

November 12, 2025

Submitted via electronic mail to CESWGRegulatoryInbox@usace.army.mil

U.S. Army Corps of Engineers
Corpus Christi Field Office
Attn: Kristie Wood
5151 Flynn Parkway, Suite 306
Corpus Christi, TX 78411

RE: Port of Corpus Christi 404 Permit SWG-2014-00848

Dear Ms. Wood,

The Karankawa Tribe of Texas,¹ the Carrizo/Comecrudo Tribe of Texas,² and Ingleside on the Bay Coastal Watch Association³ (collectively, “Commenters”) submit these comments on Clean Water Act Section 404 Permit SWG-2014-00848 (“the Permit”). The Corps initially authorized the Permit for the Cheniere Ingleside Terminal in 2016 and then in 2021, granted an extension and transferred the Permit to the Port of Corpus Christi Authority (“the Port”).

Commenters respectfully urge the Corps to 1) revoke the Permit; 2) undertake supplemental reviews under the National Historic Preservation Act (“NHPA”), National Environmental Policy Act (“NEPA”), and Clean Water Act (“CWA”); and/or 3) deny any further extension of the Permit and require the Port to submit a new permit application for any future proposed terminal at the site. Finally, Commenters request that they be added to the list of “interested parties” to receive public notices and solicitations for comments regarding the Permit moving forward.⁴

These actions are necessary under applicable federal law because the Port is not moving forward to complete the original project authorized by the Permit, nor does it have a new project plan for the Ingleside Terminal site, historically known as Donnel Point. Furthermore, cultural information and environmental conditions at the site have changed, necessitating new federal reviews and a new permit application. Local residents and researchers have re-discovered an archaeological site in the project area, consisting of a former settlement that was thought to be lost and is of great importance to the Karankawa and Carrizo/Comecrudo Tribes. In addition, since the initial environmental reviews for the 2016 permit, vast industrial expansion in Corpus Christi Bay and La Quinta Channel has significantly changed the baseline environmental conditions related to vessel traffic, storm surge, and seagrasses in the project area.

¹ A Tribe comprised of the original peoples of the Texas Coastal bend region whose borders rested from roughly Galveston Bay to Corpus Christi Bay.

² A Tribe and 501(c)(3) non-profit comprised of the original peoples of the Rio Grande Delta.

³ A 501(c)(3) non-profit that promotes the health, safety, and quality of life for the residents of Ingleside on the Bay and surrounding communities.

⁴ 33 C.F.R. § 325.3(a), (d).

I. BACKGROUND

A. Tribes

The Karankawa are a Native American cultural group united by a common language and shared traditions.⁵ Their historic homelands are located along the Texas Gulf Coast, stretching from Galveston Bay to Corpus Christi Bay.⁶ The Karankawa were semi-sedentary people, meaning they repeatedly inhabited the same regions.⁷ During the winter months, they established well-organized villages that included hundreds of residents, while in warmer seasons, smaller family groups traveled inland to hunt and gather resources.⁸ The Karankawa speak Karankawan, a language that has been partially preserved.⁹ Artifacts such as Rockport pottery, shell middens, and stone tools, help historians and anthropologists identify historic sites.¹⁰

Beginning in the late 1700s, Spanish, Mexican, and Anglo-American authorities waged a campaign of genocide against the Karankawa, killing many and forcing others to flee.¹¹ By the mid-1800s, the Karankawa population was decimated, leading historians to erroneously claim that the tribe had gone extinct.¹² Despite this history of elimination, the Karankawa survived, and their descendants today are actively working to revive and preserve their culture, language, and traditions.¹³ They continue to protect cultural sites, share their history, and reclaim their narrative.¹⁴

The Carrizo/Comecrudo (also known as the Esto'k Gna) are a Native American cultural group with a shared language and heritage.¹⁵ Their historic homeland is located along the South Texas Rio Grande delta, where they were active as hunter-gatherers on both sides of the Rio

⁵ *Frequently Asked Questions*, KARANKAWAS, [https://karankawas.com/frequently-asked-questions/#:~:text="](https://karankawas.com/frequently-asked-questions/#:~:text=), (last visited Oct. 25, 2025).

⁶ Carol A. Lipscomb (rev. Tim Seiter), *The Karankawa Indians: History, Culture, and Legacy*, TEX. STATE HIST. ASS'N (Nov. 13, 2020), <https://www.tshaonline.org/handbook/entries/karankawa-indians#:~:text=The%20Karankawas%20entrance%20into%20the,some%20debris%20from%20the%20wreckage>.

⁷ *Frequently Asked Questions*, KARANKAWAS, [https://karankawas.com/frequently-asked-questions/#:~:text="](https://karankawas.com/frequently-asked-questions/#:~:text=), (last visited Oct. 25, 2025).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Erin Douglas, *The Karankawa were said to be extinct. Now they're reviving their culture — and fighting to protect their ancestors' land*, TEX. TRIB. (Oct. 4, 2021), <https://www.texastribune.org/2021/10/04/karankawa-corpus-christi-texas-artifacts/>.

¹² *Frequently Asked Questions*, KARANKAWAS, [https://karankawas.com/frequently-asked-questions/#:~:text="](https://karankawas.com/frequently-asked-questions/#:~:text=), (last visited Oct. 25, 2025).

¹³ Erin Douglas, *The Karankawa were said to be extinct. Now they're reviving their culture — and fighting to protect their ancestors' land*, TEX. TRIB. (Oct. 4, 2021), <https://www.texastribune.org/2021/10/04/karankawa-corpus-christi-texas-artifacts/>.

¹⁴ *Id.*

¹⁵ Carlos Castañeda, *The Indigenous Groups Along the Lower Rio Grande*, INDIGENOUSMEXICO.ORG, <https://www.indigenousmexico.org/articles/the-indigenous-groups-along-the-lower-rio-grande> (last visited Oct. 28, 2025).

Grande during the seventeenth and eighteenth centuries.¹⁶ During the eighteenth and nineteenth centuries, Spanish colonizers invaded the region, where the Carrizo/Comecrudo were massacred, displaced, missionized, enslaved, or assimilated.¹⁷ The Comecrudo language was formally documented in the late nineteenth century by ethnologist A. S. Gatschet, who was able to record and preserve their native language by working with some of the last surviving speakers.¹⁸ Despite centuries of erasure, Carrizo/Comecrudo descendants today are actively working to revitalize their native language and heritage as well as protect the lands where their ancestors once lived.¹⁹

B. The Permit and Extension

Cheniere Ingleside Terminal LLC, a subsidiary of Cheniere LNG LLC, submitted an application in 2014 to build a crude condensate export terminal with two docks capable of handling Aframax ships (820 feet long) that would be parallel to the shore.²⁰ After conducting environmental and cultural resources reviews, the Corps issued an Environmental Assessment (“EA”)²¹ and approved the Permit in 2016.²² The Permit authorized specific plans for the crude condensate export terminal, including dredging up to 49 feet Mean Low Tide (“MLT”) for loading and a turning basin, two docks for Aframax-sized ships, a Dredged Material Placement Management Area (“DMPA”), and onsite infrastructure such as storage tanks.²³ The Permit also included mitigation for loss of submerged aquatic vegetation (“SAV,” or seagrasses) and wetlands.²⁴ In 2021, Cheniere transferred the property, along with the Permit, to the Port.²⁵ At that time, the Corps granted the transfer along with an extension of the Permit until 2026, without undertaking any additional environmental or cultural resource reviews.²⁶

¹⁶ Carrizo/Comecrudo Nation of Texas, *About Us*, [CarrizoComecrudoNation.com](http://www.carrizocomecrudonation.com/about_us.html), http://www.carrizocomecrudonation.com/about_us.html (last visited Oct. 28, 2025).

¹⁷ World Monuments Fund, *Garcia Pasture and the Struggle for Tribal Recognition*, GOOGLE ARTS & CULTURE, <https://artsandculture.google.com/story/garcia-pasture-and-the-struggle-for-tribal-recognition-world-monuments-fund/QQURUkeDtqRIOW?hl=en> (last visited Oct. 28, 2025); Christa Mancias, *Defending the Sacred in South Texas*, CULTURAL SURVIVAL QUARTERLY, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/defending-sacred-south-texas-christa-mancias> (last visited Oct. 28, 2025).

¹⁸ John R. Swanton, *Linguistic Material from the Tribes of Southern Texas and Northeastern Mexico*, SMITHSONIAN INSTITUTION, BUREAU OF AMERICAN ETHNOLOGY BULL. NO. 127 (U.S. GOV’T PRINTING OFF. 1940); W. W. Newcomb Jr., *Comecrudo Indians*, HANDBOOK OF TEXAS ONLINE (TEX. STATE HIST. ASS’N), <https://www.tshaonline.org/handbook/entries/comecrudo-indians> (last visited Oct. 28, 2025).

¹⁹ Erin Douglas, *Native Elder Fights Fossil Fuel Companies in the Rio Grande Delta of Texas*, INSIDE CLIMATE NEWS (May 13, 2024), <https://insideclimatenews.org/news/13052024/native-elder-fights-fossil-fuel-companies-rio-grande-delta-texas/>.

²⁰ Cheniere Liquids Terminal LLC, Request for USACE Section 10/404 Permit (Oct. 10, 2014) (henceforth “Cheniere Permit application”).

²¹ U.S. Army Corps. of Eng’rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848 (Feb. 24, 2016).

²² U.S. Army Corps. of Eng’rs, Department of the Army Permit, Cheniere Ingleside Marine Terminal, LLC, Permit No. SWG-2014-00848 (Mar. 16, 2016) (henceforth “2016 Permit”).

²³ *Id.*

²⁴ *Id.*

²⁵ U.S. Army Corps. of Eng’rs, Corpus Christi Regulatory Office, Transfer of Department of the Army Permit Number, SWG-2014-00848 (July 6, 2021) (henceforth “2021 Permit”).

²⁶ *Id.*

In the time since the Port acquired the property and the Permit, it has not moved forward on developing the site as authorized by the Permit. Instead, the Port has been seeking developers to build and/or operate a generic “marine terminal” without specifying what the terminal would process or export—no longer fixed on crude condensate—or the footprint of the terminal.²⁷ In 2023, the Port explored different options for the site through a conceptual design study, proposing multiple potential layouts that differ from the footprint and vessel size authorized in the Permit. For example, the conceptual designs propose docks that could accommodate two larger ships (1,100 feet long) and a different footprint compared to the design authorized in the Permit.²⁸ These conceptual berthing proposals depart from the permitted design by up to 8.3 million cubic yards of dredged material.²⁹

II. THE PERMIT SHOULD BE REVOKED

The Corps should revoke the Permit because the Port has abandoned the original plans for this site and is evaluating varying conceptual designs for a different, undefined project. Therefore, the Port has not demonstrated its intent to complete work on the authorized project within a reasonable time in violation of the Permit’s requirements.

The Notice to Permittees that the Corps included with the original 2016 permit to the Port outlines the Project’s “post-authorization requirements.” These requirements stipulate that in the event work is not completed within the original five-year time frame of the Permit, “an extension of time for the completion of structures or work may be granted provided that public notice is issued and evidence is furnished of the bona fide intention of the permittee to complete work in a reasonable time.”³⁰ The Corps granted the Port an extension in 2021.³¹ However, there is no indication that the Port provided evidence of its intention to complete any work on this site in a reasonable time, violating the terms of the Permit. Furthermore, the Port’s more recent public documents indicate that any new project is still in the “conceptual design” phase, and, as stated above, these conceptual designs’ dock proposals significantly deviate from the docks authorized in the 2016 Permit.³² Therefore, the Port has not demonstrated its intention to start or complete work on the project authorized by the Permit in a reasonable time.

²⁷ Services Order Port of Corpus Christi Authority of Nueces County, Texas, Master Services Agreement No. 21-04, (December 13, 2022), attached as Exhibit 1. For example, in a marketing brochure to attract investors to develop the site, the Port did not specify what type of materials would be exported or the footprint. La Quinta Channel, Port of Corpus Christi, brochure, attached as Exhibit 2.

²⁸ Compare 2016 Permit, Permitted Plans at 5, with Port of Corpus Christi Authority, Ingleside Conceptual Design Report—Draft (November 1, 2023), Appendix A, attached as Exhibit 3. See also Ajay Menon, *What Are Very Large Gas Carriers (VLGC) – Purpose, Design And Layout*, MARINE INSIGHT (Apr. 20, 2021), <https://www.marineinsight.com/naval-architecture/very-large-gas-carriers-vlgc/>.

²⁹ The 2016 Permit authorizes 2.2 million cubic yards of excavation, while the conceptual design report presents berthing options that would require 3.4–10.5 million cy of excavation. 2016 Permit at 1; Port of Corpus Christi Authority, Ingleside Conceptual Design Report—Draft, November 1, 2023 at 1–2.

³⁰ Notice to Permittees, District Commander Galveston District Corps of Engineers, April 24, 1985 (enclosed with 2016 Permit).

³¹ The “obligations, terms, and conditions of the permit as issued” apply to the permit transfer to the Port and the deadline extension obligations, terms, and conditions of the permit as issued. Corpus Christi Regulatory Field Office, Transfer of Department of the Army Permit Number SWG-2014-00848 (July 6, 2021).

³² Compare 2016 Permit, Permitted Plans at 5, with Port of Corpus Christi Authority, Ingleside Conceptual Design Report—Draft (November 1, 2023), Appendix A, attached as Exhibit 3.

III. THE CORPS MUST UNDERTAKE SUPPLEMENTAL CULTURAL RESOURCES AND ENVIRONMENTAL REVIEWS FOR THE PERMIT

The Corps issued the Environmental Assessment and Historical and Cultural Resources review in 2016 when it approved Cheniere's original permit.³³ In the intervening decade since these determinations were issued, the baseline conditions in the project area have significantly changed. New information has come to light regarding both the rediscovery of an archaeological site thought to be lost and environmental conditions in the La Quinta Channel and Corpus Christi Bay. The Corps cannot make a final decision to extend the permit unless it undertakes new or supplemental NHPA and NEPA reviews.

NEPA requires federal agencies to comprehensively assess the environmental consequences of proposed actions that may significantly affect the environment.³⁴ Agencies must take a "hard look" at the environmental effects of their planned action, even after a proposal has received initial approval."³⁵ A Supplemental Environmental Impact Statement ("SEIS") is required for a "major Federal action," when new information sufficiently demonstrates that "the remaining action will 'affect the quality of the human environment' in a significant manner or to a significant extent not already considered."³⁶ Per the "rule of reason," an agency determines the need for an SEIS based on "the value of the new information to the still pending decision making process."³⁷ Accordingly, the decision to prepare an SEIS is similar to the decision to prepare an EIS in the first instance.³⁸ Courts have held that the standard for supplementing an EA is the same as the standard for supplementing an EIS.³⁹

Similarly, the Corps' regulations confirm that the agency must undertake a supplemental environmental review if a) "the applicant makes substantial changes to the proposed action that are relevant to the environmental concerns," or b) the Corps determines "there are substantial significant new circumstances or information about the significance of the adverse effects that bear on the proposed action or its effects."⁴⁰

Finally, the Permit outlines circumstances for "reevaluation of the permit decision."⁴¹ "Circumstances that could require reevaluation include... significant new information [that] surfaces which this office did not consider in reaching the original public interest decision."⁴²

³³ U.S. Army Corps. of Eng'rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848 (Feb. 24, 2016).

³⁴ 42 U.S.C. 4321 et seq.

³⁵ *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 374 (1989) (citing 42 U.S.C. § 4332(2)(C)) (cleaned up).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*; *Galveston Beach to Bay Pres. v. U.S. Army Corps of Eng'rs*, No. G-07-0549, 2009 U.S. Dist. LEXIS 78064, at *21-23 (S.D. Tex. Mar. 11, 2009).

³⁹ *See, e.g., Price Rd. Neighborhood Ass'n v. U.S. Dep't of Transp.*, 113 F.3d 1505, 1509-10 (9th Cir. 1997) (holding that the standard for supplementing an EA is the same as for an EIS); *Galveston Beach*, No. G-07-0549, 2009 U.S. Dist. LEXIS 78064, at *21-23.

⁴⁰ 33 C.F.R § 333.34.

⁴¹ 2016 Permit, p. 4.

⁴² *Id.*

Therefore, pursuant to NEPA, the Corps' regulations, and the Permit, the Corps must undertake a supplemental environmental and cultural resources review.

A. The Corps must conduct a new cultural resources determination and consult with Commenters.

The Corps must require a new cultural resource determination given the possible rediscovery of archaeological site 41SP36 and consult with Commenters in the process.⁴³ Corps regulations state that the "district engineer will take into account the effects, if any, of proposed undertakings on historic properties both within and beyond the waters of the U.S. pursuant to section 110(f) of the NHPA."⁴⁴ Applications for a 404 permit must include "a statement of the district engineer's current knowledge on historic properties."⁴⁵

In October 2014, Cheniere submitted an archaeological survey for the terminal site as part of its 404-permit application.⁴⁶ The study determined that the area was not eligible for listing in the National Register of Historic Places ("NRHP"). The study summarized the site's history as a location for important archaeological discoveries from the 1930s–60s, including three prehistoric sites.⁴⁷ Cheniere's study revisited two of the previously recorded shell midden areas and conducted shovel tests, concluding that previous construction damaged the integrity of the site, making it not eligible for the NRHP.⁴⁸ However, the study did not conduct any shovel tests at the other shell midden sites, 41SP36, because it concluded without testing, that the site was destroyed.⁴⁹ The Corps adopted this recommendation, and in December 2014, the State Historic Preservation Officer concurred with the Corps' recommendation that the area not be designated a Historic Place.⁵⁰

However, in 2024, Patrick Nye documented the remains of a shell midden and possible Karankawa village site exposed by erosion at the site. In Peter Moore's report on Nye's observation, he estimated that this might be archaeological site 41SP36, identified in the 1930s.⁵¹ The report continues, "local archeologist, Kim Cox, estimates that this is an archaic shell midden dating back some 2,300 years."⁵² Because this site is more intact than previously thought and is one of the last remaining shell middens in the area,⁵³ it has cultural significance to the

⁴³ Peter Moore, *Report on the Discovery of an Indigenous Archeological Site at Donnel Point, La Quinta Channel, San Patricio County, Texas* at 1 (Aug. 21, 2024). Cheniere's archaeological study did not even attempt to test site 41SP36 and listed the site as "destroyed." Mattox, 15.

⁴⁴ 33 C.F.R. § 325 app. C(2)(a).

⁴⁵ *Id.*

⁴⁶ C. Wesley Mattox and Meredith A. Moreno, *Intensive Archaeological Survey of Portions of the 550-Acre Cheniere Ingleside Terminal Project, San Patricio County, Texas* (Oct. 13, 2014).

⁴⁷ *Id.* at 13.

⁴⁸ *Id.* at 13–35.

⁴⁹ *Id.* at 15.

⁵⁰ Nicholas Laskowski, Department of the Army Permit Application letter to Texas State Historic Preservation Officer at 1, (sent Dec. 11, 2014 and signed by State Historic Preservation Officer Mark Wolfe on Dec. 18, 2014).

⁵¹ Peter Moore, *Report on the Discovery of an Indigenous Archeological Site at Donnel Point, La Quinta Channel, San Patricio County, Texas* (Aug. 21, 2024) at 1, attached as Exhibit 4. Cheniere's archaeological study did not even attempt to test site 41SP36 and listed the site as "destroyed." Mattox, 15.

⁵² *Id.*

⁵³ *Id.* at 6.

indigenous peoples of the Coastal Bend and could offer archaeological insights into the lives of ancient peoples.

The Corps' definition of historic properties includes the archeological site. A "historic property is a property which has historical importance to any person or group. This term includes the types of districts, sites, buildings, structures or objects eligible for inclusion, but not necessarily listed, on the National Register."⁵⁴ As a former village of the Karankawa people and their ancestors, the site is of historical importance to the Commenters, particularly the Karankawa Tribe of Texas, and is thus a historic property by the Corps' own definition. Also, commenters have nominated the settlement as a State Antiquities Landmark with the Texas Historic Commission, whose staff have visited the site. Because the archaeological site is a historic property, it triggers the Corps' requirements for NHPA review, and the Corps must require new NHPA documentation that includes the archaeological site.⁵⁵

Further, the Corps must provide notice and consult Commenters while undertaking the NHPA review, because "the public notice will be sent to ... Indian tribes, and interested citizens."⁵⁶ Further, "[t]he district engineer will also consult with other appropriate sources of information for knowledge of undesignated historic properties which may be affected by the proposed undertaking."⁵⁷ Historical and cultural resource "investigations may consist of any of the following: further consultations with... Indian tribes, local historical and archeological societies, university archeologists, and others with knowledge and expertise in the identification of historical, archeological, cultural and scientific resources; field examinations; and archeological testing."⁵⁸

The Karankawa and the Carrizo/Comecrudo Tribes, as indigenous peoples from this region, are Indian Tribes and interested citizens. The Army Corps has a duty to consult the tribes on any future federal reviews because of the historical significance of the Donnel Point site to their culture and spirituality as indigenous peoples.⁵⁹ Further, State and Federal agencies have designated the Karankawa and Carrizo/Comecrudo Tribes as consulting parties for properties important to their history and culture.⁶⁰ Additionally, Coastal Watch Association should be

⁵⁴ 33 C.F.R. § 325 App. C(1)(b).

⁵⁵ See 33 C.F.R. § 325 App. C(2)(b).

⁵⁶ 33 C.F.R. § 325, App. C(4)(a).

⁵⁷ 33 C.F.R. § 325, App. C(3)(a).

⁵⁸ 33 C.F.R. § 325, App. C(5)(e).

⁵⁹ UNDRIP Art. 32.2 "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources." The United States is bound by UNDRIP and joined a consensus resolution to take measures to achieve the aims of UNDRIP. G.A. res. 69/2 (Sept. 25, 2014); U.S. Department of Interior, Advancing the United Nations Declaration on the Rights of Indigenous Peoples, (01/14/2025), <https://www.doi.gov/blog/advancing-united-nations-declaration-rights-indigenous-peoples#:~:text=The%20product%20of%20decades%20of,Nations%2C%20including%20the%20United%20States.>

⁶⁰ See Abselom Ketzirah, RE: Request for Consulting Party Status of Stephen F. Austin Elementary (1935), currently Minnei Mae Hooper Elementary, located at 500 Abell Street, Wharton, Texas, 77488 (May 28, 2021), attached as Exhibit 5; Nancy A. Kenmotsu & Mariah F. Wade, Amistad National Recreation Area, Del Rio Texas American Indian Tribal Affiliation Study Phase I: Ethnohistoric Literature Review, at 5, 136, (Tex. Dpt. Of Transportation & National Park Service) (2002), <https://npshistory.com/publications/amis/aspr-34.pdf>.

consulted because it has members who are interested citizens and sources of information as they helped rediscover this site and are actively engaged with protecting this property.

B. The application needs a new NEPA analysis to evaluate changed circumstances and new information.

1. Industrial Expansion in the La Quinta Channel since 2016

For NEPA reviews, the Corps acknowledges it must assess the impacts of a project “in light of historical permitting activity, along with anticipated future activities in the area. Although a particular project may constitute a minor impact in itself, the cumulative impacts that result from a large number of such projects could cause a significant impairment of water resources.”⁶¹

Since the EA’s publication in 2016, industrial development in La Quinta Channel has expanded dramatically, significantly changing the baseline conditions for vessel traffic, wetlands, water quality, and seagrasses from what the Corps evaluated a decade ago. Based on data from the Corps’ recent Corpus Christi Ship Channel Deepening Final Environmental Impact Statement (“FEIS”) and other public sources, examples of recent developments in or near La Quinta Channel include:⁶²

Name	Permit #	Description
Ingleside Ethylene LLC (OxyChem)	SWG-2012-00496	- 2017: Ethylene Cracker Facility begins operation⁶³ - 1.2 billion lbs/yr of ethylene production capacity⁶⁴ - 114.9-mile ethylene pipeline installation - 14 navigable and 85 non-navigable water crossings
Chemours	N/A	- 2019: Opteon facility opens, now the largest facility in the world for HFO refrigerant production⁶⁵

⁶¹ U.S. Army Corps. of Eng’rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848 (Feb. 24, 2016) at 12.

⁶² Unless otherwise cited, all the information in the following table comes from U.S. Army Corps. of Eng’rs, FEIS for the Proposed Corpus Christi Ship Channel Deepening Project (Mar. 2024) at 5-1–5-54.

⁶³ See Mary Bailey, *Ingleside Ethylene starts up ethylene cracker in Texas*, CHEM. ENG’G (Mar. 1, 2017), <https://www.chemengonline.com/ingleside-ethylene-starts-up-ethylene-cracker-in-texas/?printmode=1>.

⁶⁴ *Id.*

⁶⁵ *Chemours to Expand Opteon™ Capacity in Texas to Meet Growing Customer Needs for Low GWP Solutions*, CHEMOURS (July 27, 2022), <https://www.chemours.com/en/news-media-center/all-news/press-releases/2022/chemours-to-expand-opteon-capacity-in-texas-to-meet-growing-customer-needs-for-low-gwp-solutions>; *Here at Corpus Christi*, CHEMOURS, <https://www.chemours.com/en/about-chemours/global-reach/corpus-christi> (last visited Oct. 28, 2025).

		- 2022: Expansion to facility announced⁶⁶
Cheniere (Corpus Christi LNG)	SWG-2007-01637 SWG-2005-01290	- 2019: First two LNG trains completed⁶⁷ - 2021: Third LNG train completed⁶⁸ - 2025: Stage 3 begins operation⁶⁹ - Ongoing: Trains 8 & 9 have reached Final Investment Decision,⁷⁰ and will increase maximum vessel calls from 400 to 480 per year.⁷¹ - Facility is on course to become the 2nd largest LNG facility in the US by 2026.⁷²
Subsea 7 (US) LLC	SWG-2007-00201	- 2023: Construction phase ends - 2030: Maintenance dredging ends - 8.1 acres of dredging for an 11-acre vessel slip, with 2.6 acres of fill into WOTUS
South Texas Gateway Terminal, LLC (Buckeye) (Redfish Bay)	SWG-2006-02562	- 2020: Terminal opens and loads first vessel.⁷³ Later that year, second deepwater dock loads its first VLCC.⁷⁴ - Dredging of 4.2 mcy of material in a 71.92-acre area

⁶⁶ Chemours to Expand Opteon™ Capacity in Texas to Meet Growing Customer Needs for Low GWP Solutions, CHEMOURS (July 27, 2022), <https://www.chemours.com/en/news-media-center/all-news/press-releases/2022/chemours-to-expand-opteon-capacity-in-texas-to-meet-growing-customer-needs-for-low-gwp-solutions>.

⁶⁷ Corpus Christi Liquefaction Project, BECHTEL, <https://www.bechtel.com/projects/corpus-christi-liquefaction-project/>, (last visited Oct. 27, 2025).

⁶⁸ *Id.*

⁶⁹ Victoria Zaretskaya, *First liquefied natural gas cargo produced at Corpus Christi Stage 3 export facility*, U.S. ENERGY INFO. ADMIN. (Mar. 11, 2025), <https://www.eia.gov/todayinenergy/detail.php?id=64704>.

⁷⁰ Cheniere Announces Positive Final Investment Decision on the Corpus Christi Midscale Trains 8 & 9 Project and Updated Company Outlook through 2030, CHENIERE ENERGY, INC. (June 24, 2025), <https://lngir.cheniere.com/news-events/press-releases/detail/321/cheniere-announces-positive-final-investment-decision-on>.

⁷¹ LNG Prime Staff, *Cheniere seeks FERC OK to build two more Corpus Christi LNG trains*, LNGPRIME (April 4, 2023), <https://lngprime.com/lng-terminals/cheniere-seeks-ferc-ok-to-build-two-more-corpus-christi-lng-trains/77984/>.

⁷² Victoria Zaretskaya, *First liquefied natural gas cargo produced at Corpus Christi Stage 3 export facility*, U.S. ENERGY INFO. ADMIN. (Mar. 11, 2025), <https://www.eia.gov/todayinenergy/detail.php?id=64704>.

⁷³ South Texas Gateway Terminal, GIBSON ENERGY, <https://www.gibsonenergy.com/operations/south-texas-gateway-terminal/>, (last visited Oct. 27, 2023).

⁷⁴ Buckeye Partners Announces Completion of Second Deepwater Dock at South Texas Gateway, BUCKEYE PARTNERS (Dec. 30, 2020), <https://www.buckeye.com/press-releases/buckeye-partners-announces-completion-of-second-deepwater-dock-at-south-texas-gateway>.

La Quinta Trade Gateway Terminal	SWG-2001-02261	- Continually expanding 1,300-acre multi-purpose terminal facility⁷⁵ - Has expanded to serve a number of facilities,⁷⁶ such as GCGV (2022) and Cheniere (2019).⁷⁷
Gulf Coast Growth Ventures (Exxon-SABIC)	TCEQ: WQ0005228000	- 2022: Plant starts operation⁷⁸ - 1,000-acre petrochemical complex - Steam cracker with 1.8 million tons/yr of ethylene production capacity
Epic Y-Grade Pipeline, LP	SWG-2018-00941	- 41.2 miles of pipeline - 60 aquatic resources crossings
Flint Hills Resources, LCC	SWG-2019-00461	- Expansion to include new 3,370 ft of gaseous pipeline - 4.7 acres of temporary impacts to palustrine emergent wetlands
Enbridge Ingleside Oil Terminal, LLC (Moda)	SWG-1995-02221 SWG-2014-00381	- Ongoing: Crude Oil Tank Expansions:⁷⁹ - o 2016: Original Construction - o 2020: Phases I, II, & III - o 2021: Phase IV - o 2024: Phase VI - o 2025-2026: Phase VII
Enbridge YaREN Ammonia	Permits pending	- 2028-2030: projected opening of 2.8 million metric tons/yr capacity blue ammonia facility⁸⁰
Harvest Midstream	SWG-2019-00461	- 771 ft crude oil pipeline running underneath Kinney Bayou

⁷⁵ *La Quinta Terminal Gateway*, PORT OF CORPUS CHRISTI, <https://portofcc.com/capabilities/real-estate/la-quinta-terminal-gateway/>, (last visited Oct. 10, 2025).

⁷⁶ *See id.*

⁷⁷ *Id.*; Corpus Christi Liquefaction Project, BECHTEL, <https://www.bechtel.com/projects/corpus-christi-liquefaction-project/>, (last visited Oct. 27, 2025); *ExxonMobil, SABIC start operations at Gulf Coast Manufacturing Facility*, EXXONMOBIL (Jan. 20, 2022), https://corporate.exxonmobil.com/news/news-releases/2022/0120_exxonmobil-and-sabic-start-operations-at-gulf-coast-manufacturing-facility.

⁷⁸ *ExxonMobil, SABIC start operations at Gulf Coast Manufacturing Facility*, EXXONMOBIL (Jan. 20, 2022), https://corporate.exxonmobil.com/news/news-releases/2022/0120_exxonmobil-and-sabic-start-operations-at-gulf-coast-manufacturing-facility.

⁷⁹ *Ingleside Phase 7 Tank Expansion Project*, ENBRIDGE, <https://www.enbridge.com/projects-and-infrastructure/public-awareness/ingleside-phase-7-tank-expansion-project#projectdetails:fact-sheets>, (last visited Oct. 28, 2025).

⁸⁰ *Low-Carbon Blue Ammonia Facility in Ingleside*, YAREN, <https://projectyaren.com/> (last visited Oct. 10, 2025); *Get to know Project YaREN*, YAREN (June 2024) <https://projectyaren.com/wp-content/uploads/2024/05/YaREN-Project-Fact-Sheet-EN-V2.pdf>.

Desalination Facilities	Multiple	- Multiple proposed desalination facilities with discharges nearby, including: - o Harbor Island – 50 million gal/day, water discharge permit received in 2022⁸¹ - o Port of Corpus Christi La Quinta– 30 million gal/day, water discharge permit pending⁸² - o City of Corpus Christi La Quinta – 40 million gal/day⁸³
Channel Deepenings	SWG-2019-00067	- 2024: Record of Decision issued for Port of Corpus Christi Channel Deepening Project to deepen the entrance channel to Harbor Island for Very Large Crude Carriers to -81 ft⁸⁴ - Future: La Quinta channel expansion with an over 10x export growth (by metric tons) from 2029-2038.⁸⁵

⁸¹ Rachel Denny Clow, *TCEQ approves Port of CC Harbor Island Discharge permit*, KRIS 6 NEWS (Sep. 22, 2022) <https://www.kristv.com/news/local-news/tceq-approves-port-of-cc-harbor-island-discharge-permit>.

⁸² *Port of Corpus Christi La Quinta Channel Seawater Desalination Plant*, OIL & GAS WATCH (last visited Oct. 28, 2025), <https://oilandgaswatch.org/facility/4485>.

⁸³ *La Quinta Channel Desalination Plant*, TCEQ, <https://permit-search.tceq.texas.gov/PermitViewResult?addnId=531479442020022<=1&r=15&pId=GhIJyBnUyPjZO0ARuawdlHNOWMA&lat=27.851452410607052&lng=-97.22577671704285&k=desalination&ps=ap&mp=ai:ws:wt>, (last visited Oct. 10, 2025); *City of Corpus Christi La Quinta Channel Desalination Plant*, OIL & GAS WATCH (last visited Oct. 28, 2025), <https://oilandgaswatch.org/facility/3672>.

⁸⁴ Army Corps of Engineers, *Record of Decision*, Army Permit Application No. SWG-2019-00067, Port of Corpus Christi Authority – Channel Deepening Project (July 17, 2024), https://www.swg.usace.army.mil/Portals/26/docs/regulatory/Special%20Projects/20240717_SWG-2019-00067_Record%20of%20Decision.pdf?ver=0_7ZlB7lB1kM5tsRZoz2pg%3d%3d.

⁸⁵ Dan Koesema, Vini Vannicola, & Jerry Diamantides, *La Quinta Channel Expansion Feasibility Study Project Update*, PORT OF CORPUS CHRISTI & DAVID MILLER & ASSOCIATES, INC. (Mar. 19, 2024), https://www.iobcwa.org/uploads/1/2/7/6/127667617/lq_feas_study_commission_update.pdf, attached as Exhibit 6.



Figure 1: Map of La Quinta Channel Development Projects⁸⁶

2. Vessel Traffic Impacts

Vessel traffic and congestion in the Port has significantly increased since the 2016 EA, warranting a supplemental environmental review of the now decade-old analysis. Accurate baseline vessel traffic information is indispensable for determining a new ship terminal's impacts. As stated in the 2016 EA:

The overall impacts that can be expected if the individual impacts are allowed to accumulate is an ***increase in turbidity*** and subsequent changes in light quality that may ***affect the species make-up and quantity of seagrass beds***, and ***disturbances to natural areas*** through an increase in human activities ***such as boat traffic*** as dredging increases accessibility to shallower portions of the bay. Specific disturbances include: ***incidental spillages of petroleum fuels, motor oil, and lubricants; stormwater runoff washing silt and trash into the bay; trash and other items being lost over the sides of ships and smaller vessels utilizing the facility;***

⁸⁶ Patrick Nye, *Industrial Expansion & Ammonia Risks Presentation*, INGLESIDE ON THE BAY COASTAL WATCH ASS'N (Dec. 13, 2023).

*and possible damage to seagrass beds and shallow water habitat from the wakes of vessels using the facility. Scarring of seagrass beds and propwashing of shallow water areas by off-course vessels can cause long-term damage to the aquatic community.*⁸⁷

Determining that these would have no significant impact in its 2016 EA, the Corps predicted that “[c]ommercial shipping traffic in the project area will increase; however, *the increase will be small* and should not increase shoreline erosion or congest shipping lanes.”⁸⁸ This prediction has not held and must be reevaluated.

When the EA was published in 2016, the Port had just exported the U.S.’s first crude oil since the 1975 oil export ban.⁸⁹ The Port was also two years away from exporting its very first load of Liquefied Natural Gas (“LNG”).⁹⁰ Today, the Port exports over 2 million barrels of crude oil daily,⁹¹ making it the largest energy exporter in the U.S. and the third largest crude oil exporter in the world.⁹² Corpus Christi LNG is also expected to become the U.S.’s second largest LNG exporter by next year.⁹³

As a result of these cargo increases, vessel traffic has significantly increased. Total inbound and outbound tanker trips have doubled in the Port since 2016. The Corps’ data shows that tanker trips in and out of the Port totaled 2,329 in 2016.⁹⁴ In 2023 (the most recent data),

⁸⁷ U.S. Army Corps. Of Eng’rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848 at 14, (Feb. 24, 2016) (emphasis added).

⁸⁸ *Id.*

⁸⁹ *Press Release: Corpus Christi Celebrates Two-year Anniversary of Lifting of Crude Export Ban*, PORT OF CORPUS CHRISTI (Dec. 18, 2017), <https://portofcc.com/press-release-corpus-christi-celebrates-two-year-anniversary-of-lifting-of-crude-export-ban/#:~:text=The%20first%20shipment%20of%20U.S.,as%20a%20net%20oil%20exporter;Port%20of%20Corpus%20Christi%20Crude%20Oil%20Exports%20and%20Resulting%20CO2%20Greenhouse%20Gases>, SIERRA CLUB LONE STAR CHAPTER, COASTAL BEND GROUP, <https://www.sierraclub.org/texas/coastal-bend/port-corpus-christi-crude-oil-exports-and-resulting-co2-greenhouse-gases>, (last visited Oct. 12, 2025).

⁹⁰ *First Commissioning Cargo Departs Cheniere’s Corpus Christi Liquefaction Facility*, CHENIERE ENERGY, INC. (Dec. 11, 2018), <https://lngir.cheniere.com/news-events/press-releases/detail/178/first-commissioning-cargo-departs-chenieres-corpus>.

⁹¹ *Outbound Crude Oil – Domestic and Export Markets*, PORT OF CORPUS CHRISTI, <https://portofcc.com/outbound-crude-oil/>, (last visited Sept. 28, 2025).

⁹² *About Us*, PORT OF CORPUS CHRISTI, <https://portofcc.com/about/port/about-us/>, (last visited Sept. 28, 2025).

⁹³ Victoria Zaretskaya, *First Liquefied Natural Gas Cargo Produced at Corpus Christi Stage 3 Export Facility*, U.S. ENERGY INFO. ADMIN. (Mar. 11, 2025), <https://www.eia.gov/todayinenergy/detail.php?id=64704#:~:text=Once%20all%20seven%20trains%20are,4.6%20Bcf/d%20peak>.

⁹⁴ *Waterborne Cargo and Trips Data Files (Manuscript Files)*, U.S. ARMY CORPS. OF ENG’RS, <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll2/id/14579%3Cbr%20/%3E>, (last visited Sept. 28, 2025) (click “Trips 2016 All Region”; then filter for “Corpus Christi, TX”; then filter by “tanker”; then add together “trips” column), 2016 Ship Traffic Data sorted spreadsheet at 5–6, attached as Exhibit 7.

tanker trips had skyrocketed to 4,139.⁹⁵ The Port’s incoming tanker calls show a similar story, almost doubling from 2015 to 2022.⁹⁶

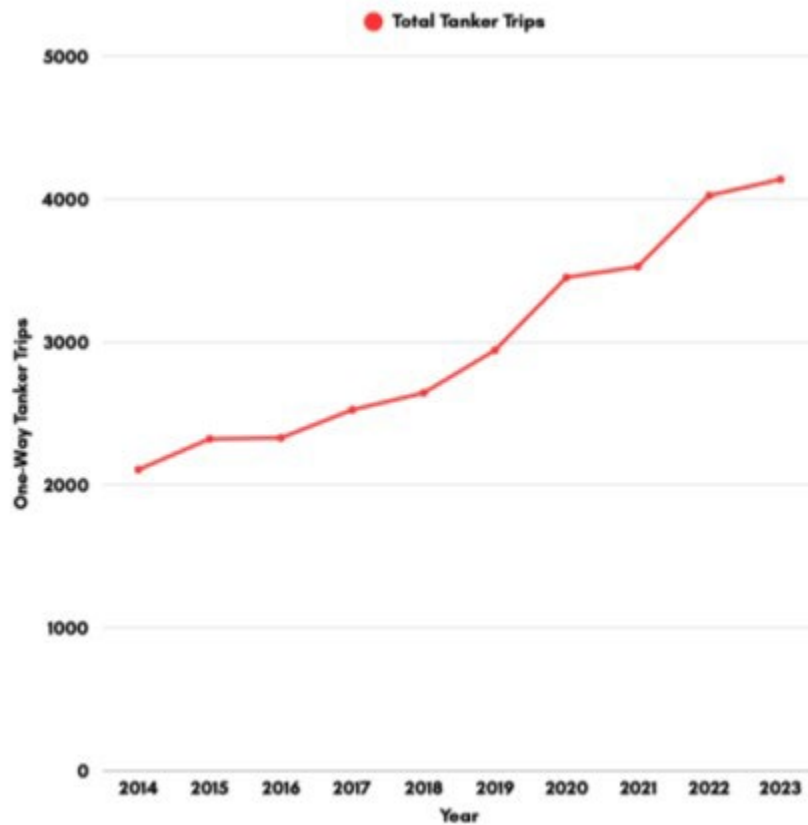


Figure 2: Total One-Way Tanker Trips in Corpus Christi, TX from 2014 to 2023⁹⁷

⁹⁵ 2023 WCUS Trips - All Regions, U.S. ARMY CORPS. OF ENG’RS (last visited Sept. 28, 2025), <https://ndclibrary.sec.usace.army.mil/resource?title=2023%20WCUS%20Trips%20-%20All%20Regions%20&documentId=07ddf14b-1522-4c6f-d894-40cd74d58a7f> (click “Download” button; then filter for “Corpus Christi, TX”; then filter by “tanker”; then add together “trips” column), 2023 sorted spreadsheet at Exhibit 7 at 19–21.

⁹⁶ Sierra Fletcher *et al.*, *Viability of Moving Increased Crude Oil Volume via the No-Action Alternative in the Bluewater DEIS*, NUKA RESEARCH (Sept. 2023), at 3, attached as Exhibit 8.

⁹⁷ Data from *Waterborne Cargo and Trips Data Files (Manuscript Files)*, U.S. ARMY CORPS. OF ENG’RS, <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll2/id/14579%3Cbr%20/%3E> (last visited Sept. 28, 2025) at Exhibit 7; 2023 WCUS Trips - All Regions, U.S. ARMY CORPS. OF ENG’RS, <https://ndclibrary.sec.usace.army.mil/resource?title=2023%20WCUS%20Trips%20-%20All%20Regions%20&documentId=07ddf14b-1522-4c6f-d894-40cd74d58a7f> (last visited Sept. 28, 2025).

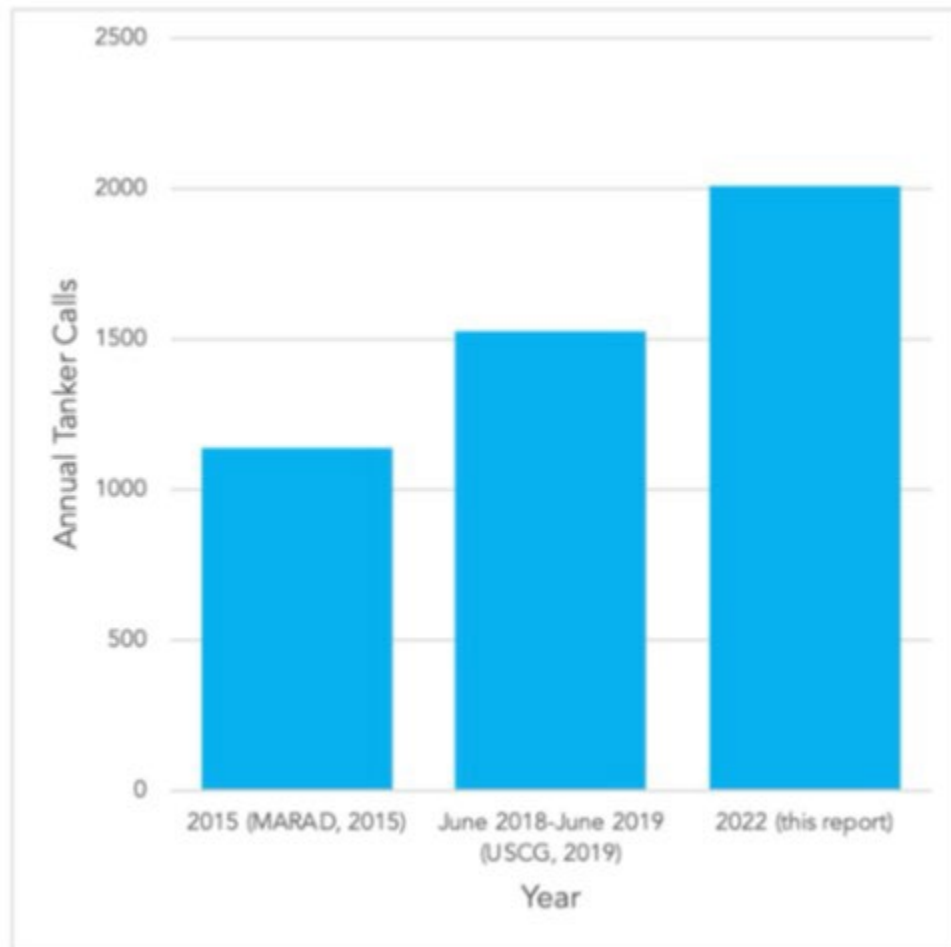


Figure 3: Tanker calls in the Port of Corpus Christi from 2015 to 2022⁹⁸

These significant vessel increases have substantially worsened congestion and safety in the area. In 2015 and 2019, the USCG, in consultation with relevant local officials and organizations, conducted two Ports and Waterways Safety Assessments. In the Assessments, they evaluated multiple risk factors in the port, including volume of commercial traffic. Back in 2015, the risk related to volume of commercial traffic was 7.0, considered a “mid-risk level.”⁹⁹ In 2019, this risk metric had risen to 7.7, considered a “very high baseline risk.”¹⁰⁰ Also considering that vessel traffic in 2019 was still nowhere near where it is today—or even the most recent Corps data from 2023—the “very high baseline risk” has almost certainly raised from 7.7 since 2019.¹⁰¹

⁹⁸ Sierra Fletcher et al., *Viability of Moving Increased Crude Oil Volume via the No-Action Alternative in the Bluewater DEIS*, NUKA RESEARCH at 3 (Sept. 2023).

⁹⁹ U.S. COAST GUARD, PORTS AND WATERWAYS SAFETY ASSESSMENT WORKSHOP REPORT CORPUS CHRISTI, TEXAS 8 (2015), attached as Exhibit 9.

¹⁰⁰ U.S. COAST GUARD, PORTS AND WATERWAYS SAFETY ASSESSMENT WORKSHOP REPORT CORPUS CHRISTI, TEXAS 7 (2019), attached as Exhibit 10.

¹⁰¹ *Id.*; *Compare Waterborne Cargo and Trips Data Files (Manuscript Files)*, U.S. ARMY CORPS. OF ENG’RS, <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll2/id/14579%3Cbr%20/%3E> (last visited Sept. 28,

All of this commercial tanker and cargo traffic has led to safety issues in the Port. In August 2019, an LNG tanker nearly collided with a ferry near Port Aransas.¹⁰² In March 2021, an oil tanker collided with a pier at the MODA facility.¹⁰³ In January 2023, a tugboat was sucked underneath an oil tanker in the Ship Channel before having part of its hull ripped up by the tanker's propeller.¹⁰⁴ And in 2024, two men died with two more injured when their small pleasure boat collided with a commercial oil tanker.¹⁰⁵

The risks created by commercial tanker traffic in this area are numerous and are only increasing. As pointed out by the Corps in its 2016 EA—but dismissed by its erroneous prediction of minimal traffic increase—accumulated vessel traffic conditions can be expected to lead to harmful effects on seagrass beds, turbidity, and petroleum spills.¹⁰⁶ The following sections will outline how these wrongfully dismissed harms have indeed come to fruition over the past decade.

3. *Impacts to Seagrasses*

Since 2016, two new studies and the vast expansion of industry on La Quinta Channel present significant new information about the direct, indirect, and cumulative harms to seagrasses. The 2016 EA estimated that 3.17 acres of submerged aquatic vegetation exist at Donnel Point and that 2.91 acres of seagrass would be lost if the project was developed.¹⁰⁷ The Corps proposed seagrass mitigation based on these assumptions and evaluated the cumulative impacts of the project based on other reasonably foreseeable projects in the region.¹⁰⁸ The Corps must reevaluate these assumptions and the importance of the loss of additional seagrasses, in light of these new studies and the increased industrial threats to seagrasses and the species that rely on them.

2025) (click “Trips 2019 All Region”; then filter for “Corpus Christi, TX”; then filter for “2019”; then filter by “tanker”; then add together “trips” column), *with 2023 WCUS Trips - All Regions*, U.S. ARMY CORPS. OF ENG’RS, <https://ndclibrary.sec.usace.army.mil/resource?title=2023%20WCUS%20Trips%20-%20All%20Regions%20&documentId=07ddf14b-1522-4c6f-d894-40cd74d58a7f> (last visited Sept. 28, 2025) (click “Download” button; then filter for “Corpus Christi, TX”; then filter by “tanker”; then add together “trips” column).

¹⁰² *Near Accident at Port Aransas Landing Underscores Concern of Harbor Island Export Terminal Critics*, KRIS 6 NEWS CORPUS CHRISTI (Aug. 13, 2019), <https://www.kristv.com/news/near-accident-at-port-aransas-landing-underscores-concern-of-harbor-island-export-terminal-critics>.

¹⁰³ *Tanker Accident in Port Damages Pier*, KRIS 6 NEWS CORPUS CHRISTI (Mar. 15, 2021), <https://www.kristv.com/news/local-news/tanker-accident-in-port-damages-pier>.

¹⁰⁴ Noelle Wiehe, Coast Guard Coxswain Emphasizes Having Clear Head During Tugboat Response, COFFEE OR DIE MAGAZINE (Jan. 25, 2023), <https://www.coffeeordie.com/article/coast-guard-tugboat-response?fbclid=IwAR3WUH9uPwMmc3984EHFjMTfKx9tKVQr7q4l3TdamOV-RV6E9bxbZLOH2QM>.

¹⁰⁵ Jim Bob Breazeale et al., *Update: ME's Office Identifies Another Victim in Saturday's Fatal Boat Collision*, KRIS 6 NEWS CORPUS CHRISTI (July 13, 2024), <https://www.kristv.com/1-dead-1-missing-others-injured-after-tanker-crashes-into-boat-in-ship-channel>.

¹⁰⁶ U.S. Army Corps. of Eng’rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848 (Feb. 24, 2016), at 14.

¹⁰⁷ *Id.* at 9, 10.

¹⁰⁸ *Id.*

Seagrasses serve as habitat and a food source for marine life, making them critical to the coastal environment by supporting fisheries and endangered species.¹⁰⁹ They also capture atmospheric carbon dioxide and produce oxygen that supports marine life.¹¹⁰ Additionally, seagrass stabilizes the coastline by anchoring sediment and improves water quality by filtering pollutants.¹¹¹ However, industrial activities, like dredging, lifts settled sediment from the seabed, increasing rates of turbidity, blocking light to the seagrass.¹¹² Because seagrass is a photosynthetic species, less light availability reduces growth and survival rates.¹¹³

In the first new study, Dr. Kirk Cammarata, a seagrass expert, studied the impacts of the nearby Moda Ingleside Energy Center dock expansion in 2021. The Cammarata study found that Total Leaf Biomass was lesser in areas closest to the expansion.¹¹⁴ Total Leaf Biomass is the measure of the total weight of leaves per unit area, and it is used to evaluate the health of a plant, with a higher value generally indicating a healthier plant.¹¹⁵ The site closer to the expansion measured less than 0.5 grams of *Thalassia* per 0.0045 m², and the site furthest to the expansion measured about 1.4 grams of *Thalassia* per 0.0045 m².¹¹⁶ The same study also found that the seagrass bed canopy height was lower in areas closer to the expansion area.¹¹⁷ The sampling site closest to the expansion measured at 15 cm while the sampling site furthest from the expansion measured at 68 cm.¹¹⁸

Austin Hamilton conducted a second study in 2022 on the impacts of vessel operations, including docking and undocking, on seagrass near Ingleside on the Bay.¹¹⁹ The study found that following a docking event there was a complete loss of light for a duration of three hours at a site close to the docking area.¹²⁰ The docking event caused sediment resuspension, which

¹⁰⁹ Seagrass Meadow, FLA. KEYS NAT'L MARINE SANCTUARY, <https://floridakeys.noaa.gov/plants/seagrass.html>, (last visited Oct. 6, 2025).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Li Chao *et al.*, *Changes in Survival and Growth in Response to Different Combinations of Turbidity and Duration in Eelgrass Zostera Marina Plants*, 249 ESTUARINE COASTAL & SHELF SCI Article 107108 (Feb. 2021) at 1, attached as Exhibit 11.

¹¹³ *Id.*

¹¹⁴ Kirk Cammarata, *Impacts to Ingleside on the Bay Seagrass Meadows from Siltation and Erosion* (2022), at 10, attached as Exhibit 12.

¹¹⁵ Brett Younginger *et al.*, *Is biomass a reliable estimate of plant fitness?*, 5(2) APPLICATIONS IN PLANT SCIENCES 1 (2017), at 1, attached as Exhibit 13.

¹¹⁶ Cammarata, *supra* note 113, at 10.

¹¹⁷ *Id.* at 17.

¹¹⁸ *Id.*

¹¹⁹ Austin Hamilton, *Influence of Ship Docking Operations on Seagrass Beds at Ingleside on the Bay, Texas* (2022), at 1, attached as Exhibit 14.

¹²⁰ *Id.* at 19.

significantly decreased light levels in sites closer to the docking site.¹²¹ Further, the study found a decline in seagrass cover since 2016.¹²²

Finally, the assessment of impacts to seagrasses in the 2016 EA is inaccurate and outdated. In the past nine years, many projects have been built, including those listed in Section III(B)(1). Still more are to come as permits for further ship channel expansions have been issued. Previously unforeseen projects have increased the cumulative impacts on the environment in this area, including the degradation of seagrass. Accounting for the changes in the area since 2016, the cumulative impacts are now more likely to be significantly adverse, requiring a supplemental analysis of the project.

Given these significant new studies about baseline seagrass in the region and impacts from loading docks and vessel traffic, the Corps must perform a supplemental analysis to consider operational impacts of the project on seagrasses and the cumulative harms to seagrasses from other nearby industries.¹²³

4. *Impacts on Marine Life and Endangered Species*

The Corps must reevaluate impacts from the project to marine life that depend on seagrasses and redo or initiate endangered species act consultation for endangered species such as manatees and the Rice's whale, a species of whale that was discovered since the 2016 EA.

First, the general loss of seagrass in the region since 2016 issued has likely resulted in harm to marine life such as fish and the West Indian Manatee, and thus the Corps should reevaluate the impacts of the project on these important aquatic species. The coastal waters of Texas serve as a habitat for West Indian Manatees, which rely on seagrass as a food source.¹²⁴ The loss of seagrass results in the population decline of West Indian Manatees, which have been listed as an endangered species.¹²⁵ Further, loss of seagrass harms fish by removing critical habitat.¹²⁶ Decreased presence of seagrass in coastal areas results in a decline of various species of fish.¹²⁷ The 2016 EA's conclusion that the project would have a "minimal impact" on fish and

¹²¹ *Id.* at 37.

¹²² *Id.*

¹²³ U.S. Army Corps. of Eng'rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848, at 10 (Feb. 24, 2016).

¹²⁴ *Manatee*, U.S. FISH & WILDLIFE SERV., <https://www.fws.gov/species/manatee-trichechus-manatus>, (last visited Oct. 6, 2025).

¹²⁵ Aarin Conrad Allen *et al.*, *Conservation Challenges and Emerging Threats to the West Indian Manatee (Trichechus Manatus) in Florida and Puerto Rico*, 19 LATIN AM. J. OF AQUATIC MAMMALS 32, 32-34 (2024), attached as Exhibit 15.

¹²⁶ Jennifer K. O'Leary *et al.*, *Effects of Estuary-Wide Seagrass Loss on Fish Populations*, 44 ESTUARIES & COASTS (2021), at 2250, attached as Exhibit 16.

¹²⁷ *Id.*

wildlife does not account for the recent changes in and information on seagrasses for these populations.¹²⁸

Second, the 2016 EA did not evaluate the project's impacts on the critically endangered Rice's whale from increased vessel traffic and oil spills into the Gulf, because this species was subsequently discovered as a distinct species and listed as an endangered species in 2021. Recent science on the Rice's whale demonstrates that increased risk of vessel strike, underwater noise, and oil spills could lead to the species' extinction.¹²⁹ Moreover, NMFS has issued a proposed rule to designate waters from the 100-meter isobath to the 400-meter isobath in the Gulf of Mexico as Rice's whale critical habitat.¹³⁰ Accordingly, the Corps must evaluate these impacts in a supplemental NEPA review and initiate consultation under the Endangered Species Act to evaluate impacts of this project itself and cumulatively with other existing and proposed actions in the region on the Rice's whale.

5. *Oil Spill Risks*

The Corps' 2016 assessment of cumulative impacts connected to oil spill risks relied on conditions that have since materially changed. Based on the conditions and assumptions made at that time, the Corps concluded that the foreseeable impacts of the 2016 proposed project (factoring in cumulative impacts from any incidental petroleum spill and other disturbances) would constitute only minimal environmental impacts and minimal impacts on fish and wildlife.¹³¹ However, as discussed above, vessel tanker traffic has increased dramatically and the risk of oil spills has intensified considerably. The USCG's Ports and Waterways Safety Assessments (PAWSA) for Corpus Christi Bay, conducted in 2015, and again in 2019, each ranked the baseline risk level of petroleum discharge at 9.0 (the highest possible severity rating). While the 2015 PAWSA first identified petroleum discharge as a maximum-severity hazard, the 2019 reassessment reaffirmed that rating under substantially increased vessel traffic and export activity, signaling that an already maximum-rated spill risk had intensified.¹³²

¹²⁸ U.S. Army Corps. of Eng'rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848, at 10 (Feb. 24, 2016).

¹²⁹ See, e.g., 84 Fed. Reg. 15,446, 446–488 (Apr. 15, 2019) (listing decision, determining that the whale is at a “high risk of extinction” under three statutory factors); NMFS, “Rice's whale,” available at <https://www.fisheries.noaa.gov/species/rices-whale> (accessed October 2024); P.E. Rosel, P.J. Corkeron, L. Engleby, D. Epperson, K. Mullin, M.S. Soldevilla, and B.L. Taylor, Status review of Bryde's whales (*Balaenoptera edeni*) in the Gulf of Mexico under the Endangered Species Act, at iv, 130–32 (2016) (NOAA Tech. Memo. NMFS-SEFSC-692); see also Comment from NRDC *et al.* Re: Proposed critical habitat designation for Rice's whale (NOAA-2023-0028), <https://www.regulations.gov/comment/NOAA-NMFS-2023-0028-25145> (Providing a summary of the recent science on the Rice's whale and threats to the species, including evidence of the species' persistent occurrence in central and western Gulf waters and direct threats of vessel strikes, noise and spills from oil and gas development).

¹³⁰ Endangered and Threatened Species; Designation of Critical Habitat for the Rice's Whale, 88 Fed. Reg. 47,453 (July 24, 2023).

¹³¹ U.S. Army Corps. of Eng'rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848, at 10 (Feb. 24, 2016).

¹³² U.S. COAST GUARD, PORTS AND WATERWAYS SAFETY ASSESSMENT WORKSHOP REPORT CORPUS CHRISTI, TEXAS 8 (2015); U.S. COAST GUARD, PORTS AND WATERWAYS SAFETY ASSESSMENT WORKSHOP REPORT CORPUS CHRISTI, TEXAS 7 (2019).

Three years after the USCG's 2019 PAWSA reaffirmed this severe petroleum discharge hazard, an unprecedented spill event occurred. On December 24, 2022, a pipeline failure at the Flint Hills crude oil terminal, Dock #5, Ingleside released about 14,000 gallons of crude oil into Corpus Christi Bay, affecting the La Quinta Channel. The Flint Hills spill was one of the most significant discharges of petroleum into the open estuarine waters of Corpus Christi Bay in decades, killing and harming birds and aquatic animals. Thus, the baseline conditions that shaped prior cumulative impact assessments of oil spill risks, as well as the mitigation standards those assessments were built upon, are effectively outdated and do not reflect the significantly heightened risks to Donnel Point's surrounding estuarine environment. Supplemental review under NEPA is thereby required to ensure that the Corps' cumulative impact analysis accurately reflects the new conditions that have emerged since 2016.

6. *Flooding risks*

The Corps' 2016 assessment of flood hazards similarly relied on conditions that have since significantly changed. In its assessment, the Corps concluded that the 2016 "proposed work would not create or exacerbate any flood plain hazards[, t]he proposed dredge work would increase the capacity of La Quinta Channel[,] . . . [and] [t]he project would not impact floodplain values in La Quinta Channel."¹³³ These conclusions, however, were based on sea-level conditions that are no longer supported, as both site-specific assessments and NOAA data now show significantly heightened flood hazards.

First, sea-level conditions and the resulting impacts along La Quinta Channel have changed significantly. Tide-gauge measurements and sea-level impact assessments show that the relative sea level at Ingleside on the Bay has risen at a pace already producing hazardous, on-the-ground impacts to the local community.¹³⁴ A 2020 sea-level impact assessment produced evidence of the community's recurrent experiences with nuisance flooding, landward migration of wetland vegetation, and multiple bulkhead failures caused by overtopping.¹³⁵ The 2024 *Passing Vessel Hydrodynamic Study* prepared for the Port of Corpus Christi Authority further documented overtopping of bulkheads and retaining walls along Ingleside on the Bay and Brass

¹³³ U.S. Army Corps. Of Eng'rs, Memorandum for the Record on Environmental Assessment and Statement of Findings for Permit Application SWG-2014-00848 (Feb. 24, 2016), at 11-12.

¹³⁴ Victoria Balderrama, *Ingleside on the Bay Residents Struggle with Flooded Streets and Homes*, KRIS 6 NEWS CORPUS CHRISTI (June 21, 2024), <https://www.kristv.com/news/local-news/in-your-neighborhood/san-patricio-county/ingleside/ingleside-on-the-bay-residents-struggle-with-flooded-streets-and-homes>; Brian Burns, *Ingleside on the Bay Residents See Major Flooding, but not Inside their Homes*, 3 NEWS (June 19, 2024), <https://www.kiitv.com/article/weather/weather-impact/ingleside-on-the-bay-flooding-tropical-storm-alberto/503-424c8e92-46ca-4de1-9877-e8053136b51c>; *Ingleside on the Bay Residents Are to be Aware of Ships in La Quinta Channel*, KRIS 6 NEWS CORPUS CHRISTI (June 22, 2022) <https://www.kristv.com/news/local-news/ingleside-on-the-bay-residents-are-to-be-aware-of-ships-in-la-quinta-channel>.

¹³⁵ *Ingleside on the Bay Relative Sea Level Rise Impacts and Adaptation*, MOTT MACDONALD (2020), at 6–10, https://www.iobcwa.org/uploads/1/2/7/6/127667617/20200129_rlsr_iobcwa_presentation.pdf, attached as Exhibit 17.

Turtle under both mean higher high water (“MHHW”) and MHHW +1’ conditions, directly attributing these failures to passing vessel traffic.¹³⁶ These overtopping and bulkhead failure events, moreover, are exacerbated by the community’s outdated infrastructure.¹³⁷ Most of Ingleside’s existing bulkheads, built in the 1960s and 70s, are increasingly strained by conditions far beyond what they were built to withstand.¹³⁸ These conditions have left low-lying roadways especially vulnerable to flooding, reflecting how far inland the floodplain now extends compared to what the 2016 EA contemplated.¹³⁹

Second, NOAA data confirm that high-water-level events have intensified in both frequency and magnitude since the 2016 EA. NOAA tide gauge data (Station 8775283, Ingleside) show that the ten highest water levels ever recorded at this location all occurred after 2021, nearly all of which were associated with tropical events, large swells, or historically high tide levels.¹⁴⁰ Since 1989, NOAA’s Ingleside tide-gauge data have provided a direct, continuous measurement of how often and how severely water levels in the ship channel rise to heights capable of flooding surrounding areas. The fact that the upper range has shifted sharply within the last few years confirms that floodplain hazards now occur under materially different conditions than those underlying the Corps’ 2016 findings of no significant floodplain impacts.

Additionally concerning are NOAA’s data and projections on relative sea level rise (RSLR) at its Rockport station, located less than 20 miles from Ingleside.¹⁴¹ Rockport, situated on the western coast of Aransas Bay, provides critical insight into sea level trends that affect the Corpus Christi coastal region.¹⁴² According to NOAA’s intermediate RSLR scenario, sea levels along the coast are projected to rise more than one foot above present levels by 2040, 2.6 feet by 2080, and four feet by 2100.¹⁴³ While site-specific RSLR projections for Ingleside are not yet

¹³⁶ *Passing Vessel Hydrodynamic Study - 2024 Analysis in the Vicinity of Ingleside Cove and Ingleside-on-the-Bay, Texas*, MOTT MACDONALD (May 22, 2024), at 13–16, https://downloads.regulations.gov/DOT-OST-2024-0044-0029/attachment_3.pdf, attached as Exhibit 18.

¹³⁷ *Ingleside on the Bay Relative Sea Level Rise Impacts and Adaptation*, MOTT MACDONALD (2020), at 6–10, https://www.iobcwa.org/uploads/1/2/7/6/127667617/20200129_rlsr_iobcwa_presentation.pdf.

¹³⁸ *Id.*; See also *Passing Vessel Hydrodynamic Study* at 13–16, https://downloads.regulations.gov/DOT-OST-2024-0044-0029/attachment_3.pdf, (Exhibit 18).

¹³⁹ *Id.*

¹⁴⁰ *Top-10 Highest Water Levels 8775283, Enbridge, Ingleside TX*, NOAA, <https://tidesandcurrents.noaa.gov/inundationdb/inundation.html?id=8775283#top10event>, (last visited Oct. 13, 2025).

¹⁴¹ See <https://tidesandcurrents.noaa.gov/stationhome.html?id=8774770>; <https://tidesandcurrents.noaa.gov/stationhome.html?id=8775283>; See also *Ingleside on the Bay Relative Sea Level Rise Impacts and Adaptation*, MOTT MACDONALD (2020), at 9–23, https://www.iobcwa.org/uploads/1/2/7/6/127667617/20200129_rlsr_iobcwa_presentation.pdf.

¹⁴² *Id.*

¹⁴³ https://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?id=8774770#tabscenario; https://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?id=8774770; <https://texasclimatenews.org/2020/02/06/new-study-confirms-gulf-coast-sea-level-rise-among-the-countrys-highest/>; *Ingleside on the Bay Relative Sea Level Rise Impacts and Adaptation*, MOTT MACDONALD (2020), at 9–23, https://www.iobcwa.org/uploads/1/2/7/6/127667617/20200129_rlsr_iobcwa_presentation.pdf.

available, the projections for Rockport make it clear that communities along the Gulf Coast will experience chronic and increasingly severe flooding as sea levels continue to rise. The Corps must evaluate these predicted increases in baseline sea levels along with the wakes from heavy vessel traffic putting further strain on bulkheads that regularly overtop at present sea levels.¹⁴⁴

These significant changes to flood risks since 2016 necessitate supplemental review under NEPA.

IV. THE CORPS SHOULD DENY FUTURE REQUESTS FOR A 404 PERMIT EXTENSION AND REQUIRE A NEW PERMIT APPLICATION BECAUSE THERE IS NO PROPOSED PROJECT

The Corps cannot grant an extension for the Permit without requiring a new application and public notice. The Corps' regulations require requests for extensions to "be processed in accordance with the regular procedures of § 325.2 of this part, including issuance of a public notice, except that such processing is not required where the district engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued."¹⁴⁵ Section 325.2 governs the requirements for new permit applications and public notice.¹⁴⁶ An application is only considered complete if it includes: "complete description of the proposed activity including necessary drawings, sketches, or plans sufficient for public notice."¹⁴⁷ The public notice also must include:

(5) A brief description of the *proposed activity, its purpose and intended use*, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be erected on fills or pile or float-supported platforms, and a description of the type, composition, and quantity of materials to be discharged or disposed of in the ocean... A statement of the district engineer's current knowledge on historic properties; A statement of the district engineer's current knowledge on endangered species."¹⁴⁸

Here, the original application and environmental review are for an abandoned project purpose and design. Cheniere applied for and received the Permit for a crude condensate terminal but then abandoned the project. The Port took over the permit in 2021 but as explained above, has never had a clear purpose, footprint, or intended use for the site. Therefore, the Port is clearly not intending to move forward with project within a reasonable time, because it does not even have a clear project.

Because of these changes in the project as well as new significant circumstances in cultural and environmental circumstances explained above, the Corps cannot issue an extension of this Permit without a new application and public notice.

¹⁴⁴ *Ingleside on the Bay Relative Sea Level Rise Impacts and Adaptation*, MOTT MACDONALD (2020), at 9–23, https://www.iobcwa.org/uploads/1/2/7/6/127667617/20200129_rlsr_iobcwa_presentation.pdf.

¹⁴⁵ 33 C.F.R. § 325.6(d).

¹⁴⁶ 33 C.F.R. § 325.2(a).

¹⁴⁷ 33 C.F.R. § 325.1(d)(1).

¹⁴⁸ 33 C.F.R. § 325.3(a) (emphasis added).

V. CONCLUSION

For the reasons stated above, the Corps should revoke the Permit SWG-2014-00848. Alternatively, the Corps needs to undertake new cultural resources and environmental reviews and if the Port intends to move forward with a new project at this site, it must submit a new application for a 404 permit with opportunity for public notice and comment.

Finally, Commenters request that they be designated as consulting parties with special interests in the property at Donnel Point, particularly for its historic significance, for the SWG-2014-00848 permit and any future Corps permits related to this historic property.

Respectfully submitted,

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