

July 31, 2026

VIA E-Mail

U.S. Army Corps of Engineers
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**RE: Wilmington Harbor Section 403 Project—Deficiencies with the Final Letter Report
& Final Environmental Impact Statement**

The Southern Environmental Law Center (“SELC”) respectfully submits this letter on behalf of Audubon North Carolina, Cape Fear River Watch, Center for Biological Diversity, CleanAIRE NC, Defenders of Wildlife, League of Women Voters of the Lower Cape Fear, North Carolina Coastal Federation, North Carolina Conservation Network, and Sierra Club North Carolina regarding the U.S. Army Corps of Engineers’ (“Corps”) recent publication of the Final Letter Report and Final Environmental Impact Statement (“FEIS”) for the Wilmington Harbor Section 403 Project. We write this letter to highlight deficiencies that persist in these reports, despite our repeated comments raising concerns throughout the environmental review processes. We urge the Corps to rectify these shortcomings prior to making a final decision on the project—or to reject the project entirely based on the insufficient information and remaining errors in these documents.

I. The FEIS continues to demonstrate that the project’s minimal benefits do not justify the extreme costs.

As we have raised repeatedly, the Corps has failed to demonstrate that the project is economically feasible and would contribute to national economic development. In order for there to be a federal interest in a water resource project, the project must have the “benefits exceed costs and therefore the benefit/cost ratio must exceed 1.0.”¹ Moreover, the Corps is required to “seek[] to maximize sustainable economic development” while also protecting the environment through mitigation of unavoidable damage.² The Corps has not demonstrated that the project meets these standards.

¹ U.S. Army Eng’r Inst. Water Res., Deep Draft Navigation IWR Report 10-R-4 (April 2010) at 20; *see also* U.S. Army Corps of Eng’rs, Final Letter Report: Wilmington Harbor Section 403 Wilmington Harbor Navigation Project Wilmington, North Carolina (June 2026) [hereinafter “Final Letter Report”] at 2-3 (“Like most USACE navigation investment decisions, the return to the national economy would be generated by reducing transportation costs by addressing inefficiencies in the existing transportation system. For there to be a federal interest, the contribution to NED must exceed the cost to construct and maintain the project over the period of analysis.”).

² 33 C.F.R. §§ 234.4(b)(1), (3).

Under the Corps' most favorable economic analysis, the benefit-cost ratio ("BCR") of the project is a mere 1.3,³ which is far lower than the BCR at other southeastern ports that have undergone similar deepening projects.⁴ Should any portion of the project increase in price, this rosy but razor-thin benefits ratio could shift below one, rendering the project wholly infeasible. For example, should the dredged material be contaminated and no longer used for beneficial use projects, "[a]pproximately \$35 million dollars would be added to the overall project cost."⁵ This is just one example of many where a slight deviation from the project plan could edge the project's BCR closer to below 1.0, and thus create an economically infeasible endeavor.

Indeed, the Corps' Economics Considerations Attachment to the Final Letter Report is upfront that "[t]he benefits of the recommended plan for this project are uncertain."⁶ The Corps admits that this uncertainty exists in part because of a lack of knowledge surrounding the precise orderbook data for vessel classes at Wilmington Harbor. The Corps also states that much of the rest of the uncertainty stems from a wide range of factors that cannot be readily known, such as precise future container totals, turning times, and delay times.⁷

The Economics Considerations Attachment also includes new information that suggests the BCR could be even lower—in fact, low enough to dip below the requisite BCR threshold of 1.0. That attachment includes new information about sensitivity analyses conducted by the Corps to take into account some of the many uncertainties inherent in the project.⁸ Under this modeling, the scenario assumed that the Port would still experience growth—but at a lower rate more in line with historical growth—and projected a less rapid fleet forecast increase than the modeling for the 1.3 BCR.⁹ Under this Lower Growth Scenario, the BCR is only 0.7. That is, the annual net "benefits" are estimated to be **-\$22,832,000—actually a net annual loss, and** a 50% decrease in benefits than the modeling that resulted in a BCR of 1.3.¹⁰

The Corps also admitted in these new documents that this deepening project would not pass on long-term benefits to consumers nor the local economy.¹¹ The Corps has stated that the

³ U.S. Army Corps of Eng'rs, Wilmington Harbor 403 Letter Report: Attachment 5 – Economic Considerations (June 2026) at 61.

⁴ *What is SHEP?*, U.S. ARMY CORPS OF ENG'RS, <https://www.sas.usace.army.mil/Missions/Civil-Works/Savannah-Harbor-Expansion/What-is-SHEP/> (last visited Nov. 2, 2025); Jackie Pennoyer, *Final Harbor Deepening Contracts Awarded*, U.S. ARMY CORPS OF ENG'RS (Dec. 22, 2020), <https://www.sac.usace.army.mil/Media/News-Stories/Article/2454681/final-harbor-deepening-contracts-awarded/>. While these were the BCRs the Corps identified in both projects, we note that they were likely inflated to serve the associated port's benefits. That said, even assuming some inflation of benefits, the BCRs are significantly higher than the one calculated for the Wilmington Harbor expansion.

⁵ U.S. Army Corps of Eng'rs, Wilmington Harbor 403 Letter Report: Appendix O – Public Comments Summary: Public Comment Responses (April 2026) at 40.

⁶ Attachment 5 – Economic Considerations at 61.

⁷ *Id.*

⁸ *Id.* at 62.

⁹ *Id.*

¹⁰ *Id.* at 64.

¹¹ Appendix O – Public Comments Summary: Public Comment Responses at 4.

lower costs for shipping goods—the primary assumed benefit of this project—would not be passed on to consumers because of the myriad factors that go into the price of the good.¹² The Corps also clarified that “the benefits of the project are not job creation.”¹³ The Corps’ own documentation admits the deepening would yield little to no benefit for consumers or the local economy, which stands in opposition to the Corps’ mandate to maximize sustainable economic development.

II. The FEIS fails to address significant questions and critiques about impacts.

The Corps also failed to address many deficiencies Conservation Groups and others raised in public comments about the devastating impacts of this project. During the most recent public comment period for the Draft Letter Report and Draft Environmental Impact Statement (“DEIS”), the Corps received over 1300 individual comments and a petition in opposition with 631 signatories. The overwhelming majority (~97%) of the total comments received were opposed to the proposed expansion of the harbor, with many raising significant concerns with the contents of the Corps’ documents. Nonetheless, huge swaths of the DEIS appear unchanged from the FEIS, and the Response to Public Comments Attachment sidesteps and omits key questions raised by stakeholders. While the Corps did repeatedly conduct public outreach and request comments, the agency also repeatedly failed to address or incorporate those comments in either the DEIS or the FEIS. As one simple but telling example, the FEIS’s list of references does not include *any* of the attachments newly provided with Conservation Groups’ comments on the DEIS and only includes two of the dozens of attachments provided during previous comment periods.

Below, we provide a non-exhaustive list of remaining deficiencies with the FEIS that the Corps must address in order to make an informed decision about the project.

Wetland Losses: The Corps continues to assume without justification that acres of freshwater-type wetlands will conveniently convert to the identical acreage of higher-salinity wetland types.¹⁴ The Corps minimizes this concern by simply stating that “[n]o wetlands will be filled in or destroyed as part of the proposed project.”¹⁵ This does not answer the question posed to the Corps about why it assumes that for every acre of wetland lost an acre will be gained somewhere else.¹⁶ More so, the Corps does not appear to consider the different ecological functions of freshwater and higher-salinity wetland types when making this assertion. For example, even slight changes in salinity could result in the loss of freshwater wetland function, which is

¹² *Id.*

¹³ *Id.* at 7.

¹⁴ Compare FEIS at 3-63, with U.S. Army Corps of Eng’rs, Wilmington Harbor 403 Draft Environmental Impact Statement Wilmington Harbor Navigation Project, North Carolina, EISX-202-00-K7P-1755163795 (Sept. 12, 2025) at 3-55 (tables with identical numbers); see Letter from Hannah Nelson et al., S. Env’t Law Ctr., to U.S. Army Corps Eng’rs, at 16–17 (Nov. 10, 2025) (corrected from original November 3, 2025 submission) [hereinafter “SELC DEIS Comments”].

¹⁵ Appendix O – Public Comments Summary: Public Comment Responses at 33.

¹⁶ SELC DEIS Comments at 17.

crucially important for the state's fisheries that cannot readily adapt to higher salinity.¹⁷ This salinity shift could also further imperil the state's ever-dwindling submerged aquatic vegetation ("SAV")¹⁸ communities, an issue raised by DCM in its consistency objection.¹⁹

PFAS Contamination: The Corps does not adequately address the risk of PFAS contamination in dredged material, the "primary hurdle" to obtaining North Carolina's Division of Coastal Management ("DCM") consistency certification.²⁰ A large portion of the public comments to the Corps raised concerns both with not testing the dredged material and not considering research that had been done in the Cape Fear River about PFAS contamination. Notably, DCM denied the Corps' consistency determination in part due to the lack of information on PFAS.²¹ Rather than meaningfully address the concerns raised by public comments and the state, the Corps mentions repeatedly that the project is not expected to contribute to further pollution of the Cape Fear River.²² The Corps attempts to absolve their responsibility further by claiming that existing research on the likelihood of contamination of sediment is limited,²³ and asserting that the state will be responsible for costs associated with any remediation of contaminated sediment.²⁴ In the Response to Public Comments appendix, the Corps states that "additional clarity about potential PFAS-related impacts will be provided in the final EIS."²⁵

But the FEIS does not contain the promised additional information about the potential impacts PFAS present to humans or animals, despite a wide array of research on the subject.²⁶ What's more, there is a plethora of research on PFAS pollution specifically in the Cape Fear River, including in sediments.²⁷ Where there are gaps in research—such as the contamination of undisturbed material that may be dredged—the Corps must test the material to ensure that there is not a risk of contamination to the people and wildlife who may use the material. DCM noted in its consistency objection that "[w]ithout this analysis, the project cannot be shown to avoid significant adverse effects" to both the human and natural environment.²⁸

¹⁷ *Id.*

¹⁸ See Don Field et al., *Extent and Distribution of Submerged Aquatic Vegetation*, HIGH-SALINITY ESTUARINE WATERS 2ND ED. METRIC REP. (2026) (concluding that SAV in North Carolina has steadily declined for the last twenty years, losing 16% of its extent). Although this study was not conducted in the project area, the study found that threats to SAV include channel dredging.

¹⁹ Letter from Tancred Miller, N.C. Div. Coastal Mgmt., to Bret Walters, U.S. Army Corps Eng'rs at 11 (Feb. 24, 2026) [hereinafter "Consistency Determination"].

²⁰ U.S. Army Corps of Eng'rs, Wilmington Harbor 403 Final Environmental Impact Statement Wilmington Harbor Navigation Project, North Carolina, EISX-202-00-K7P-1755163795 (June 2026) at ES-16 [hereinafter "FEIS"].

²¹ Consistency Determination at 7–8.

²² FEIS at ES-15, 3-72.

²³ *Id.* at ES-15 to -16.

²⁴ *Id.* at 3-37.

²⁵ Appendix O – Public Comments Summary: Public Comment Responses at 31.

²⁶ *Id.*; see, e.g., Zeyan Lew, Houman Goudarzi & Youssef Oulhote, *Developmental Exposures to Perfluoroalkyl Substances (PFASs): An Update of Associated Health Outcomes*, 5 CURRENT ENV'T HEALTH REPS. 1 (2023).

²⁷ See, e.g., Megumi S. Shimizu et al., *Distribution of legacy and emerging per- and polyfluoroalkyl substances in riverine and coastal sediments of Southeastern North Carolina, USA*, ROYAL SOC. CHEM. (2022).

²⁸ Consistency Determination at 8.

Sea Level Rise: The Corps continues to compare the impacts of this project with the long-term, decades-long projections of sea-level rise in the area.²⁹ The FEIS provides no explanation or response for this flawed choice.³⁰ In comparing the project against the projected sea level rise 50 years out from the completion of the project, the Corps obfuscates the project's impact, minimizing the harm that the deepening may do decades before that that time horizon. In order to more accurately assess this project's impact, the Corps must compare the deepening to what sea-level rise may look like in 2036—when the deepening is estimated to be completed—and consider how deepening the harbor will exacerbate the effects of sea-level rise in the Wilmington area at that time.

Fleet Forecasting: Multiple public comments raised questions about why the Corps assumed that Post-Panamax I vessels would increase from a single ship to 237 vessels by 2036 if the project did not go forward.³¹ However, the Corps failed to address what particularly about Wilmington Harbor would lead to a massive jump in the industry-wide use of Post-Panamax I class of ships contrary to industry trends. As the fundamental basis for the benefit-to-cost ratio and the Corps' baseline impacts scenario, the Corps must explain why and how the fleet would change so dramatically.

Wake Modeling and Coastal Erosion: The FEIS fails to address the many deficiencies identified with its wake modeling.³² For example, while the Corps claims its use of the term “12,400 TEU vessel” for modeling was intended to reference any vessel of the Post-Panamax Generation III class³³—the explanation seems to miss the point of the comment: that the Corps needs to model the likely wakes of the type of vessel traffic the project seeks to accommodate. Even if a ship bearing 12,400 TEUs is the same design as a ship bearing 15,000 TEUs, it is not clear from the Corps' referenced documents that it modeled the different weight or draft of a heavier-loaded, larger 15,000 TEU capable vessel. Indeed, the design vessel used in modeling, the MSC Lauren, is advertised as having a 12,400 TEU capacity,³⁴ whereas the Zim Mount Rainier, the largest ship to recently call at the Port,³⁵ is advertised as having a more than 15,000 TEU capacity and a beam that is at least 8.5 feet wider than the MSC Lauren.³⁶ In other words,

²⁹ See U.S. Army Corps of Eng'rs, Wilmington Harbor 403 Letter Report: Appendix B – Model Documentation (April 1, 2026) at B-24.

³⁰ SELC DEIS Comments at 12–15; Consistency Determination at 8–9.

³¹ SELC DEIS Comments at 8.

³² See *id* at 18–19, see also Lynker Corp., Wilmington Harbor Navigation Improvement Project Draft Environmental Impact Statement Technical Review (Oct. 30, 2025), at 1–3 (provided as Attachment 4 to SELC DEIS Comments).

³³ Appendix O – Public Comments Summary: Public Comment Responses at 24.

³⁴ E.g., *MSC Lauren*, MARINETRAFFIC,

<https://www.marinetraffic.com/en/ais/details/ships/shipid:412273/mmsi:353428000/imo:9467407/vessel:MSC%20LAUREN#overview> (last accessed July 31, 2026) (listing width as 48.44 meters); *MSC Lauren*, FLEXPOR ATLAS, <https://atlas.flexport.com/vessel/imo:9467407/mmsi:353428000/name:msc-lauren> (last accessed July 31, 2026) (listing TEU capacity as 12,400).

³⁵ Delaney Tarpley, WECT, *Largest Container Ship to Ever Dock at Port of Wilmington Arrives* (Mar. 30, 2025), <https://www.wect.com/2025/03/31/largest-container-ship-ever-dock-port-wilmington-arrives/>.

³⁶ E.g., *Zim Mount Rainier*, MARINETRAFFIC,

https://www.marinetraffic.com/en/ais/details/ships/shipid:7892968/mmsi:563293100/imo:9931135/vessel:ZIM_MO

the MSC Lauren “design vessel” is not representative of the largest ships already calling at the Port. The Corps needs to conduct wake analyses using the larger ships for which the project is designed to understand the consequent impacts, including on erosion and nesting birds.

Hopper Dredging Window: The Corps promised in its Public Comment Response document that a discussion of “[f]inal hopper and other dredging/placement windows will be included in the Final EIS.”³⁷ And yet the Corps did not include a construction dredging window in the FEIS, which is an essential protective measure for sea turtles and other coastal wildlife. The Corps cannot accurately predict harm to species without this detail of *when* it will conduct hopper dredging for construction of the deepening.³⁸

Overlooked Imperiled Species: The Corps has failed to provide a complete list of potentially impacted species. While we appreciate the Corps including consideration of the Eastern black rail in response to resource agency comments and our own, elsewhere, the Corps appears to have used the exact same text about non-listed wildlife impacts in its FEIS as in its DEIS,³⁹ without addressing any of the critiques raised in public comments about this cursory approach.⁴⁰ For example, the FEIS still does not mention impacts to the rare skipper, Venus flytrap, or diamondback terrapin in the list of potentially impacted species.⁴¹ These species must be considered as they stand to be adversely impacted by this project.

Beneficial Use Plan: The FEIS’s Beneficial Use Plan for dredged material is largely unchanged from the DEIS and thus continues to suffer from multiple inadequacies. Most notably, the Corps has failed to identify specific benefits of the placement; instead, the Corps’ cursory discussion on the sites to receive material states only that an unnamed class of aquatic and terrestrial species would benefit.⁴² Additionally, uncertainty remains around whether the Beneficial Use Plan is even viable—and if it is not, that would increase the cost of this project significantly. The Corps has not yet conducted hydrographic surveys at the proposed beneficial use sites to determine if the sediment type and quantity would even be compatible with the dredged material.⁴³ Nor has the Corps, as discussed above, tested whether the material proposed for beneficial use is contaminated and not appropriate for bird islands and habitat restoration. If the material is

UNT RAINIER, (last accessed July 31, 2026) (listing width as 51.03 meters); *Zim Mount Rainier*, FLEXPOR ATLAS, <https://atlas.flexport.com/vessel/imo:9931135/mmsi:563293100/name:zim-mount-rainier> (last accessed July 31, 2026) (listing TEU capacity as 15,000).

³⁷ Appendix O – Public Comments Summary: Public Comment Responses at 35.

³⁸ SELC DEIS Comments at 24–25.

³⁹ *Compare* FEIS at 3-89 to -90, *with* DEIS at 3-79 to -80.

⁴⁰ SELC DEIS Comments at 26.

⁴¹ U.S. Army Corps of Eng’rs, Wilmington Harbor 403 Letter Report: Appendix F – NMFS Biological Assessment (April 2026) at 26.

⁴² *See* U.S. Army Corps of Eng’rs, Wilmington Harbor 403 Letter Report: Appendix D – Beneficial Use Plan (April 2026) at 17–37 (providing an overview of beneficial use sites).

⁴³ *Id.* at 14.

contaminated, then the Corps' beneficial use plan would harm, rather than benefit, the species that may use the sites.

III. The Corps must complete required consultations to ensure the project is in compliance with applicable laws and regulations.

As provided in the FEIS, the Corps has not completed consultation under the Coastal Zone Management Act ("CZMA"), the Endangered Species Act ("ESA"), Marine Mammals Protection Act ("MMPA"), Magnuson-Stevens Fishery Conservation and Management Act, National Historic Preservation Act ("NHPA"), and the Clean Water Act ("CWA").⁴⁴ Each of these consultations force the Corps to analyze how this project may impact the natural and human resources that stand to be impacted, and as such, each is relevant to the Corps' final decision about whether to recommend that this project move forward or not.

The Corps also has yet to respond to the criticisms raised in the Independent External Peer Review Report.⁴⁵ Many of those critiques related to the DEIS and its accompanying analyses, but several of those issues do not appear to have been rectified in the FEIS. The independent panel identified 19 key issues with the Corps' analysis, including issues with the hydrodynamic and sediment transport models, failure to consider wind-generated wave effects in wake modeling, refusal to consider chemical contamination of dredged sediment, among others.⁴⁶ The Corps needs to address the significant deficiencies raised by the Independent External Peer Review Report before moving forward with the project.

As a practical matter, it is imperative that the Corps complete the necessary consultations to have a fuller picture of what resources may be impacted by the project before the preconstruction engineering and design phase, and to ensure that the agency and other decisionmakers can make an informed decision on this project. The outcomes of these different consultations and reviews may very well affect the project costs and in turn cement the project BCR as too low to justify the project.

IV. Conclusion

The Final Letter Report and FEIS continue to show that this project is unnecessary and extraordinarily damaging to the environment. The costs of this harbor expansion continue to climb as the alleged need and purported benefits simultaneously dwindle. On top of the questionable economic considerations, the project would come with a host of permanent harms to the natural environment of the Lower Cape Fear, cherished by locals and tourists alike. Before the Corps finalizes the record of decision, we implore the Corps to reevaluate the economic

⁴⁴ See FEIS at 5-149 to -153.

⁴⁵ See Battelle Memorial Institute, Final Independent External Peer Review Report Wilmington Harbor 403 Letter Report and Environmental Impact Statement, North Carolina Contract No. W912HQ25P0093 (Nov. 25, 2025) at vi-vii (providing a list of nineteen final panel comments identified by the IEPR panel on the contents of the draft Letter Report and DEIS).

⁴⁶ *Id.*

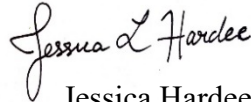
justifications for this project, complete all required consultations, and address the significant questions regarding the project's environmental impacts.

We look forward to remaining engaged with the Corps on this matter. If you have any questions regarding this letter, please contact us at rmcgee@selc.org.

Sincerely,



Ramona H. McGee



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