cleared areas around the facility will be re-vegetated following construction to the extent allowed by operating requirements. A Post-Development Ground Cover Plan is provided in the drawing set.
- Harmonious Relationship of Proposed Buildings and Structures to Surrounding Terrain and the Environment. DCP has sited proposed buildings and structures to fit harmoniously with the surrounding terrain and existing buildings within the vicinity which could have a view of the developed site to the extent allowed by the size and shape of the available land and facility safety and security requirements. The visual simulations of the developed site provided in Attachment B attest DCP's success at meeting this requirement.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

- Surface Water Drainage. Adequate provision must be made for surface drainage so that the removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, slope stability or public storm drainage systems. The results of post-development stormwater runoff calculations and a summary of the stormwater management design and plan that was approved by the MDEP are provided in responses b & i.
- Municipal Services. The development will not have an unreasonable adverse effect on municipal services, including municipal road systems, fire departments, police department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities. There will be no effect on open spaces, recreational programs and facilities. With regard to public schools, during routine operations DCP expects to have approximately 12-14 full time employees at the terminal. A similar number of specialized contract workers could be needed in areas such as security and various trades. Many of the full time employees and contract workers will be hired from the local area. Construction workers that are not currently living in the local area are not expected to relocate their families due to the relatively short construction period. As a result, the increased demand on public schools will be insignificant. See responses b, g, h & l for documentation of compliance with other portions of this standard.
- Water Pollution. Provisions must be made to prevent an unreasonable adverse effect on water quality. See responses b & i for details.

FINDINGS

The following positive findings must be made in order for the local permits to be approved. The information needed to make these findings is provided in DCP's local applications as well as its state and federal applications, as applicable.

- The project must be a permitted use in the district in which it is proposed to be located.
- The project must be in conformance with the applicable performance standards.
- It must not result in unsafe or unhealthful conditions.
- It must not result in undue land, water or air pollution.
- It must not result in undue erosion or sedimentation.
- The project must avoid problems associated with development in flood hazard areas.
- The project must not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat, or adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district.
- It must conserve significant natural, archaeological and historical resources.
- It must not adversely impact the public infrastructure.
- The project must be consistent with the long-range goals of the comprehensive plan, other adopted plans of the town, and the goals and purposes of the established districts.

DCP will provide a complete copy of its local applications to the USACE if requested.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

b. The Maine DEP has approved the project. Feel free to opine on the thoroughness of their consideration of the issues raised in the public comments.

Response b:

MDEP has approved the project under the Site Location of Development Act (Site Law), the Natural Resources Protection Act (NRPA) and the Maine Air Quality Licensing Regulations. The NRPA review/approval also includes issuance of a U.S. Clean Water Act Section 401 Water Quality Certification (CWA 401 Cert). MDEP completed a very thorough review of all of the applicable provisions that come under its jurisdiction by way of these statutes and their implementing regulations, consistent with MDEP's obligations for all projects that are presented for state environmental review and approval. DCP submitted the same application package to the USACE that was provided to MDEP for NRPA/CWA 401 Cert approval. A summary of MDEP's detailed review of the matters under its jurisdiction is provided below. Discussion of the air quality concerns and the air emission license issued for the project is provided in response o.

Review of traffic issues is within the purview of the Maine Department of Transportation (MaineDOT). DCP has consulted with the MaineDOT on several occasions. The expected volumes of daily traffic (employee commuting and propane transport trucks) are well below the levels that trigger a requirement for a MaineDOT Traffic Movement Permit. A MaineDOT Driveway/Entrance Permit to ensure safe access to and from U.S. Route 1 is required for the facility and has been obtained. Additional discussion of potential traffic issues is provided in response g.

The following is a summary of the issues or application requirements that were addressed in DCP's Site Law application and MDEP's subsequent review and approval. Excerpts from DCP's combined MDEP Site Law/NRPA/401 Cert approval are also provided where relevant to concerns raised by the public. DCP will provide a complete copy of its Site Law application to the USACE if requested.

- Development Description and related site plans, drawings and mapping. The same information was provided in the NRPA/CWA 401 Cert/USACE application.
- Title, Right and Interest.
- Financial Capacity.
- Technical Capacity.
- Noise.
  MDEP Finding: The Department finds that the applicant has demonstrated that the sound is not likely to exceed the modeled level, and the project will meet the noise standards, to ensure that the 60 dBA hourly sound level limit is met during all conditions, the applicant must conduct noise monitoring. The applicant must submit to the Bureau of Land and Water Quality (BLWQ) an operational compliance assessment methodology for review and approval prior to achieving full commercial operation of the facility. The plan must be implemented within 90 days of receiving the Department's approval of the plan, and must enable compliance measurements to be determined under favorable conditions for sound propagation and maximum sound propagation. Compliance

measurements will be conducted at a minimum of two protected locations, and at any location from which the Department has received a sound related complaint.
If the compliance data indicates that, under the favorable conditions for maximum sound propagation, the proposed project is not in compliance with Department standards as described above, within 60 days of a determination of non-compliance by the Department, the applicant must submit, for review and approval, a revised operation protocol or other plan and implementation schedule, that demonstrates how the project will be brought into compliance at all the protected locations surrounding the development. The protocol or plan shall be implemented according to the schedule approved by the Department.

The applicant agrees to pay all reasonable and documented costs incurred by the Department in reviewing the compliance information associated with the implementation of the compliance assessment plan in accordance with the provisions of 38 M.R.S.A. § 344-A.

Based on the information provided by the applicant, the Department finds that the applicant has made adequate provisions to ensure that noise standards pursuant to the Site Location of Development Rules, Chapter 375 §10 are met provided that the applicant submits and implements a compliance assessment plan as described above.

- Visual Quality and Scenic Character. Additional information regarding the visual impact from the proposed terminal is provided in responses a & q.

  MDEP Finding: An applicant is required to demonstrate that the proposed activity will not unreasonably interfere with existing scenic and aesthetic uses of a scenic resource as set forth in Chapter 315 of the Department's rules, "Assessing and mitigating impacts to existing scenic and aesthetic uses" and in Chapter 375 (14).

  The Department's determination of visual impact is based on the following visual elements of the landscape: (1) Landscape compatibility, (2) Scale contrast, and (3) Spatial dominance. In addition to the information submitted with the application, Department staff visited the site on April 13, 2011 and September 2, 2011. Department staff completed the Basic Visual Impact Assessment Form which when used in conjunction with the Visual Impact of Development Matrix provides the Department with a method for reviewing visual impacts and determining the level of effort required for mitigation/reconsideration of project siting and design and/or the potential need for compensation of project impacts. No mitigation or compensation is proposed.

  In making a determination within the context of these rules, the Department considers the type, area, and intransience of an activity related to a scenic resource that will be affected by the activity, the significance of the scenic resource, and the degree to which the use or viewer expectations of a scenic resource will be altered, including alteration beyond the physical boundaries of the activity. In addition to the scenic resource, the Department also considers the functions and values of the protected natural resource,

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

any proposed mitigation, practicable alternatives to the proposed activity that will have less visual impact, and cumulative effects of frequent minor alterations on the scenic resource**.**

The Department received numerous letters from members of the public stating concerns regarding the licensing criteria listed in Chapter 315. Many of the citizen commenters expressed particular concern about the size of the proposed tank.

The existing visual quality of the area within the DCP Terminal viewshed has two major elements: (1) the ongoing industrial, commercial and recreational marine activities on Penobscot Bay, most notably the heavy shipping traffic utilizing the two existing piers at the Mack Point Terminal, and (2) the existing commercial development and related tourism traffic mixed with residential development along this portion of US Route 1. The truck traffic and land-based activities at the Sprague and Irving facilities, an Irving Oil gas station and convenience store, as well as restaurants, motels and other commercial establishments dominate the immediate area around the proposed site. These existing land uses and activities have been present in this area for many years.

A Viewshed Analysis encompassing a three-mile radius surrounding the project was performed and submitted with the application. This evaluation utilized a standard 10-meter resolution USGS digital elevation model (DEM) in order to establish baseline elevations within the Project area. The analysis assumed that the project would not be visible to a viewer who is standing among trees in a forested area. The final resulting output grid identified those areas from which viewers would potentially see all or some part of the project. A three-dimensional model was then developed by the applicant to position the viewer at the selected vantage point.

Some of the concerned citizens live in a condominium complex known as the “Village at Stockton Harbor”. One resident submitted a series of photos from the shore at the Village at Stockton Harbor of the view of the proposed development. The resident hired a helicopter to hover at roughly the same location and height of the proposed tank. In this photo, it is clear that the proposed development will be taller than the other tanks in the area. One of the photos also shows that the viewshed includes the other tanks in the tank farm, the ships at the two existing piers, the GAC Chemical Corporation facility as well as numerous other developments.

The Basic Visual Impact Assessment Form rated the Total Visual Impact Severity at a moderate level. When rated against the scenic significance of view on the Visual Impact of Development Matrix the proposed project was rated acceptable.

Therefore, the development, analyzed in the context of the existing and surrounding visual qualities and visual impact on scenic and aesthetic local resources is found to be acceptable without changes or compensation.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Based on the project's location, design, and viewshed analysis, the Department finds that the proposed project will not have an unreasonable adverse effect on the scenic character of the surrounding area.

- Wildlife and Fisheries.
  MDEP Finding: An applicant for a Site Law permit is required to demonstrate that the project will not unreasonably impact wildlife and fisheries as set for in the Chapter 375 (15) of the Department's Rules.

  The Maine Department of Inland Fisheries & Wildlife (MDIFW) reviewed the proposed project. In its comments, MDIFW stated that it found no records of any Essential or Significant Wildlife Habitats, or other wildlife habitats of special concern associated with this site. No fisheries concerns were identified.

  The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries.
- Historic Sites and Unusual Natural Areas.
  MDEP Finding: The Maine Historic Preservation Commission reviewed the proposed project and stated that it will have no effect upon any structure or site of historic, architectural, or archaeological significance as defined by the National Historic Preservation Act of 1966.

  The Maine Natural Areas Program database does not contain any records documenting the existence of rare or unique botanical features on the project site and, as discussed in Finding 6, MDIFW did not identify any unusual wildlife habitats located on the project site. The applicant's consultant surveyed the proposed project site and confirmed that no unusual natural features exist on-site.

  The Department finds that the proposed development will not have an adverse effect on the preservation of any historic sites or unusual natural areas either on or near the development site.
- Soils. See Other Considerations, below.
- Stormwater Management and E&S Control (Basic Standards Submissions). Additional information regarding the stormwater management is provided in responses a & i.

  MDEP Finding: An applicant for a Site Law permit is required to demonstrate the project meets the storm water management standards set forth in 38 M.R.S.A. § 420-D and Chapter 500 of the Department's rules. The proposed project includes approximately 3.3 acres of impervious area and 12.4 acres of developed area and discharges to the Atlantic Ocean. The applicant submitted a stormwater management plan based on the basic, general and flooding standards contained in Chapter 500. The proposed stormwater management system consists of underdrained soil filters.

  A. Basic Standards:

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan (Section 14 of the application) that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMPs, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of, the Department's Division of Watershed Management (DWM).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of, the DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. The applicant will be responsible for the maintenance of all common facilities including the stormwater management system.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

B. General Standards:

The applicant's stormwater management plan includes general treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is being achieved by using Best Management Practices (BMPs) that will control runoff from no less than 95% of the impervious area and no less than 80% of the developed area.

The stormwater management system proposed by the applicant was reviewed by and revised in response to comments from the DWM. After a final review, DWM commented that the proposed stormwater management system is designed in accordance with the Chapter 500 General Standards provided that the design engineer inspects the site during the construction of the underdrained soil filters. Within 30 days of the completion of the project, the design engineer shall submit a notification to the Department that the stormwater management system was constructed and stabilized in accordance with the approved plans or, if the system constructed is inconsistent with the plans, submit a new plan for review and approval.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Based on the stormwater system's design, the plans submitted, and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, General Standards.

C. Flooding Standard:

The applicant is proposing to utilize a stormwater management system based on estimates of pre- and post-development stormwater runoff flows obtained by using Hydrocad, a stormwater modeling software that utilizes the methodologies outlined in Technical Releases #55 and #20, U.S.D.A., Soil Conservation Service and detains stormwater from 24-hour storms of 2-, 10-, and 25-year frequency. The post-development peak flow from the site will be increased by an insignificant amount over the pre-development peak flow from the site and the peak flow of the receiving waters will not be increased as a result of stormwater runoff from the development site.

DWM commented that the proposed system is designed in accordance with the Chapter 500 Flooding Standard.

Based on the system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Flooding Standard for peak flow from the project site, and channel limits and runoff areas.

The Department further finds that the proposed project will meet the Chapter 500 standards for: (1) easements and covenants; (2) management of stormwater discharges; and (3) discharge to freshwater or coastal wetlands.

- Groundwater. There will be no on-site discharge to or withdrawal from the groundwater as a result of construction or operation of the project. See other considerations, below.
- Water Supply.
  DEP Finding: When completed, the proposed project is anticipated to use 1,000 gallons of water per day. Water will be supplied by the Searsport Water District. The applicant submitted a letter from the District, dated April 7, 2011, indicating that it will be capable of servicing this project.

  The Department finds that the applicant has made adequate provision for securing and maintaining a sufficient and healthful potable water supply.
- Wastewater Disposal. See response a for additional information.
  DEP Finding: When completed, the proposed project is anticipated to discharge 1,000 gallons of wastewater per day to the Searsport Sewer District's wastewater treatment facility. This project was reviewed by the Department's Division of Water Quality Management (DWQM), which commented that the Searsport Sewer District has the capacity to treat these flows and is operating in compliance with the water quality laws of the State of Maine.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Based on the plan to discharge to the Searsport wastewater treatment facility and DWQM's comments, the Department finds that the applicant has made adequate provision for wastewater disposal at a facility that has the capacity to ensure satisfactory treatment.

- Solid Waste. See response a for additional information.
  DEP Finding: When completed, the proposed project is anticipated to generate seventeen cubic yards of general office solid waste per year. All general solid wastes from the proposed project will be disposed of at Pine Tree Waste Services, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

  The construction of the proposed project will generate approximately 900 tons of stumps and grubbings. All stumps and grubbings generated will be disposed of on site, either chipped or burned, with the remainder to be worked into the soil, in compliance with Solid Waste Management Regulations of the State of Maine.

  The proposed project will generate approximately 100 tons of construction debris and demolition debris. All construction and demolition debris generated will be disposed of at Pine Tree Waste Services, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

  Based on the above information, the Department finds that the applicant has made adequate provision for solid waste disposal.
- Flooding. See Stormwater Management and E&S Control, above, and Other Considerations, below.
- Blasting. Blasting is not expected to be required. Should an unexpected area of shallow bedrock occur that cannot be removed by means other than blasting, such as use of backhoes, hammering with a backhoe or ripping the rock with a bulldozer, DCP will generally follow the procedures outlined in Title 38 M.R.S.A. § 490-Z(14). Most specifically, the DCP contractor will:
  - Complete pre-blast surveys of structures within 500 feet of the blasting activity;
  - Control ground vibration and airblast in accordance with Figure B-1 of Appendix B, U.S. Bureau of Mines Report of Investigations 8507 and Chapter 375-10 of MDEP Regulations. Noise and airblast effects will be mitigated by use of proper stemming techniques.
  - Prevent the escape of flyrock into off-site properties or resources by using stemming or blasting mats, as appropriate.
- Air Emissions. See response o.
- Odors. The propane odorizing system is being designed to prevent the presence of detectible odor outside DCP property boundaries.
- Wetland Impacts. See response j for additional information regarding wetland delineations and the associated functions and values assessment.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

DEP Finding: The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, interpret and elaborate on the NRPA criteria pertaining to wetlands. The Rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project would generally be found to be unreasonable if it would cause a loss of wetland area, functions and values and there is a practicable alternative to the project that would be less damaging to the environment. Each application for a wetland alteration permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

The applicant submitted an alternatives analysis for the proposed project completed by TRC and dated May 20, 2011.

A. Avoidance and Alternative Sites.

In addition to the no-build option, the applicant considered the possibility of constructing a similar facility at the existing ports of Portland, Searsport, Eastport, Brewer, Bucksport and Rockland.

According to the applicant's analysis, from a waterway suitability perspective, the Mack Point Terminal is superior to other potential options because: with regard to navigation safety, Penobscot Bay is wide and deep and has plenty of room to maneuver or anchor in case of an emergency; the tides and currents are very manageable and ship movements are not significantly limited by tide or currents; the characteristics of the waterway are such that ship meeting and crossing situations can be avoided, and there are no blind turns; the ship transit route does not cross or pass any critical infrastructure such as bridges; there are multiple navigation routes into and out of the port; the port is uncongested and does not have the amount of commercial, deep draft traffic that occurs in Portland; the terminal is well protected from the elements; and the population densities along the route are small and ship transit does not come close to a large urban area.

The applicant contends that no other existing cargo pier on the Maine coast satisfies all of these project siting objectives.

B. Minimal Alteration.

The Department's rules require that the analysis of reasonableness of impacts include assessment of whether the amount of wetland to be altered was kept to the minimum amount necessary for meeting the overall purpose of the project.

The applicant states that operation, safety and security requirements impose limitations on the flexibility of alternate site layouts that can be considered at the selected project site. Local zoning ordinances as well as Maine Department of Transportation requirements for access to/from US Route 1 are additional site development criteria that

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

must be incorporated into an acceptable layout. The interplay between these elements of site layout therefore imposes considerable limitations on implementing alternate site layouts that would otherwise avoid or minimize impacts to wetland resources. In order to better address siting constraints and requirements and to minimize the impacts to protected natural resources, DCP purchased the parcel of land at the corner of Route 1 and Station Avenue (Map 7, Lot 60) along with the lot initially proposed to be purchased from Sprague Energy (Map 7, Lot 56). According to the applicant this accomplishes several things, namely: it allows for the avoidance of wetland/stream impacts other than some clearing of trees to the first approximately 210 feet of the wetland/stream system that starts by Route 1 near the proposed exit drive by moving the facility entrance driveway to Station Avenue; it keeps the exit drive on Route 1, reducing the impact that would occur to the wetland located on Lot 60 if both the facility entrance and exit were from Station Avenue, and it also provides some additional visual screening by retaining more of the trees located on Lot 60; and it provides improved internal traffic circulation.

Based on the information in the application, the proposed layout minimizes the freshwater wetland and stream impact.

The isolated stream segment on site exists only on the downstream side of Route 1; there is no stream channel on the upstream side of Route 1. The stream bed is heavily sedimented; most likely from runoff from Route 1. The stream is not hydrologically connected to the coastal wetland due to an existing hanging culvert. Based on the information in the application and the site visits, the Department has determined that culverting and relocating the stream will not negatively affect the functions and values of the stream and therefore determines that the impacts are not unreasonable.

C. Compensation.

The department may require compensation to achieve the goal of no net loss of wetland functions and values. The applicant is proposing a two part compensation package. The first is a culvert replacement project on Long Cove Brook as detailed in a letter submitted to the Department, dated August 17, 2011. The Department has accepted this project as part of the compensation package for the portions of the stream which are proposed to be culverted and relocated. Within 30 days of completion of the culvert replacement and stream relocation, the applicant shall submit documentation demonstrating that the projects have been completed. In addition, the applicant must submit a report to the Department regarding the relocated portion of the stream, coincident with the submittal of the first 5-year certification of the condition of the stormwater management system. The report must indicate whether or not the relocated stream contains benthic life forms. If benthic life is not found, then the report shall include a plan and measures to attempt to re-establish benthic life.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

For the second portion, after considering several compensation options, the applicant elected to make a contribution into the In-lieu-fee (ILF) program by making a payment of $305,835.00 to the Maine Natural Resources Conservation Fund. The applicant must, prior to the start of construction, submit a payment made payable to the Treasurer, State of Maine in the amount of $305,835.00 to the attention of the ILF program administrator at 17 State House Station, Augusta, Maine 04333.

The Department finds that the applicant has avoided and minimized freshwater wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project, provided that the applicant replaces the culvert on Long Cove Brook and relocates the stream concurrent with project construction, and submits the ILF payment as outlined above.

- Other Considerations:
  Final DEP Finding: The Department did not identify any other issues involving navigational uses, soil erosion, habitat or fisheries, the natural transfer of soil, natural flow of water, water quality, or flooding.

c. Few applicants do a good job of identifying the benefits of their development projects. Clearly many citizens believe the project will have a largely negative impact on the town and the local economy. This is the applicant's opportunity to reiterate the direct and indirect economic benefits to the community and the region from the proposed project.

Response c:

ECONOMIC BENEFITS

Economic Need

As stated in DCP's NRPA/USACE application, the project is designed to meet Maine's growing need for additional LPG, which is an increasingly important component of the State's clean energy mix. Estimates indicate that up to approximately 90 million gallons of LPG are used annually in the state for industrial, commercial and residential heating needs. More than 26,000 Maine households heat with propane. The use of propane is expected to grow in the state in response to environmental requirements that demand increasingly lower emissions of air pollutants as well as the expected volatility expected in the price and supply of heating oil, which currently supplies approximately 75 percent (%) of Maine's home heating needs. The benefits of dependable, diverse, competitively-priced sources of clean energy to the economic and environmental health of the State are well established.

DCP has, through its wholesale propane business segment Gas Supply Resources (GSR), relied upon rail terminals in Bangor and Auburn, Maine. to supply the State market with propane

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

from western Canada. Since 2005 there has been a steady decline in Canadian natural gas production and a corresponding decline in propane production and this decline is forecast to continue. At the same time, a significant increase in heavy, crude oil production in western Canada has placed competing pressure on the availability of rail for transportation of propane. Propane deliveries in Maine were rationed in 2007 due to a Canadian railroad strike, an interruption of pipeline imports into New York State, and severe weather at sea. Declining propane production in Canada coupled with reduced rail availability and increased rail costs has reduced the ability to ensure a dependable, affordable supply of propane into Maine.

DCP is an experienced importer of propane. DCP's wholesale propane business segment, Gas Supply Resources, currently imports propane through marine import terminals in Rhode Island and in Virginia. DCP's use of an existing deepwater cargo pier, rather than construction of a new marine terminal provides clear environmental as well as economic benefits. Based on DCP's experience with the marine import market, the project will help ensure consistent access to an adequate supply of propane for the State, and thereby benefit Maine residents through a dependable, diverse, and competitively-priced source of clean energy.

Construction and Operation Expenditures Benefitting Local and State Economy

The Construction budget for the Searsport terminal is expected to be approximately **$50 million**. Included in this budget are expenditures for:

- Permitting and engineering.
- Equipment and supplies.
- Labor.

Construction is expected to take 18 months. During that time there are expected to be 50 to 100 contractors helping with construction. Contract jobs would be in the fields of engineering, environmental and the various trades. DCP prefers to hire locally if possible. Local hiring is not only less expensive, but provides a significant advantage by obtaining contractors that are committed to the project. Due to the nature of the work, DCP will as it has for other facilities provide specialized training to contractors. For those positions that cannot be filled locally, contractors will be brought from other areas and will need places to live, eat, do laundry, etc., all of which will further benefit the local economy.

The annual operating budget for the Searsport terminal is expected to be approximately **$3.8 million**. Included in this budget are:

- Payment of salaries and benefits (health care, matching 401K, vacation, etc.) for full time employees. Base salaries for terminal operators range from $19 to $27/hour with total compensation packages ranging from $60,000 to $85,000 annually.
- Purchase of materials and supplies including office supplies, industrial and electrical supplies, and safety supplies and equipment.
- Purchase of roducts such as refrigerants, lube oil, methanol, and corrosion treatments.
- Payment of employee and vehicle expenses. Many full time operators are provided with a company vehicle.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

- Purchase of contract services ranging from administration, janitorial and security to various trades such as welders, instrument technicians, and pipefitters.
- Payment of costs associated with asset reliability.
- Payment of local utility costs including electric, communications, water, sewer, etc.
- Payment of state and local taxes.

OTHER COMMUNITY BENEFITS

In addition to the economic benefits of constructing and operating the facility, DCP has a long and well documented history of contributing to the communities in which we operate. DCP's community investment is focused on strategic areas in which we can make a significant impact:

- Employee Choice
- Health and wellness
- Emergency response
- Local community vitality
- Education/Diversity

DCP contributes approximately **$800,000** annually in corporate contributions and key sponsorships in support of these philanthropic areas. Examples include:

Employee Choice

- DCP offers payroll deduction for its employees, covering the administrative cost of giving for its employees, for national charities selected by employees that are then directed to their local community.
- DCP offers a matching gifts program to its employees, matching up to $5,000 annually to charities of the employee's choice both locally and nationally. Each year, DCP matches approximately $160,000 to double its employees' contributions.

Health and Wellness

- DCP's CEO led the Denver American Heart Walk in June 2011, raising $1.4 million for the American Heart Association, of which DCP raised approximately $200,000 through corporate sponsorships and employee giving. DCP's leadership was heralded for achieving a breakthrough in charitable giving to the American Heart Association. DCP also participates and actively supports the American Heart Association, the Susan G. Komen Foundation, and Juvenile Diabetes Research Foundation, across the country with committed employee/executive leadership.
- DCP donated $100,000 to the Northern Colorado Medical Foundation in 2009 for its capital campaign to build a new center.

Emergency Response

- DCP has donated much needed equipment to local fire departments, funded training for volunteer fire departments, and has contributed $85,000 to the Danielle Dawn Smalley Foundation for pipeline awareness programs offered in schools, to first responders, and bus drivers.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

- DCP purchased mobile software for the Seiling, Oklahoma Police Department to outfit their vehicles with comparable software to larger cities to expedite their response.
- DCP is a significant contributor to American Red Cross in local communities that have suffered disasters:
    - $50,000 donation to ARC after Hurricane Rita for future preparation
    - $5,000 to Windsor, Colorado and offering of local equipment and warehousing after a tornado devastated the community.
    - $5,000 to Albany, NY after Hurricane Irene caused severe flooding and loss of homes for mass numbers of residents.
- After the Panola County, TX wildfires, DCP donated $15,000 to the volunteer fire departments.

Local Community Vitality

- DCP created a foundation in 2011 to direct grants to local communities where their vitality could best be supported. The DCP Midstream Charitable Foundation through the Denver Foundation has approximately $400,000 to distribute through grants.
- In Michigan, DCP purchased a new van for the American Cancer Society so patients receiving treatment could have reliable transportation. DCP employees volunteer to drive patients.
- Building bikes for kids in Tulsa.
- Rebuilding Together—restoring homes for the needy.
- Refurbishing a youth home in Houston by providing brand new mattresses, sheets, pillows.
- Special Olympics.
- 4H Agricultural Fairs.
- School supply drives –DCP donated approximately $15,000 in new and recycled school supplies to an inner-city school in Denver.
- Food banks in Schenectady, NY, Colorado, Texas, Oklahoma, etc.
- John 3:16 mission in Tulsa collecting hundreds of items for families in need.
- Holiday fundraising across the country's facilities to raise funds for local needs such as East Texas Toys for Tots, Samaritan House in Carthage, TX, Christmas for Iraq Families sponsored by our Midland, TX employees.
- Supporting a sustainable kitchen operation for the largest regional food bank in Colorado.
- DCP has donated $450,000 to the United Way annually from 2006 to 2010 before evolving to a larger employee choice giving campaign.

Education/Diversity

- DCP provides annual career technical scholarships to support students entering a natural gas/energy technical field. DCP is one of the largest supporters of Okmulgee College in Oklahoma.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

- DCP provides employee scholarships to students of employees entering their first year of college, offering up to four years of support. Students have expressed their gratitude for the opportunity to further their educational ambitions.
- DCP is the platinum sponsor of the Outstanding Business Women's Event in Denver, CO, which recognizes the diversity of leadership.
- DCP is an ongoing sponsor of the Human Rights Campaign.

d. The form letter and several other letters speak to the industrialization of Mack Point. The Corps recognizes that Mack Point is already heavily industrialized and has been extensively developed for various commercial uses since the early 1900's. If the information is available, it could be useful to provide a breakdown of the relative percent of Mack Point that is developed vs. undeveloped, how long the undeveloped lands have remained so, what percent of those lands the proposed development will "industrialize', and what the applicant's anticipation is of secondary development that might occur as a result of their project. For example, although the applicant has made it clear that the development site will only accommodate one tank, is it logical to assume that nearby lands could support an expanded tank farm? Might they support some related development (based on the applicant's experience at other locations in the U.S.)? Perhaps the town might be of some assistance in addressing these questions (relative to their comprehensive plan).

Response d:

MACK POINT

In the early fall of 2009 as execution of the *"Three-Port Strategy"* of Governor Baldacci's Rail and Port Investment Plan, the Maine Port Authority issued a *Request for Expression of Interest* (RFEI) relating to the financing, development and operation of a new marine cargo terminal at Mack Point. Information relating to the RFEI assembled by the Port Authority is presented in a booklet entitled: *Port of Searsport, Maine USA: Access to Global Opportunity.* Displayed in the booklet are two illustrations:

- Figure 3: A schematic aerial view of the Mack Point Terminal that identifies existing facilities and the location of approximately 70 acres available for development, and

- Figure 4: A color aerial photograph of the Mack Point Terminal that also identifies the potential extent of future development opportunities.

In both illustrations, the site DCP has selected off US Route 1 and Station Avenue is identified as part of the area for future development.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Other than the figures in the Port Authority booklet, no exact or official depiction of the extent of development of Mack Point appears to be readily available. Therefore the area that is zoned Industrial on the Searsport Land Use District Map that encompasses the existing terminals and the major portion of the DCP site is used herein as a starting point to define "Mack Point." The total Industrially-zoned area of Mack Point encompasses approximately 260 acres. The approximately 4-acre Commercially-zoned parcel that would contain the DCP Administration Building was added to the Industrial area for a total acreage considered as Mack Point of 264 acres. The approximately 6-acre area of Mack Point that will be owned by DCP and is abutted by Long Cove and the Montreal, Maine and Atlantic Railroad spur is substantially constrained by both access and limitations imposed by local Shoreland Zoning (i.e., the area is zoned as Resource Protection). This area is therefore considered not available for development which leaves a net area of approximately 258 acres on Mack Point that is either currently developed or potentially available for development.

Construction of the DCP facility will "develop" approximately 24 acres, which comprises approximately 9% of the 258-acre area.

Within the 70 acres identified for potential development by the Port Authority and excluding the area to be developed by DCP, approximately 16 acres of undeveloped land remain to the south of Station Avenue. Another approximately six acres is shown on the Port Authority figures as undeveloped but is within the northwest corner of the Sprague Terminal fence line, and therefore considered not available for development in this analysis.

The railroad spur essentially bisects the 16 acre undeveloped parcel; much of which is now or was formerly (N/F) owned by Sprague Energy. The portion along the eastern side, crossed by Station Avenue and N/F owned by the Port Authority, contains the 0.07 acre wetland F delineated by TRC. The extent of potential wetlands throughout the remainder of this entire 16-acre undeveloped parcel would also need to be determined to evaluate more specifically the potential for future development. Other potential constraints to development could also include an overhead utility line from Station Avenue leading to the Irving Oil terminal.

In addition to the 16 undeveloped acres described above, approximately 15 acres of undeveloped land also appears to exist on the north side of Trundy Road southwest of Sprague Energy that is within the Industrial Zone but not shown on the Port Authority figures. Subject to development constraints including but not limited to those described above, these two parcels together represent approximately 12% (31 acres) of Mack Point that would remain potentially available for development after the DCP facilities are built.

Based on the methodology used in this analysis, approximately 79% (203 acres) of Mack Point is considered to be unavailable for future development. Of the remaining 21%, there will be more of Mack Point (12%) that remains potentially eligible for development after the DCP facility is constructed than will be encompassed by DCP's proposed development (9%).

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

FUTURE EXPANSION

DCP does not foresee the need to expand the proposed LPG facility or construct any new facilities of its own beyond the currently proposed footprint. As mentioned above and in DCP's applications, there is not enough room left within the Industrially Zoned portions of Mack Point to construct and operate another cryogenic tank. DCP has no information regarding the possibility for expanding one of the existing tank farms on Mack Point.

There is no consistent pattern of secondary development that has occurred as a result of an existing DCP facility. In one location (Chesapeake, VA), private homes have been built up to the facility on land that was previously vacant.

With regard to consistency of the Searsport Comprehensive Plan, the proposed DCP terminal will conform with the Town of Searsport Comprehensive Plan (the Comprehensive Plan) as it is an allowable use in the land use districts envisioned in the Comprehensive Plan and defined by the Land Use Ordinance. In addition, it will meet all applicable land use standards and other provisions of pertinent local ordinances and regulations that have been developed based on the recommendations in the Comprehensive Plan. The Comprehensive Plan notes that the chosen location for the proposed DCP terminal, the Industrial District, is intended for "industrial and large commercial development," and is one of the only areas in Searsport where such large scale development may occur, and where such development is appropriate. This project is appropriately located and will promote economic development, which is noted as an important objective for the town. Comp. Plan, pg. D-16.

In addition, the build out of Mack Point with marine dependent uses and related infrastructure, such as the proposed terminal, has been specifically contemplated as an appropriate use for this location. In response to a long-standing (more than thirty year) controversy over appropriate construction on Sears Island, a comprehensive joint planning process was undertaken that spanned over a year and a half and included persons and organizations with environmental interests, business owners, mariners, fisherman, tourist industry representatives, property owners and officials from Searsport, Stockton Springs and Waldo County. That planning process in 2006 and 2007 was memorialized in a Sears Island Consensus Agreement, with which the proposed terminal is entirely consistent.

e. We do not need you to respond to the allegations that the Corps constructed the Sears Island causeway. As you know, that is not true.

Response e:

No response required.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

f. There is reference in one letter to a concerned citizens' meeting at the Belfast Public Library regarding the tank. Did you or the applicant attend? Please summarize just what the extent of public outreach has been for the project (by the applicant).

Response f:

The Thanks But No Tank group hosted two meetings, one in Searsport and one in Belfast. Because of the short notice no one from the company was able to attend. Although DCP was not present, we have and will continue to address all concerns.

With regard to the extent of public outreach completed to date, DCP hosted an Open House on December 14, 2010 at the Searsport Town Hall. The Open House was advertised in the Bangor Daily News on November 26, 2010, and the Republican Journal on December 1, 2010, and served as the Public Informational Meeting required by MDEP regulations. In addition, DCP sent notices to all abutting landowners. DCP representatives included Mr. Joe Kuchinski, Vice President of Northern Operations, Mr. Jeff Hurteau, Northeast Asset Manager, Mr. Rick Paul, Senior Director NGL, Mr. David Graham, Project Manager, and Ms. Becky Malloy, Sr. Environmental Specialist. Mr. Steve Wallace, TRC and Ms. Kelly Boden, Verrill Dana were also present. Information on DCP and the proposed project, including environmental and safety issues, was available. Attendees were given the opportunity discuss the proposal in detail, ask questions, and raise concerns.

DCP hosted a second Open House at the Searsport Town Hall on March 2, 2011. The second Open House was advertised in the Bangor Daily News and the Republican Journal on Feb 26, 2011 and again on March 1, 2011. Based on comments from the first Open House, the format was changed to include a formal presentation followed by a question and answer session with the same DCP representatives and consultants.

Approximately 40 people were in attendance at each Open House including many of those persons opposed to the project. Full discussions were held at each Open House with both positive and negative comments.

Project Manager David Graham attended several Searsport Planning Board meetings, where he provided updates on the proposed project including permitting activities. These meetings are open to the public and can also be viewed on Searsport's website. In addition, the Town of Searsport had a public hearing on January 24, 2011, a special meeting of the Planning Board on February 7, 2011 and a public informational meeting on February 16, 2011 to specifically discuss a proposed increase in the height limits in the Searsport Land Use Code. The change to the ordinance passed on March 5, 2011 by a vote of 79 to 66. The proposed project was also discussed at that time.

There have been numerous articles and editorials written both for and against the height limit change and the proposed project including:

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

- Bangor Daily News on December 21, 2010 and in 2011 articles/editorial on January 21 and 25; March 3 and 5; September 29; October 31; November 2, 19, and 23; and December 9.
- Republican Journal on December 13, 2010 and in 2011 articles/editorials on January 27; February 7 and 25; March 7; September 20; October 26; November 8, 9, and 17; and December 8.
- WCSH6 News December 18, 2010 and November 2, 2011.
- MPBN November 21, 2011.
- Denver Post November 7, 2011.

In these multiple articles and broadcasts, DCP representatives, Searsport officials and citizens were interviewed and quoted. On November 19, 2011 DCP placed a full page ad in the Bangor Daily News on November 19, 2011 to correct commonly shared mis-statements. .

DCP representatives have taken the opportunity to meet and speak numerous times with several Searsport government officials, local business owners, and concerned citizens. This list includes, but is not limited to: Mr. James Gillway, Town Manager; Mr. Bruce Probert, Planning Board Chairman; several Selectmen; Mr. Jim Ditmer, Fire Chief; Mr. Richard LaHaye Jr., Chief of Police; Mr. Cory Morse, Searsport Ambulance Service; Mr. Herbert Kronholm, Searsport Water District; Mr. Howard Clark, Searsport Wastewater Treatment Plant Superintendent; Mr. Duane Seekins, Sprague Energy; Mr. Wayne Hamilton, Harbor Master; Captain David Gelinas, President, Penobscot Bay and River Pilots Association; Mr. Chris Tucker, Maine Building and Construction Trade Union; Mr. and Mrs. Charles Evans, Rhumb Line Restaurant; Mr. Buddy Hall and Ms. Amy Nickerson, Anglers Restaurant; Tom Gocza; Ms. Astrig Tanguay, Searsport Shores Camp Ground; Mr. Chad Coffin, Friends of the Clammers; Ms. Janet Williams, Elm Cottage Bed and Breakfast,;and Mr. Ron Huber, Penobscot Bay Watch.

Outside of Searsport, outreach to numerous governmental officials (not directly associated with permit activity) have included former Governor John Baldacci; current Governor Paul LePage; Mr. John Henshaw, Maine Port Authority; Mr. Nathan Moulton and Mr. Rob Elder, Maine DOT; Mr. John Kerry, former Director of the Maine Office of Energy Independence and Security, former Captain of the Port, current Captain of the Port Chris Roberge, Senator Collins office

DCP continues to be committed to public outreach efforts in order to help the residents of Searsport and the surrounding areas understand the proposed project. DCP is in the process of establishing a website, may host additional open houses, and will continue to respond to legitimate questions and concerns. DCP Midstream is planning another presentation in Searsport that likely will be held on January 26.
Excerpts from the Bangor Daily News as well as summaries of other outreach efforts can be found in Attachment C.

g. Many letters focus on the impact of increased truck traffic on the community (noise, traffic congestion, road degradation, etc). Please verify the number of trucks

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

anticipated and put this increase into perspective with existing traffic volume and composition in the community. Will propane vehicles follow the same traffic patterns and travel the same time of day that existing traffic does? What is the applicant's response to allegations that municipal roads will be degraded at a higher rate by propane truck traffic?

Response g:

The following analyses, excerpted from the local applications, describes the number of trucks expected to utilize the LPG terminal (which has not changed) as well as existing traffic.

Access Requirements: Critical factors in determining the location and design of the DCP Terminal entrance and exit driveways included ensuring that these access points to public roads provide appropriate safeguards against hazards to traffic and pedestrians in the roads, provide safe and convenient circulation on public roads, and avoid traffic congestion on any road. The exit roadway onto U.S. Route 1 was designed to address MDOT's Access Management Standards, as evidenced by the issuance of a Driveway/Entrance Permit from MDOT. The entrance and exit driveways are being designed to avoid the need for trucks to park on public roads while waiting to be loaded, and to ensure safe and efficient vehicle circulation within the Terminal.

DCP's evaluation of the availability and suitability of off-site public facilities, including streets, parking: During routine operations, the small increase in daily commuting traffic noted above will be insignificant compared to the existing traffic on U.S Route 1 and Station Avenue. Increases in daily commuting traffic during construction will be short-term and, as discussed below, the additional truck traffic during operation is not expected to result in an increase in public road congestion or public road damage; therefore, that will also be the case for daily commuting traffic during construction.

LPG trucks that would be filled at the terminal's truck load-out station and would then transport their product to various distribution points in Maine. The maximum annual LPG throughput expected at the facility could potentially result in up to 9,000 LPG trucks entering and leaving the terminal per year. In reality, the likelihood of reaching 9,000 LPG trucks per year is small since this would require that the Terminal's maximum annual throughput is realized and that all of the product leaves the Terminal by truck, with none leaving by rail. In comparison, the number of trucks currently entering and exiting the existing Mack Point Terminal alone, which currently serves both the Irving Oil Corporation tank farm and the Sprague Energy Corporation tank farm and dry cargo storage facility, is estimated at approximately 20,000 per year on average with up to approximately 30,000 trucks per year as a maximum.

A more meaningful assessment of LPG truck traffic is the anticipated daily maximum of 50 to 60 trucks, which would only occur during the peak of the heating season, when tourist traffic is at its lowest. In addition, all 50-60 of these trucks would not represent additional traffic in Searsport, since many LPG delivery trucks already use this portion of the highway through

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Searsport to distribute LPG from other locations in Maine and would now be picking up their cargo in Searsport rather than simply driving straight through Searsport.

Traffic data compiled by the Maine Department of Transportation and available through its Bureau of Transportation Systems Planning estimate the annual average daily traffic volume on U.S. Route 1 near the terminal site in 2010 at approximately 10,500 vehicles per day, over 800 of which were commercial truck traffic with more than two axles. Based on this annual daily average, the total annual traffic volume on this portion of Route 1 is approximately 3.8 million vehicles, nearly 300,000 of which are multi-axle trucks.

An increase of approximately 50 trucks per day utilizing this portion of U.S. Route 1 and Station Avenue primarily during the winter months, compared to the existing commercial truck and other traffic, will represent less than 5 one-thousandths of the total daily traffic and approximately 6 percent of the daily truck traffic and will not result in additional congestion or damage to public roads.

DCP does not expect to need off-site parking facilities during construction. However, should supplemental parking be required off-site during construction, DCP will utilize existing, private parking areas in the area. There will be no need for off-site parking facilities during operation.

Parking and Circulation: The layout and design of the DCP Terminal provides for one way vehicular circulation for the most heavily used interior roadways, ample parking/waiting areas for truck traffic to avoid the need for trucks to be parked on public roads, a separate truck loading area that does not interfere with interior circulation, a separate parking area for employees, and for movement by foot within the facility for employees. This design will provide for safe general interior circulation and parking. No unattended public vehicular or pedestrian traffic will be allowed within the Terminal.

DCP provided these analyses to a representative from the MaineDOT and requested that they comment on the accuracy of DCP's analysis. MaineDOT replied, in part:

> I think your analyses do a great job describing the expected effect from the proposed propane terminal on local traffic and roads.
>
> MaineDOT access management rules say that access points need to be put in a safe place, which means they have proper sight distance coming out onto one of our roadways. Since a permit was issued by MaineDOT, the access point meets our standards and as such should be a safe access.
>
> The amount of additional traffic expected from the proposed propane terminal is well below the threshold that would require a Traffic Movement Permit from the MaineDOT. Being a large truck the vehicles will have more impact on the roadway than a passenger car vehicle, but no more than any other truck traveling on the roadway.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

A copy of the complete email exchange with MaineDOT is provided in Attachment D. A copy of the MaineDOT Driveway/Entrance Permit application and the permit issues will be provided to the USACE if requested.

Propane vehicles will follow the same general traffic patterns at the same times of day within Searsport (i.e., the use primarily of U.S. Route 1 north and south and a small portion of Station Avenue) as is currently the case for truck and other traffic in this area. As confirmed by MaineDOT, there is no reason to expect propane trucks to degrade municipal roads at a higher rate than those cargo transport vehicles currently utilizing the existing terminals on Mack Point.

h. We are in receipt of positive comments from the local water district. Are there similar comments from the local fire departments? Drawing comparisons to the past LNG proposals in Washington County, those applicants established strong partnerships with the local fire and emergency response departments and made serious financial commitments to improve emergency response capabilities in the community. Has your client done something similar? What is the current state of preparedness of these departments for a proposal such as yours? Please respond to the specific comment about how a loss of power might affect the safety and integrity of the proposed tank.

Response h:

DCP has received letters from the Searsport Fire Chief, Chief of Police and EMS/Ambulance Service that confirm that these emergency response organizations are currently or expect to be totally prepared to respond to emergencies at the proposed DCP terminal once training is provided at the time the facility commences operations. Copies of the letters received from these local emergency responders are provided in Attachment E.

DCP is proud of the "partnerships" it has developed with the local emergency responders, safety and security organizations, and communities where it is currently operating. Some excerpts from statements made by emergency responders are provided below:

> "Thank you for providing the opportunity to observe your recent emergency response safety and training activities at your Albany Terminal. It is extremely rewarding to be partnered with a company that is committed to safety as yours is clearly demonstrating." Steve Dillingham, Senior Loss Control Representative, Nobel Insurance Services.
>
> "They have provided complete access to the facility, allowed full flow testing of fire suppression systems, worked to create a positive emergency response system, and overall been an outstanding partner." Albie Lewis, Chief, Berlin, VT Volunteer Fire Department.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

> "I want to thank you very much for your participation at our recent table top emergency response drill. Our willingness to help us better safeguard the citizens of Litchfield is much appreciated by a grateful Board of Selectmen." Jerry Zinn, First Selectmen, Town of Litchfield, CT.
>
> "It is refreshing to me to have developed a relationship with a member of the regulated community who truly believes in safety and demonstrates it by his actions, attitude, and regulatory compliance daily." Frederick Fraini, Jr. Supervisory Railroad Safety Specialist, U.S. Department of Transportation.
>
> The company has been very responsive to the needs of the fire department providing fire fighting pumps, appliances and hazardous material training (specific to this site) for fire fighters. The company strictly enforces the truck route restrictions placed on it by the City." Patrick McGinn, Chief, Westfield, MA Fire Department.
>
> "They have also provided technical advice to our department for incidents not related to their company in an effort to support our relationship." L. Eric Harrington, Executive Deputy Chief, City of Albany, NY.

Copies of additional statements, testimonials and letters attesting to DCP's established partnerships in the communities in which it is currently operating are provided in Attachment F. DCP intends to develop this same sort of partnership and community involvement with the Town of Searsport.

With respect to a loss of power at the facility, DCP will have an emergency generator to maintain the operation of monitoring, communication and control systems at the facility. The cryogenic bulk storage tank is kept in its cryogenic state by self-cooling due to the latent heat of vaporization. As the propane vaporizes inside the tank the pressure will start going up. At 1.8 PSI, a relief valve will open and send propane to the flare to be burned off in a safe manner. Once the pressure goes below the 1.8 PSI set point the valve will close. Pressure relief will continue in this manner until power is restored and the refrigeration equipment pulls the vapors from the tank for compression, condensing and re-introduction into the tank as a liquid.. As a result, the safety and integrity of the bulk storage tank would not be compromised.

i. The form letter and several other letters speak to the value of intertidal and sub-tidal resources within Long Cove and around Sears Island. The Corps recognizes that the developer has repeatedly indicated that they have no plans to develop east of the rail line. Please verify however that the project is not expected to result in new contaminant discharges to Long Cove. Specifically, will there be any contaminant discharges from LPG vessels during off loading; will process water from the facility or the vessels be discharged to the cove; will a catastrophic rupture of the tank be fully contained and prevented from discharging to the cove; will there be any

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

discharge of construction related turbidity to the cove; and will higher volumes of stormwater be discharged to the cove?

Response i:

The project is not expected to result in new contaminant discharges to Long Cove.

Construction related turbidity in runoff during construction will be controlled by implementation of state of the art erosion and sedimentation control measures. These measures, which are incorporated in DCP's E&S Control Plan that has been approved by MDEP (see response b), are described in detail and shown on the project drawings submitted with the MDEP and USACE applications, and are included in the local applications.

There will be no discharge of process water to Long Cove or Penobscot Bay from operations at the LPG terminal. With respect to LPG offloading operations, the operations will be designed and managed to ensure no discharge into waters of the United States of LPG or other contaminants associated with the LPG offloading process. During transfer operations the International Gas Code (IGC) requires remotely controlled emergency shutdown valves on the ship for stopping liquid and vapor transfers between the ship and shore. Cargo pumps and compressors can be shut down automatically if the emergency shutdown system closes the emergency shutdown valves. There will be a remotely-operated shutdown valve at each cargo hose connection used in transfers. The emergency shutdown control system will be capable of being activated by a single control in either of two locations on the ship and will be activated by fusible links that will respond in the event of a fire in other locations, including tank domes and loading stations.

The only water discharge during terminal operation will be treated stormwater. Summary information regarding DCP's proposed stormwater management and treatment plan, which was reviewed and approved by MDEP under Chapter 500 of their regulations is provided in the MDEP's stormwater findings in response b. The conclusions related to the change in the volume of stormwater runoff discharged to Long Cove due to DCP's development of the terminal site from the stormwater analysis provided to MDEP are repeated below. Treated stormwater will be collected at three points (referred to as Nodes) within the site and discharged to Long Cove.

Node 1R

Boundary Node 1R is the southern-most boundary node describing the runoff entering an existing 36-inch CMP culvert under the railroad bed. This analysis point includes the runoff from subwatersheds 2S, 2SA, 2SB. The results show a small increase in runoff from the 10-year storm event but a decrease in the 2- and 25-year events. The existing culvert is adequately sized to convey the occasional, small increase in flow without concern for ponding or overtopping of the culvert, railroad bed or rails. Per the drainage agreement with the railroad, design, construction, implementation and regular maintenance of the proposed

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

stormwater management system, which is based on DEP's stormwater management Best Management Practices (BMPs), and ongoing compliance with the DEP erosion and sedimentation control BMPs, will control the volume and velocity of runoff to the existing culverts, prevent the development of erosive flows and prevent damage to the existing culverts, rail bed and tracks. As a result, the small increase in flow from the 10-year storm event at Boundary Node 1R will have a minimal effect on the existing culvert.

Node 2R
Boundary Node 2R is the boundary node describing the runoff entering an existing 24-inch CMP culvert under the railroad bed. This analysis point includes the runoff from subwatersheds 3S, 3SA, 3SB. The results show a small decrease in runoff from the 2-, 10-, and 25-year storm events.

Node 3R
Boundary Node 4R is the northern most boundary node describing the runoff entering an existing 18-inch CMP culvert under the railroad bed. This analysis point includes the runoff from subwatersheds 4S. The results show a small decrease in runoff from the 2-, 10- and 25-year storm events.

No new contaminant discharges to Love Cove are expected to result from LPG vessels during offloading. The Mack Point Intermodal Cargo Terminal receives an average of approximately 136 vessels per year, with a maximum to date of 166 vessels in a single year. Four to six LPG carriers will call at the terminal per year in connection with the DCP Searsport project. LPG carriers will, like other vessels calling at the terminal, be required to comply with all applicable laws, regulations and requirements restricting the discharge of pollutants and regulating other aspects of vessels operations.[1]

The containment berm for the bulk LPG tank is designed to contain 110 percent of the full capacity of the tank. As a result there would be no discharge of LPG to Long Cove in the very unlikely event of a failure of the tank.

[1] LPG carriers will be required to comply with federal and international standards governing LPG shipping, including all applicable rules, regulations, and requirements of the Coast Guard. In addition, the Environmental Protection Agency (EPA) regulates discharges incidental to the normal operation of commercial vessels, such as vessels calling at the Mack Point terminal, under the Vessel General Permit (VGP) to ensure compliance with the Clean Water Act. *See* http://cfpub.epa.gov/npdes/vessels/vgpermit.cfm; www.uscg.mil/hq/cg5/cg522/cg5224/vgp.asp. The VGP establishes effluent limits, best management practices, and other requirements including inspection, monitoring, recordkeeping, and reporting requirements. EPA and the Coast Guard work cooperatively to ensure VGP compliance.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

j. A number of citizens allege that the wetland delineation is inaccurate. I've enclosed a copy of a report by Phillips Eco-Services that was apparently contracted by project opponents. Although neither the Corps nor the DEP identified any glaring errors when we conducted a site walk, we did not walk the entire wetland boundary. A shortcoming of our delineation guidance is that relatively few dataforms are required to substantiate a wetland delineation. I suggest that you and Cole Peters review the comments and Don Phillips' findings, and expand upon the delineation report. The area of contention appears to be at the northern and northwestern end of the parcel where hydrophytic vegetation appears more prevalent than the boundary indicates. I am not requesting a re-delineation at this time, only more detail on your existing findings. The function and value assessment is also questioned by some opponents.

Response j:

This response provides supplemental information addressing wetlands identified by TRC at the proposed DCP project site. Public comments have been received by the Corps which directly or indirectly question and refute:

- The on-site wetland delineation that was completed, and the Corps jurisdictional authority over the wetlands on the site;
- Soil and site conditions as related to the presence and extent of wetlands; and,
- Wetland functions and values.

Additional information regarding these topics is provided below, in the above order.

<u>On-Site Wetland Delineation and Corps Wetland Jurisdiction</u>

The site to be developed for the proposed terminal facility covers approximately 23.6 acres located between US Route 1 and the west side of the Montreal, Maine and Atlantic Railroad. Wetlands on the property have been delineated in the field over a period of four field days by a team of TRC wetland scientists that include: a Professional Wetland Scientist/Maine Certified Geologist, a Maine Certified Soil Scientist/Licensed Site Evaluator and a third, veteran wetland delineator who assisted with locating the field-delineated wetland boundaries with sub-meter accuracy GPS (global position system) survey equipment. The professional field experience of the three individual team members with identifying and delineating wetlands in Maine ranges from six to 24 years. Results of this field delineation were transferred onto the 1" = 100' scale project site plans containing a field-surveyed 2-foot topographic contour interval (CI) prepared by a Maine Professional Land Surveyor (PLS).

The TRC wetland scientist team delineated wetlands at the site to be developed for the DCP facility in accordance with the multi-parameter criteria of the *1987 Corps of Engineers Wetland Delineation Manual* and the *2009 Interim Regional Supplement* for the Northcentral and Northeast Region (hereafter the *1987 Manual and 2009 Regional Supplement*). Wetlands systems at the site as well as immediately adjacent to the site have been identified

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

alphabetically (A, B, C, D, E and F) with the latter being located offsite and south of Station Avenue. Wetlands B, C, D and E are associated with a network of gullies (described in additional detail below) and the fifth wetland system, A, is located in north corner of site.

Wetland boundaries were established based on methods of the *1987 Manual* and *2009 Regional Supplement*. Paired, nested observation plots were established inside and outside the edge of wetlands B and C which are located along the southern (intermittent stream) and northern primary drainage courses. To determine the location of the boundary for both of these wetland systems, soils, vegetation and hydrologic data was collected from one observation plot on the upland side of the wetland and from a second plot within the wetland thereby establishing the reasoning and criteria for locating the wetland boundary between the paired plots. Vegetation information collected from these plots included cover dominance and wetland indicator status of trees, shrubs and herbaceous vegetation plots from within a nested radius of 30 feet. Soils information collected from test pits excavated to depths of ≥16 inches included description of color as compared to Munsell color charts and other physical and textural characteristics indicative of drainage class or the presence of hydric soils. Hydrologic information collected in the paired plots included depth of surface water, depth to water table, evidence of saturation and any secondary evidence of wetland hydrology such as water stained leaves, sediment deposits and drainage patterns. Similar, summary multi-parameter data was collected for the other wetlands A, D and E which are either directly connected/tributary to the wetlands in the primary drainage courses B and C or share similar vegetation, soils and hydrologic characteristics.

The 22 pages of data forms documenting vegetation, soils and hydrologic evidence used to determine and justify the field delineated boundaries of wetlands A, B, C, D, E over the course of four field days by TRC was submitted as Appendix 9A of DCP's NRPA/USACE application.

It should also be noted that all areas that satisfied the three criteria in the *1987 Manual* and *2009 Regional Supplement* were considered to be USACE jurisdictional wetlands without regard to whether some wetland areas could be considered isolated and therefore non-jurisdictional. DCP decided not to pursue that possibility but rather agreed to treat all wetlands identified by TRC as jurisdictional.

<u>On-Site Soil Conditions As Related to Wetland Delineation</u>

Prior to commencing fieldwork at the site, the 1:20,000 scale or 1" = 1,667' medium intensity, 1984 *Soil Survey of Waldo County, Maine* (SCS medium intensity soil survey) prepared by the US Department of Agriculture Soil Conservation Service ("SCS" and now identified as the Natural Resource Conservation Service) was used to obtain a sense of the extent of wetlands on the property in addition to review of the 1" = 2,000' USGS quadrangle map with a 10-foot CI. (The SCS medium intensity soil survey is the same source of information considered by the October 28, 2011 peer review by Phillips Eco-Services.) The base for the SCS soil survey map is 1976 black and white aerial photographs upon which the boundaries of Soil Series are drawn

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

based on remote sensing or photo-interpretation of landscape position, topographic slopes, land uses, vegetation and where evident, drainage.

Field confirmation of remote sensing mapping is conducted before the *Surveys* are published; however, by no means are all designated Soil Series mapping units ground-truthed. In addition, due to the scale of the maps and corresponding limitations on soil map unit size and map detail, other related Soil Series with different drainage characteristics can be included or lumped in with the area depicted on the 1" = 1,667' map. Utilization and interpretation of SCS medium intensity soil surveys must therefore recognize these attributes/limitations and be judiciously applied for purposes such as, but not limited to, watershed planning and drainage calculations.

"Hydric" soils are indicative of potential wetlands and, excepting disturbed or uncommon circumstances which do not occur at the site, when present in combination with a prevalence of wetland vegetation and wetland hydrology, the three criteria of the *1987 Manual* and the *2009 Regional Supplement* are met for the area to be designated as a wetland subject to the jurisdiction of Section 404 of the Clean Water Act. The "hydric" Swanville Series (Sw), a poorly drained silt loam, is mapped by the SCS to occur beneath most of the site except near the corner of US Route 1 and Station Avenue where the non-hydric Boothbay Series (BoB), a moderately well drained to somewhat poorly drained silt loam with 3 to 8 % slopes is mapped to be present. However, the presence of the hydric Swanville map unit on the SCS soil survey does not demonstrate that wetland hydrology, a prevalence of wetland vegetation, or jurisdictional wetlands exist on site.

Furthermore, because of the SCS soil survey limitations related to scale, map detail, and ground truthing, site specific evaluation of soil conditions typically identifies inclusions of similar or altogether different soil series than what is shown by SCS mapping. In the case of SCS soil map units covering large areas, such as the Swanville map unit present at the DCP site, the SCS mapping may be entirely incorrect when applied to a specific location within the map unit's boundary. With regard to the Swanville series, examples of inclusions originating from similar glaciomarine parent materials may include the somewhat poorly drained non-hydric Pushaw series, and the moderately well drained non-hydric Boothbay Series. Examples of inclusions originating from different glacial till parent material may include the somewhat excessively drained Lyman Series, and the well drained Tunbridge Series (both non-hydric).

So, while published soil survey data was a key reference to TRC in preparing for field investigations and developing a context for the site, it is common knowledge that its inherent limitations require the need for a thorough on-site evaluation of soil conditions. This fact was recognized by Phillips Eco-Services. On-site collection and evaluation of soil data to determine the extent of hydric soils at the DCP site was an integral component of TRC's on-site wetland delineation. In addition to data collected by TRC to document the location and extent of wetlands in accordance with the *1987 Manual* and *2009 Supplement* at the site, soils (along with vegetation and hydrologic evidence) were continuously evaluated as flags were placed to field identify wetland boundaries. In particular, soil profiles were evaluated from a total of seven additional test pits and dutch auger borings located throughout the interior of the site between

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

the wetland systems B and C contained in the site's primary drainage courses. The bulk storage tank is to be located in this gently sloping area and is down gradient of the property N/F owned by Albert Hall, IV, where the offsite observations of the DCP property were made by Phillips Eco-Services. Evidence collected and evaluated from these test pits and borings indicates hydric soils are not present in this area. Correspondingly, lacking positive evidence for hydric soils, wetlands subject to the jurisdiction of the MDEP and Corps also do not exist at this location.

Site Conditions Relevant to Wetland Delineations

Two other interconnected physical aspects of the site that relate to hydrology – referred to as *the driving force of wetlands* – have a strong and controlling influence on the presence and extent of wetlands at the site for the DCP facility. These are drainage courses and topography.

As displayed on the medium intensity soil survey, an eastward flowing stream course is located along the southwesterly side of the property. The dashed line symbology of the map indicates the stream flows intermittently. Although no stream course is identified across the site on the USGS 7.5 minute Castine quadrangle map, the 10-foot CI indicate two eastward draining gullies cross the site. One coincides with the aforementioned intermittent stream and a second parallel gully is located along the north side of the property.

The 1" = 100', 2-foot CI, field-surveyed topographic map onto which GPS located field delineated wetlands are displayed illustrates how drainage courses and topography control and constrain the extent of wetlands on the property. The two above described gullies appear on the site plan and in fact a third gully that is tributary to the southerly gully with the intermittent stream is located in the south corner of the property. As is common in coastal Maine, the gullies are narrow in width, steep sided and incised on the order of 10 – 20 vertical feet below adjacent grades.

Wetlands at the site are constrained to the floor and lower sides of these gullies where water or hydrology is present and persists with sufficient duration for establishment of vegetation and soils that also exhibit characteristics definitive of wetlands per the criteria of the *1987 Manual* and *2009 Regional Supplement*. Wetlands at the site also occur in flatter parts of the site above and at the head/origin of these gullies and drain to or contribute surface hydrology to wetlands along the gully floor. Elsewhere on the upper site, slopes are sufficiently steep enough to shed water laterally toward the side/walls of the gullies, and support upland conditions.

Wetland Functions and Values

Functions and values of wetlands at the site were also evaluated based on field observations by the team of TRC wetland scientists and is presented in Attachment 12 of the NRPA/USACE application. The purpose of the assessment is to identify the presence and general quality of wetland functions and values in consideration of the extent of potential project impacts. After implementing measures to avoid or minimize impacts, forms of compensation can then be

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

implemented to offset degradation or loss of wetland functions and values that are present prior to development. Wetland Function-Value Evaluation Forms for the five (A, B, C, D, E) systems describe the rationale and reasoning for determining whether any of the eight functions or five values attributed to wetlands are present in wetlands at the DCP site. As summarized on page 12-5 of the application, the various functions and values of wetlands at the site are absent, of low quality, play a limited role or are not affected by the proposed facility.

As described by the request for response above, "*the function and value assessment is questioned by some opponents*." Comment letters provided by the Corps have been reviewed to obtain an understanding of questions/challenges/objections to the assessment presented in Attachment 12 so that a response can be made to address these concerns. Review of the comment letters indicates virtually identical comments from approximately a half-dozen commenters that either precedes or follows a listing of the all13 functions and values ascribed to freshwater wetlands by the September 1999 *Highway Methodology Workbook Supplement.* This suggests that the commenters may believe that the wetlands which comprise much of the central flats between the two streams that bisect the property have nearly every one of the 13 wetland functions described in the *Highway Methodology Workbook Supplement* (# 3 fish and shellfish excepted). Some commenters overlook the noted exception of fish and shellfish in the wetlands between the streams (B and C) and suggest that <u>all</u> wetlands at the site exhibit <u>all</u> 13 functions and values. This would be truly remarkable. TRC's wetland scientists have never encountered such a wetland in more than 30 years of wetlands work throughout New England.

As described above, specific review of the area throughout the interior of the site between wetlands B and C was conducted. The soils evidence does not indicate this area is wetland. Hydrology to sustain fish or shellfish habitat is also absent from this area along wetland A. More so, various physical characteristics at the site such as size and proximity of wetlands to ongoing development activity, geologic setting, soil characteristics, presence and duration of hydrology, landscape position and wetland cover type or vegetation contribute to and are therefore indicative of the presence and quality of wetland functions and values. Based on re-evaluation of the observations conducted by TRC for the functional assessment presented in DCP's NRPA/USACE application to the Corps, the characterization of the various functions and values of wetlands at the site as absent or of low quality, and that play a limited role or are not affected by the proposed DCP facility remains as a valid conclusion.

k. A number of opponents make reference to the seismic fault that reportedly runs through the area. It was reportedly active as recently as last month. Presumably if this was an issue in light of numerous industry standards and federal/state regulations, your client would not have chosen the site. But for the record, please comment on the issue.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Response k:

While the intent of the request for a response is understood, clarification of the terminology "seismic fault" is necessary. "Seismic" pertains to an earthquake or earthquake vibration including those that are artificially induced such as by detonation. Sudden deep freezing of the ground, usually during the first extreme cold snap of winter can also cause such vibrations which are more geographically localized and are referred to as frost quakes or cyroseisms. "Fault" on the other hand is a fracture or fracture zone along which there has been displacement of the sides relative to one another parallel to the fracture. Fault therefore is a physical feature whereas seismic/earthquake is a result of an action or a process. As is well known, earthquakes can occur along faults such as the renowned San Andres in California but not all faults are a source of earthquakes.

In addition to onsite geotechnical borings used to design DCP's facility, the bedrock geology beneath the site was evaluated as part of the Site Law application to the MDEP. An excerpt of the *Bedrock Geology Map of Maine* (Osberg et al., 1985), illustrating geologic conditions beneath the site, appears as Figure 15.3 (May 2011 Site Law Application Appendix 15 A – available to the USACE if requested). No geologic fault is identified to occur across the proposed DCP site; however, as displayed on the *Bedrock Geology Map of Maine* the nearest fault is located approximately three miles to the northwest toward Swanville. The fault is a thrust fault that dips or is inclined to the southeast and strikes, or is aligned northeast-southwest, from Bucksport to Warren with four additional distinct segments to the northeast leading to Calais that have been lateral disrupted by subsequent or younger geologically activity.

According to the Maine Geological Survey (MGS), six earthquake events were reported in Maine during 2011. From the 15 years of documentation beginning April 29, 1997 through December 12, 2011, MGS reports a total of 78 earthquakes events have been felt in Maine (MGS, 2012). Epicenters of ten of these were located outside of Maine; four of which were from as far away as northeast of Quebec City, near Plattsburgh, NY, and 35 miles north-northeast of Ottawa. The epicenter is the point on the earth's surface directly above the source of vibration or origin of the quake. On average therefore, approximately five earthquakes per year are felt in Maine with as few as two being reported to be felt in 1997, 2004 and 2009 and as many as 12 being felt in 2006.

The amount of energy released by an earthquake is measured on the logarithmic Richter Scale where an earthquake that measures 5.0 is 10 times stronger than one that measures 4.0, or 100 times stronger than one measuring 3.0 and 1,000 times stronger than one measuring 2.0. Over the 15-year period, the magnitude of the 78 earthquake events recorded to be felt in Maine ranged between 1.3 and 5.4 with the four events exceeding 5.0 associated with the out of state epicenters referenced above.

Earthquakes with magnitudes less than 2.0 are generally too small to be felt and are referred to as microquakes that, as a result, are sometimes unlisted; although 18 of the 78 felt in Maine had

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

lesser magnitudes. Earthquakes with magnitudes of 3.0 – 3.5 can be felt indoors by many people but by few outdoors and can disturb windows, doors and dishes whereas magnitudes of 4.0 – 4.5 are felt by all and can cause damage, such as falling plaster and chimneys. Dependent on the quality of construction, magnitudes in excess of 5.0 can cause damage to buildings and is felt by drivers of automobiles (MOGSP, 2012).

As suggested in the above request, seismic activity was recently recorded in the greater Searsport area. One of the events reported by MGS for 2011 took place between April 30 and May 5 in the Bucksport-Searsport region with recorded magnitudes of 1.7 and less. As many as 30 of these very small microquake events – referred to as a swarm – took place over this six-day period. Earthquake swarms have previously occurred elsewhere in Maine such as in the fall of 2008 near Bar Harbor and with as many as a dozen events near Augusta in 1967. The Maine Geological Survey's press release description of the microquake swarm in the Bucksport-Searsport Region during the Spring of 2011 (MGS, 2011) is provided as Attachment G. In that press release, Dr. Robert Marvinney, Maine State Geologist and Director of the Maine Geological Survey is quoted as saying:

> *"This swarm may continue for several days, but there is no need for alarm. This type of swarm has occurred before in Maine. While local residents may feel the earthquakes, because they occur only a few miles below the surface, they are well below the magnitude 5 threshold at which damage might occur. The occurrence of this swarm cannot be taken as an indicator that a larger, potentially damaging earthquake will occur."*

Maine is not located along an active geologic plate boundary such as California, Chile or Japan where severe earthquakes have recently occurred. Instead, rebound of the earth's crust from the past weight of now departed continental glaciers (similar to the response after sitting on a mattress) is thought to be a cause of some of the minor earthquakes that are felt in mid-coast Maine.

Regardless of the minor nature and low potential for damage from the earthquakes we experience in Maine, DCP has designed its facilities to withstand the earthquake events that can occur here. The design for the Searsport facility will be in compliance with the State of Maine Building Code which currently has adopted the International Building Code, IBC 2009. The seismic design criteria used will be in accordance with the criteria listed in American Society of Civil Engineers Minimum Design Loads for Buildings and other Structures (ASCE /SEI, 7-05) published in 2005 and is currently the standard included in the Maine Building Code. Since ASCE 7-10 is the most current edition of this standard both were used by the geotechnical engineer for the evaluation of the site specific soil liquefaction potential. The bulk storage tank seismic design is in compliance with American Petroleum Institute API 620 11th Edition, including Appendix L in conjunction with ASCE 7-05.

A complete copy of DCP's Geotechnical Report will be provided to the USACE if requested.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

References Cited

MGS (Maine Geological Survey), 2011. *Bucksport-Searsport Region Feels Small Earthquake Swarm.* Retrieved January 9, 2012 from: http://www.maine.gov/doc/nrimc/mgs/explore/hazards/quake/bucksport-microquakes-press.htm .

MGS (Maine Geological Survey), 2012. *Maine Earthquakes 1997 to Present,* Retrieved January 9, 2012 from: http://www.maine.gov/doc/nrimc/mgs/explore/hazards/quake/quake-recent.htm.

MOGSP (Missouri Geological Survey Program) 2012. *The Relationship Between the Richter Magnitude and the Modified Mercalli Intensity*. Retrieved January 9, 2012 from: http://www.dnr.mo.gov/geology/geosrv/geores/richt_mercali_relation.htm.

Osberg, P.H., Hussey, A.M., II, and Boone, G.M., 1985, Bedrock Geologic Map of Maine: Maine Geologic Survey, scale 1:500,000.

I. Security issues are a primary focus of the Coast Guard in their Waterway Suitability Report and Letter of Recommendation. However their primary focus may well be vessels in transit and docked at the terminal. Please summarize the security measures that are required to be implemented at the tank facility and truck/train loading sites.

Response I:

SECURITY

DCP takes seriously our responsibility to secure our facilities. In accordance with applicable regulatory requirements and industry standards, we will develop and implement a comprehensive security plan for this facility as we do for each of our facilities.

Operations of the proposed facility, including the tank facility and related loading sites, will be covered by the Maritime Transportation Safety Act of 2002 ("MTSA"), a comprehensive federal regulatory program designed to protect U.S. port facilities from terrorist attack. *See* Pub.L. 107-295. MTSA is implemented by the United States Coast Guard under the Department of Homeland Security ("DHS"). *See* 33 C.F.R. Parts 101 through 106. Under the Coast Guard's MTSA regulations, covered facilities are required to prepare and implement security plans for deterring transportation security incidents to the maximum extent practicable. DCP currently operates another MTSA facility, and we are proud of our stellar MTSA compliance record.

Under the MTSA regulations, the facility will be required to operate in accordance with a threat-scalable facility security plan ("FSP") approved by the Coast Guard. *See* 33 C.F.R. Part 105.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

This plan will address the security risks identified in a MTSA facility security assessment. Among other things, the FSP will establish access control measures, security measures for cargo handling and delivery of supplies, surveillance and monitoring, security communications, security incident procedures and training and drill requirements. The plan will also identify a Facility Security Officer who is responsible for ensuring compliance with the FSP.

The facility will also comply with the MTSA Transportation Worker Identification Credentials ("TWIC") program administered by the Transportation Security Administration ("TSA"). *See* 33 CFR. § 101.105. Under the TWIC program, individuals who require unescorted access to secure areas of the facility will obtain and present a TWIC card before access is granted. Workers applying for a TWIC card must provide certain personal information and fingerprints to TSA so that TSA can conduct a security threat assessment, which includes an FBI investigation fingerprint-based criminal history records check.

In addition to MTSA, the facility will develop and implement a security plan in accordance with the Department of Transportation Hazardous Materials Transportation Security Requirements. *See* 49 C.F.R. Part 172. The plan will include an assessment of possible transportation risks and appropriate measures to address the assessed risks including personnel security, measures to ensure that unauthorized persons do not gain access to hazardous materials, and enroute security.

Moreover, the facility will comply with applicable security requirements contained in TSA's Rail Transportation Security Rule. *See* 49 CFR § 1580. The rule requires shippers, receivers, and carriers of hazardous materials to implement chain of custody requirements, create a rail security coordinator, be equipped to report the position of hazardous materials, and report significant security concerns to TSA.

SAFETY

DCP leads the midstream industry as the second-largest natural gas gatherer and processor, the largest natural gas liquids producer and one of the largest propane marketers in the United States. More importantly to DCP is the fact that we are a leader in our industry in terms of safety.

At DCP the safety of our employees and that of the public is a core value; one which never changes and is always present. To ensure the safety of our employees and the public, DCP relies on a dedicated and highly trained workforce, as well as detailed work practices and procedures. Below is a list of just some of the practices, structure and specific safety features of this project:

- DCP has demonstrated its commitment to safety by employing over 25 experts in the area of health and safety and over 25 experts in the area of Process Safety, some of whom will be assigned to support the Searsport Terminal. The safety department at DCP has a high level corporate commitment, which includes a full time Health & Safety

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Director and Process Safety Director, both of whom report to the Sr. Vice President of Environmental Health & Safety.

- The Searsport Terminal design was completed with the safety of its employee and the public in mind. The low temperature\low pressure design has been proven to be the safest possible design option for storing propane. By storing propane at low pressures, this greatly reduces the likelihood of any type of pressurized explosion. If somehow a fire did occur, the liquids would burn off, but without the risk of explosion.
- A flare system is being incorporated into the design, so that if in the unlikely event of a loss of refrigeration due to a system upset or power failure, the warming propane vapors would be safely burned off in the flare.
- The Searsport Terminal will be operated as a Process Safety Management ("PSM") facility. These guidelines under the Occupational Safety & Health Administration ("OSHA") include 14 elements to ensure operational safety. DCP's rigorous PSM Program requires that the entire process; every valve, fitting, alarm, and safety feature, be evaluated by Process Hazards Analysis ("PHA") team. Then before startup of the facility a separate team will conduct a Pre-Startup Safety Review ("PSSR") of the facility and compare it against the PHA to ensure all outstanding action items have been addressed. While in operation DCP requires that a Management of Change ("MOC") review be conducted prior to making any change to the original system design, to evaluate the impact of that change to safety. All action items identified as a result of a PHA, PSSR, or MOC review are tracked in an electronic data base, to ensure items are documented and tracked through closure. Safety systems are designed with redundancy in mind to ensure protection of the people and the process should a safety system fail.
- This facility will also have in place a Risk Management Plan ("RMP"). This plan is a detailed assessment of the potential impacts to the surrounding community from a worst case and an alternate case upset event. Through the PSM process DCP identifies the possible things that could go wrong, the results of these upsets are evaluated through the RMP process, and then DCP develops plans and strategies to reduce the likelihood of occurrence, and\or reduce the severity of the impact from these events. Nothing is left to chance.
- All of DCP's employees go through a thorough new employee training process that includes operational and safety training. No employee, contractor, or visitor is allowed to step foot inside a DCP facility without first going through a basic safety orientation or without the appropriate Personal Protective Equipment ("PPE"). .
- Besides initial safety training, all employees must complete annual refresher safety training on a wide variety of topics including safety permits; emergency response; fire prevention; PPE; Hazardous Materials; and DCP concepts and philosophy on creating a safety culture.
- To prevent incidents from occurring before they happen, DCP has numerous checks in balance systems in place. Some of these include:

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

  - A Hot Work Permit system, that requires area surveys, and supervisor sign-off before any work activity that could create a spark or fire.
  - Daily Job Hazards Analysis ("JHA") completed, to ensure every task has been evaluated for safety concerns and that information communicated to everyone prior to starting.
  - DCP also has an internal EHS Audit Group, which conducts an independent compliance assessment of all PSM facilities every three years. This independent body provides the checks and balances needed to ensure the highest level of compliance. The audit group audits the facility against all regulatory requirements, as well as DCP's own policies and procedures, many of which are more stringent than the federal or state guidelines.
- All DCP facilities have in place detailed emergency response plans. Facility personnel conduct annual emergency drills; and are required to work closely with local emergency responders in developing the plans and in practicing their response.
- All DCP PSM facilities, including the Searsport Terminal, have a series of Emergency Shut Down ("ESD") valves and devices. These valves allow any operator to instantly shut off the flow of propane, with the simple activation of one of these buttons; which are located in various strategic locations throughout the facility. All operators are trained to activate these ESD devices; without any fear of repercussion for activating them.
- Critical to DCP's safety program is a rigorous incident reporting and investigation program. DCP requires that all incidents (i.e. injury, illness, near accident, fire, explosion, product spill, unplanned/uncontrolled emissions event, vehicle accident, pipeline safety-related condition, or other property damage) be reported immediately and then investigated. Depending on the significance of the event, in order to ensure that the right employees are assigned to the investigation team, that the investigation is independent of plant personnel, and that the root causes are identified, a hierarchy exists to assign investigation team members from other plants, asset areas, or regions. All investigations reports are reviewed by the Health & Safety group, and by the highest levels of management. Then DCP utilizes various internal communications methodologies to communicate to all locations the details of the incident, so that others can learn from the incident.
- Also core to the DCP Safety Culture is the use our "Sequential Safety Process". Simply put, this is a communications process that involves and requires all DCP leadership to be engaged in and discuss safety at all levels of the company. A senior leadership team made of company presidents and vice presidents meets monthly to set the safety direction of the company, and discuss ways to improve safety. This information cascades down through the company, with each leader holding a subsequent monthly meeting with their staff and each of them in turn holding a meeting with their staff; until nearly every employee in the company has been engaged in the safety process.

DCP Midstream is a company committed to the safety of its employees, contractors, visitors and members of the community in which we operate. To ensure everyone's safety DCP has in

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

place all of the systems and processes described above, and more. DCP has an outstanding record of safety performance, but we don't stop with that. Safety is a companywide commitment from our company President to the plant operator. Safety is not a destination, but a journey in which we strive for continuous improvement, and continuous learning and evolution.

m. Several project opponents have apparently banded together for a court challenge of the DEP permit. What is the status of this challenge? Presumably you are aware that if the DEP permit is overturned then any Corps permit decision is no longer valid. And since the Corps is relying on the DEP's review of many of the same public interest concerns, we are keenly interested in the status of the court challenge.

Response m:

Pursuant to M.R. Civ. P. 80C, a group of opponents, collectively referenced as "Thanks but No Tank, et al." petitioned the Superior Court to overturn the MDEP's October 24, 2011 issuance of DCP's Site Law/NRPA permit (DEP permit #L-25359-26-A-N/L-25359-TG-B-N/L-25359-L6-C-N/L-25359-4E-D-N) (the "DEP Permit"). Petitioners filed the appeal in Kennebec County Superior Court on December 2, 2011 and the case has been assigned Docket No. AP-11-58. The MDEP filed the administrative record on January 3, 2012. Briefs will be filed by both parties in the next few months. DCP is aware that it is required to have all necessary valid federal state and local permits prior to initiating construction of the Project. It is important to note that the DEP permit held by DCP remains valid, and the appeal of the DEP Permit does not stay or otherwise invalidate the underlying permit.

n. One citizen commented that his and other boats at anchor in Searsport Harbor could be effectively blocked from leaving because of the exclusion zone around an LPG vessel at anchor pending docking at the marine terminal. Although this is an issue being considered by the Coast Guard, please comment on his allegation that LPG vessels could be at anchor for extended periods due to tidal restrictions at the terminal pier. The Corps is not aware of such restrictions.

Response n:

DCP is providing in Attachment H a letter from Captain David Gelinas, President of the Penobscot Bay and River Pilots Association, that addresses this concern. Captain Gelinas states:

> Searsport Harbor is a broad expanse of water, with ample room and depths for recreational navigation along both its east and west shores. At its mouth, defined as being between the south end of Sears Island on the east and Moose Point on the west, the harbor is over two miles wide. While the Coast Guard has not yet defined what type of "security zone" might be required around anchored vessels, I see no

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

reason why such a zone would extend more than ½ mile from the ship; ¼ mile would be a reasonable distance in my opinion. At either of these distances, an LPG ship anchored in the middle of the mouth of the harbor would in no way restrict recreational or commercial navigation in or out of Searsport. At its closest point to the west shore, a security zone of ½ mile around an anchored LPG vessel would still yield over ¼ mile of water with ample depths for navigation of recreational vessels. To the north and east of this same zone, the distances remaining for navigation are much greater.

A copy of the letter from Captain Gelinas is provided in Attachment H, along with a graphic prepared by TRC that shows the maximum expected security zone surrounding a vessel at a typical anchorage location off Searsport Harbor and the ample open water available for passage of recreational vessels on either side of this zone.

o. What is the current status of your air license from the Maine DEP?

Response o:

DCP's Maine Air Emission License for the proposed terminal was approved by the MDEP on October 27, 2011. No appeal was filed within the required time period. The Air Emission License makes the following conclusion and includes a condition that DCP must comply with 40 CFR Part 68, *Chemical Accident Prevention Provisions*, which includes submittal of a Risk Management Plan to the U.S. Environmental Protection Agency prior to receiving LPG above the threshold quantity on-site.

MDEP Conclusion: Based on the above Findings and subject to the conditions listed below, the Department concludes that the emissions from this source will:

- Receive Best Practical Treatment [in this case Best Available Control Technology).
- Will not violate applicable emissions standards.
- Will not violate applicable ambient air quality standards in conjunction with emissions from other sources.

A copy of DCP's Air Emission License application and the License issued by MDEP will be provided to the USACE if requested.

p. What is the current disposition of the proposed moratorium on tanks in Searsport? Much like with the DEP decision, if local approval could not be obtained, the Corps would have no choice but to administratively deny a permit.

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

Response p:

At the 2012 annual Town Meeting, scheduled for March 10, 2012, Searsport residents will be asked to vote on a warrant article, which, if enacted, would place a moratorium on the acceptance or processing of applications or issuance of approvals relating to the development of any liquefied petroleum gas terminal in Searsport. As noted above, DCP is aware that it is required to have all necessary valid federal state and local permits prior to initiating construction of the Project. As noted previously in this response, at the 2011 annual Town Meeting, the Searsport residents voted to amend height limits in an existing Land Use Ordinance so the DCP Project proposal, among others, could be considered by the Searsport Planning Board.

q. A number of opponents highlight the fact that the developer will "clear cut" the entire site and that all natural buffers will be eliminated. For the record, please clarify the actions that the applicant proposes to minimize the project's direct and indirect visual impact.

Response q:

DCP is using a combination of existing and final topography, retention of existing tree cover, and adjustments to the facility design to minimize the project's visual impact. Adjustments in the facility design include keeping the profile of all structures as small as site constraints and the economic feasibility of the terminal allows, limiting the location, design and amount of exterior lighting to avoid off-site illumination to the extent allowed by safety and security requirements, and the installation of perimeter fencing. With regard to the retention of natural buffers, the following summary is provided from the local applications:

> The wooded area at the corner of U.S. Route 1 and Station Avenue (approximately two acres) will remain unaffected by construction or operation of the proposed Terminal. The existing topography of the upper parcels drops significantly between U.S. Route 1 and the shoreline. Retention of these trees, which will continue to grow taller, in combination with the downward slope between U.S. Route 1 and the shoreline will limit views of the project from the south along U.S. Route 1. In addition, the base of the largest structure at the facility, the bulk storage tank, has been established at as low an elevation as feasible.
>
> The approximately six acres of forested upland between the existing railroad spur to the Mack Point Terminal and Long Cove will also remain unaffected by the project. This will limit views of the project from the north along U.S. Route 1. Visual screening will also be enhanced in most directions by existing tree cover on surrounding properties.

DCP is providing in Attachment B four visual simulations of the developed site that have been completed from different locations around the proposed facility. The simulations were prepared

RESPONSES TO REQUEST FOR ADDITIONAL INFORMATION

to comply with MDEP's Chapter 315 Regulation, which require visual impacts be minimized from nearby designated scenic resources. Scenic resources, as defined by the MDEP regulation, within three miles of the site were evaluated and consist of a number of historic architectural structures listed on or potentially-eligible for listing on the National Register of Historic Places, the Atlantic Ocean (i.e., Long Cove and Penobscot Bay), Mosman Park, a municipal park near downtown Searsport, and Moose Point State Park, located near the Searsport/Belfast town line. The visual simulations were focused on those scenic resources from which the terminal facilities would most likely be visible. The simulations that represented the view from potential historic structures were included in DCP's Historic Resources Report that was submitted to the Maine Historic Preservation Commission (MHPC) for review and concurrence with its findings. The MHPC concurrence with the findings of the Historic Structures Report was provided previously to the USACE and MDEP. The visual simulation that represents the view from Long Cove and Penobscot Bay was included in the NRPA/USACE application.

The complete Historic Structures Report and other correspondence with the MHPC will be provided if requested. Additional details regarding the methodology used for the visual impact assessment are provided in the NRPA/USACE application. See response b for MDEP's findings regarding visual impact.

It should be noted that the visual simulations discussed above assumed that the base of the bulk storage tank would be at an elevation of 50 feet above mean sea level (MSL), and subsequent design modifications allowed the base of the bulk storage tank to be lowered to 44 feet MSL. As a result the height of the tank as shown in the visual simulations is approximately six feet higher than the proposed design and therefore slightly overestimates the its visual impact.