

 Columbia Law School | COLUMBIA CLIMATE SCHOOL
SABIN CENTER FOR CLIMATE CHANGE LAW

February 13, 2025

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Via *regulations.gov*

Re: LOC-NESS Wilkinson Basin Study: Proposed Permit No. EPA-HQ-MPRSA-2024-002

Dear Director Jensen:

Columbia Law School's Sabin Center for Climate Change Law ("Sabin Center") respectfully submits these comments on the Environmental Protection Agency's ("EPA") memorandum on proposed updates to the application submitted by the Woods Hole Oceanographic Institution ("WHOI") under the Marine Protection, Research, and Sanctuaries Act ("MPRSA").¹ In these brief comments, we reiterate the points made in our previous comments in the docket that 1) safe and responsible research into marine carbon dioxide removal ("mCDR") is necessary 2) WHOI is well-placed to conduct mCDR research, and 3) EPA has the authority under the MPRSA to permit mCDR research.

The Sabin Center supports efforts to conduct safe, responsible, and scientifically-sound research into ocean alkalinity enhancement and other mCDR approaches, including controlled in-ocean field trials like those proposed by WHOI. Such research is critical to improve understanding of mCDR and determine whether any technique might be used to help combat the climate crisis (alongside necessary emissions reductions and other climate change response strategies). A 2022 report by the U.S. National Academies of Sciences, Engineering, and Medicine ("NASEM") concluded that "[e]xpanded research including field research is needed to assess [mCDR] techniques' potential efficacy . . . [and] to identify and quantify environmental impacts, risks, benefits, and co-benefits."² As an independent, non-profit ocean research institution, WHOI is well-placed to conduct the research called for in the NASEM report.

As explained in our previous comments, EPA is acting well within its authority to permit mCDR research under the MPRSA. EPA is expressly authorized "to regulate the dumping of all

¹ Env'tl. Prot. Agency, Memorandum of Application Update WHOI LOC-NESS Phase 2 Wilkinson Basin Study January 2025, Docket ID EPA-HQ-OW-2024-0189.

² Scott C. Doney et al., A Research Strategy for Ocean-based Carbon Dioxide Removal and Sequestration 239 (National Academy of Sciences, Engineering, and Medicine, 2022), <https://nap.nationalacademies.org/read/26278/chapter/1>

types of materials into ocean waters.”³ The definition of “dumping” in the MPRSA is broad, referring to any “disposition of material” (subject to limited exceptions that do not apply here).⁴ The MPRSA definition of “material” is similarly broad, encompassing “matter of any kind or description” (again with limited exceptions that are not applicable here).⁵ The proposed WHOI project involves a release of substances—i.e., sodium hydroxide and Rhodamine Water Tracer dye—into ocean waters and thus is clearly covered by the MPRSA.

Under the MPRSA, EPA is authorized to issue dumping permits “where the Administrator determines that such dumping will not unreasonable degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.”⁶ EPA’s fact sheet on the LOC-NESS Wilkinson Basin Study, updated in January 2025, includes careful consideration of the potential impacts of the project and explanations for its tentative determination to issue the research permit.⁷

Thank you for the opportunity to submit these comments. Please do not hesitate to contact us should you require any additional information.

Sincerely,

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³ 33 U.S.C. § 1401(b).

⁴ *Id.* § 1402(f).

⁵ *Id.* § 1402(c).

⁶ *Id.* § 1412(a).

⁷ Env’tl. Prot. Agency, FACT SHEET on the Proposed LOC-NESS Wilkinson Basin Study, Updated January 2025, Tentative Permit No. EPA-HQ-MPRSA-2024-002. EPA expressed that the results of required assessments under the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act were ongoing and would be added to the docket at a later date. *Id.* at 37. We urge EPA to add these as soon as feasible.