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November 3, 2025

U.S. Army Corps of Engineers
Wilmington District
ATTN: Wilmington Harbor 403
69 Darlington Avenue
Wilmington, NC 28403
Transmitted via email to: WilmingtonHarbor403@usace.army.mil

To: Bret L. Walters, Chief, Planning and Environmental Branch

Subject: NEPA CEQ ID EISX-202-00-K7P-1755163795 USACE Wilmington Harbor 403 Draft Environmental Impact Statement

The North Carolina Department of Natural and Cultural Resources Natural Heritage Program (NHP) appreciates the opportunity to review and comment on the USACE Wilmington Harbor 403 Draft Environmental Impact Statement. Some important potential impacts are noted below.

Page 2-15, Page 2-16, and Appendix D Beneficial Use Plan

Proposed deposition within an NHP Dedicated Nature Preserve, not consistent with existing conservation agreement:

D.6.9 Masonboro Island Beneficial Use Areas are both within Masonboro Island Component of the North Carolina National Estuarine Research Reserve Dedicated Nature Preserve. The Masonboro Intertidal Mudflat/Marsh is entirely within area prohibited for dredge material placement in the terms and conditions of the Masonboro Island Component of the North Carolina National Estuarine Research Reserve Dedicated Nature Preserve. Adjacent to the Intracoastal Waterway on the sound side of the preserve is a Special Management Area containing a series of dredge spoil islands. This area was not indicated as a Beneficial Use Area in the EIS, but an existing easement allows ongoing periodic spoil deposition in this area. These artificial sand deposits are in various stages of succession and development of more natural vegetation. Because recent deposits resemble natural sand flats, they may be used for nesting by some of the rare birds on the site. As vegetation develops on older deposits, they can provide habitat for other species, including painted buntings.

The Terms and Conditions of the Dedicated Nature Preserve govern the placement of dredge material as described in the paragraphs below (copied from the Dedicated Nature Preserve agreement).

“6A: There is an existing easement between the State of North Carolina and the US Army Corps of Engineers providing for disposal of dredge spoil materials in select areas, or disposal cells, along the western boundary of the Reserve, recorded in New Hanover County Deed Book 207, page 316 and designated within the Preserve as

Special Management Area. There will otherwise be no mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other material, nor any change in topography or surface hydrology of the preserve other than for purposes of approved restoration.

...

6E: Disturbance of Natural Features: The cutting or removal of trees, dead or alive, or the disturbance of other natural features is prohibited except that which is consistent with this dedication or as required under the terms of certain existing right-of-way easements/permits between the State and public utility companies and other government agencies, restoration of natural conditions or is necessary for public safety. There is an existing easement between the State of North Carolina and the US Army Corps of Engineers providing for disposal of dredge spoil materials in select areas, or disposal cells, along the western boundary of the Reserve, recorded in New Hanover County Deed Book 207, page 316 and designated within the Preserve as Special Management Area. There will otherwise be no mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other material, nor any change in topography or surface hydrology of the preserve other than for purposes of approved restoration.

...

6G. Pollution and Dumping: There will be no storage or dumping of ashes, trash, garbage, hazardous substances, toxic waste, other unsightly or offensive material, or fill material, including dredge materials in, on, or under the preserve. No underground storage tanks may be placed within the preserve. No surface or ground waters of the preserve may have pollutants added within the preserve. Dredge material deposited on the ocean beach may help to offset effects of alterations to the island sand budget and may reduce coastal erosion. Such deposition is permissible if the Primary Custodian and North Carolina Natural Heritage Program deem it to be beneficial.

...

Exhibit A Management and Use Section: Additionally, a dredge material easement containing the same or similar special elements of natural diversity representative of the preserve generally is designated as a Special Management Area (See Exhibit map). The Department of Natural and Cultural Resources and the Department of Environmental Quality, by and through the Natural Heritage Program and Division of Coastal Management, respectively, may enter into agreement(s) with the party or parties responsible for managing the right-of-way in order to ensure that the management practices of such party or parties are consistent with the conservation values associated with the Special Management Area.

Dredge material deposited on the ocean beach may help to offset effects of alterations to the island sand budget and may reduce coastal erosion. Such deposition is permissible if the Primary Custodian and North Carolina Natural Heritage Program deem it to be beneficial. As noted, some elements of biodiversity may be sensitive, and monitoring would be recommended.

The Special Management Area is subject to an easement allowing for ongoing deposition of dredge spoil. To the extent possible, deposition should be coordinated to avoid harm to rare species using the area and to provide maximum ecological benefit to them. Ideally this would be done by rotating deposition so that bare areas are renewed after vegetation has become too thick for ground nesting birds."

In order to deposit spoil material outside of the areas approved for deposition in the dedicated nature preserve, an amendment to the dedication would be needed. NC Administrative Code (07 NCAC 13H .0300 to .0306) outlines steps for creating and amending dedicated nature preserves. These steps include obtaining the approval from the landowner or land managing agency, conducting a biological inventory of the area to be amended, and NHP staff review concluding that a proposed project is beneficial and would not cause harm to conservation values. This information would be provided to the Natural Heritage Advisory Committee for their review. If an amendment is required, NC Administrative Code stipulates that amendments shall not be approved until after a public hearing in the county or counties where the dedicated preserve lies and notification of the chief county and municipal administrative officials in the jurisdiction where the land lies. Articles of Dedication may then be amended under the following circumstances: (1) the Governor and Council of State find that an amendment serves the best interest of the State and no prudent alternative exists; (2) after a public hearing with notice; and (3) with the concurrence of the Governor and Council of State.

Proposed deposition within an NHP Registered Heritage Area, likely consistent with existing conservation agreement:

D.6.11 Ferry Slip Island Intertidal Mudflat/Marsh partially overlaps with Lower Cape Fear River Islands Registered Heritage Area (RHA). The Registry agreement anticipates placement of additional dredged material by the US Army Corps of Engineers, and indicates that the USACE has pledged to make every effort to protect and maintain the reproductive populations of colonially nesting water-birds if and when the USACE uses the islands for disposal.

South Pelican Island is also part of this RHA, but the proposed South Pelican Island BUA does not overlap the Registered Heritage Area.

Proposed deposition adjacent to conservation projects:

As described in the EIS the Beneficial Use Areas listed below are planned adjacent to NHP nature preserves or NCLWF funded projects. As planned, the Beneficial Use Areas do not appear to violate existing conservation agreements or impact restoration projects. Care should be taken to ensure the deposition remains outside of the boundaries of these areas to avoid unpermitted impacts.

D.6.6. Brunswick Town/Fort Anderson (BTFA): The North Carolina Land and Water Fund (NCLWF) funded construction of wave attenuators and living shoreline at BTFA adjacent to the proposed beneficial use area. The proposed placement of sand between the attenuators and the existing channel should not directly impact NCLWF work. However, sediment should not be deposited in such a way that it impedes aquatic organism access or negatively impacts the marsh currently accreting behind the wave attenuators.

D.6.10 Carolina Beach Placement: The NCLWF has a Declaration of Covenants and Restrictions (DCR) above the mean high tide, adjacent to this area. The DCR has a limited allowance for dredge spoil, but the location and scope have already been negotiated with the Town of Carolina Beach and approved by NCLWF. The proposed placement of sand at Carolina Beach should take place outside of the DCR, as described in the Draft EIS.

D.6.18 Bald Head Island Beach Placement: The east end of the proposed Beneficial Use Area is adjacent to Bald Head Island State Natural Area Dedicated Nature Preserve. The

Terms and Conditions of the Dedicated Nature Preserve prohibit any change in topography or surface hydrology of the Preserves. The proposed placement of sand at Bald Head Island should take place outside of the Dedicated Nature Preserve, as described in the Draft EIS.

Page 2-19 Mitigation Measures, Page 3-58 Wetlands, and Appendix M: Restoration efforts at Eagles Island/Alligator Creek include addressing Phragmites. North Carolina Natural Heritage Program supports Phragmites control, but discourages broadcast spray of herbicide, such as application by helicopter, as this will cause significant damage to native site-appropriate plant species. Instead, it is recommended that Phragmites control be more carefully targeted by hand spraying or by using drones with a smaller spray footprint. Preceding any spraying with a prescribed burn or mowing would allow much better targeting and more effective application.

Section 3.5 – Wetlands; Appendix M Wetland Mitigation pages 7 and 18: The project's modeling predicts loss of partial ecological function through conversion from freshwater wetlands to oligohaline wetlands at large acreages of tidal swamp forest and tidal freshwater marsh. According to the salinity data, the anticipated total change in wetland area for tidal freshwater to oligohaline would equal approximately 1,071 acres. New oligohaline wetlands will take time to develop their functions, as characteristic species become established and ecosystem functions begin to accord with the new environment. This lag in development of full function as a new wetland type is not well known but can be expected to be substantial. While this is a concern with shifts in wetlands under ongoing sea level rise, it will be particularly severe with the abrupt change in salinity and tidal dynamics caused by this project. Tidal freshwater and oligohaline wetlands will both need to develop far upstream of where they currently exist. The trade off will be between high quality freshwater marshes and swamps and early successional oligohaline and brackish marshes.

Mitigation for wetland impacts includes the preservation of approximately 550 acres of forested freshwater wetlands and the restoration and enhancement of approximately 120 acres of Phragmites and brackish marsh wetlands. Mitigation for aquatic habitat includes the construction of two fish passage structures in the Cape Fear River to restore access to historic spawning grounds for anadromous fish (Appendix M).

Overall, the types of mitigation measures proposed are appropriate for the different types of habitat that will be impacted, but the acreage proposed for such large expected losses in the most diverse ecosystems is inadequate. The NHP recommends a higher ratio of conservation/restoration to wetland impacts.

Section 3.14 – Wildlife: Potential impacts to Diamond-backed Terrapin (*Malaclemys terrapin*) and their habitat should be considered in this EIS. This species is listed as Special Concern by NC Wildlife Resources Commission and was petitioned for federal listing in October 2024.

Section 6 - Summary of Environmental Commitments – Page 6-1 (221): Compensatory mitigation measures described in Section 2.9 should be reiterated here as Environmental Commitments.

Table 7-2 (page 7-5, 227) Scoping Letter Recipient Agencies: Correct NC National Heritage Program to NC Natural Heritage Program.

Table 7-3 (page 7-8, 230) Aquatic Habitat Technical Working Group: Add NC Natural Heritage Program.

Table 7-5 (page 7-9, 231) Wetlands Working Group Member Agencies and Organization:
Correct North Carolina Natural Heritage Resources Programs to NC Natural Heritage Program.

If you have questions regarding the information provided in this letter or need additional assistance, please contact Misty Franklin at misty.franklin@dnrcr.nc.gov .

Sincerely,

Misty Franklin

Misty Franklin
Natural Heritage Program Director