

Friends of the Earth | 1000 Grandmothers for Future Generations | Alliance of Nurses for Healthy Environments | American Rivers | Amigos Bravos | Amigos de Bolsa Chica | Animal Welfare Institute | Atchafalaya Basinkeeper | Audubon Mississippi | Audubon Society of Central Arkansas | Azul | Bold Alliance | Center for Biological Diversity | Center for Environmental Law and Policy | Center for Food Safety | Citizens Against Widening the Industrial Canal | Citizens Climate Lobby Hammond Chapter Leader | Citizens Committee to Complete the Refuge | Climate Hawks Vote | Coalition to Restore Coastal Louisiana | Columbia River Crab Fisherman's Association | CURE (Clean Up the Environment) | Defenders of Wildlife | Dogwood Alliance | Earth Ethics, Inc | Earthworks | Endangered Habitats League | Endangered Species Coalition | Environmental Advocates of New York | Food & Water Action | Friends of the Kaw | Friends of the Los Angeles River | Friends of the Rivers of Virginia (FORVA) | Glynn Environmental Coalition | Great Egg Harbor Watershed Association | Green Justice | Greenpeace | Healthy Gulf | Hip Hop Caucus | Inland Ocean Coalition | International Marine Mammal Project of Earth Island Institute | Kentucky Resources Council, Inc. | Kentucky Waterways Alliance | Lake Champlain Committee | Louisiana Audubon Council | Louisiana Bucket Brigade | Miami Waterkeeper | Mill Creek Alliance | Mission Blue | Mississippi River Collaborative | Moore Charitable Foundation | National Wildlife Federation | Nebraska Wildlife Federation | New Jersey Highlands Coalition | North Carolina Wildlife Federation | Northwest Atlantic Marine Alliance | NY4WHALES | Ocean Conservation Research | Oceanic Preservation Society | Ohio River Foundation | Oil Change International | Pacific county Marine Resources Committee | Planning & Conservation League | Protect the Bay Coalition | Raritan Riverkeeper | Recirculating Farms Coalition | SanDiego350 | Save the Cape, Inc. | SoCal 350 Climate Action | Southern Environmental Law Center | Stand.earth | Sunflower Alliance | Texas Conservation Alliance | The River Project | Tualatin Riverkeepers | Water-Culture Institute | Western Environmental Law Center | Whale and Dolphin Conservation

April 1, 2020

Submitted via Todd.T.Semonite@usace.army.mil

Lieutenant General Todd T. Semonite
Chief of Engineers & Commanding General
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Re: Request for extension of all commenting periods and postponement of public hearings amid COVID-19 pandemic

Dear. Lt. Gen. Semonite:

The 79 undersigned organizations write regarding the status of all proposals, permits, and actions pending with the U.S. Army Corps of Engineers (USACE). On March 13, 2020, the Executive Office of the President declared a national emergency, finding and proclaiming that “the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1,

2020.” Despite the ongoing crisis of lethal proportion, USACE seems to be conducting business as usual. For instance, on March 23, USACE opened commenting on a permit application for a 2,000-acre aquaculture project off the coast of Huntington Beach, California.¹ USACE has thus far refrained from extending the fast-approaching April 6 deadline for comments on an Environmental Impact Statement for the San Francisco Bay to Stockton Navigation Improvement Project.² And USACE disregarded urgent requests from advocacy groups, community members, and local elected officials in Surfside Beach, Texas to extend the March 13 public comment deadline for Clean Water Act permitting on the proposed Sea Port Oil Terminal export project.³ We are alarmed by the agency’s behavior during a time in which the country is in a national emergency and contending with the COVID-19 pandemic.

It is of paramount importance that USACE abstain from reaching any pending non-essential decisions or announcing new, non-essential opportunities for comment, and hold open all current commenting periods until 60 days after the national emergency is lifted. We also urge you to reschedule all public hearings once it is safe for the public to gather.⁴

As you are aware, public participation is a central hallmark of our democracy. Notice and comment periods, such as those highlighted above, have become the principal method for the public to participate in the administrative process. To that end, the Administrative Procedure Act has formalized the public’s opportunity to weigh-in by mandating agencies to “give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments.” 5 U.S.C. § 553(c). This mandate improves the quality of agency action and ensures that the administrative process has both public accountability and legitimacy.

The public’s ability to monitor open rulemakings and develop useful comments for agency decision-makers is being hindered, if not blocked outright, during this public health crisis and national emergency. Moreover, many frontline, rural, and low income communities have limited access to the internet or can only access it through facilities such as public libraries outside of their homes. Holding open all active public comment periods until stakeholders can resume normal operations without risk of exposure to COVID-19 will ensure that the public is truly able to meaningfully participate in the administrative process consistent with the letter and spirit of the APA.

Extending public comment periods will also benefit USACE and project applicants by ensuring more robust and valuable public feedback, which will lead to more successful agency action across the board. Moreover, this would reduce the need for public servants to work in agency offices where they would be unnecessarily exposed to COVID-19.

¹ U.S. Army Corps of Engineers, Public Notice of Application for Permit, [SPL-2020-00039-TS](#) (March 23, 2020).

² U.S. Army Corps of Engineers, [Final EIS for San Francisco to Stockton Navigation Improvement Project](#) (March 6, 2020).

³ U.S. Army Corps of Engineers, Public Notice of Intent to Prepare Environmental Impact Statement, [SWG-2018-00751](#) (Feb. 11, 2020).

⁴ In making this national request, we join the requests submitted by 51 organizations located in the Gulf of Mexico, which specifically focuses on projects in the Gulf region. See [Letter from 51 Gulf organizations to Asst. Secretary R.D. James](#) (March 26, 2020).

There is no doubt that the arrival of the COVID-19 pandemic has significantly deprived members of the public from having opportunities to meaningfully participate in – or even become aware of – open rulemakings and pending decisions. Communities are closing. The public is sheltering in place. People are losing their own lives and the lives of loved ones. Now is not the time to push through “business as usual” agency activity.

Sincerely,

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Alliance of Nurses for Healthy
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Animal Welfare Institute
Atchafalaya Basinkeeper
Audubon Mississippi
Audubon Society of Central Arkansas
Azul
Bold Alliance
Center for Biological Diversity
Center for Environmental Law and Policy
Center for Food Safety
Citizens Against Widening the Industrial
Canal
Citizens Climate Lobby Hammond Chapter
Leader
Citizens Committee to Complete the Refuge
Climate Hawks Vote
Coalition to Restore Coastal Louisiana
Columbia River Crab Fisherman's
Association
CURE (Clean Up the Environment)
Defenders of Wildlife
Dogwood Alliance
Earth Ethics, Inc
Earthworks
Endangered Habitats League
Endangered Species Coalition
Environmental Advocates of New York

Food & Water Action
Friends of the Kaw
Friends of the Los Angeles River
Friends of the Rivers of Virginia (FORVA)
Glynn Environmental Coalition
Great Egg Harbor Watershed Association
Green Justice
Greenpeace
Healthy Gulf
Hip Hop Caucus
Inland Ocean Coalition
International Marine Mammal Project of
Earth Island Institute
Kentucky Resources Council, Inc.
Kentucky Waterways Alliance
Lake Champlain Committee
Louisiana Audubon Council
Louisiana Bucket Brigade
Miami Waterkeeper
Mill Creek Alliance
Mission Blue
Mississippi River Collaborative
Moore Charitable Foundation
National Wildlife Federation
Nebraska Wildlife Federation
New Jersey Highlands Coalition
North Carolina Wildlife Federation
Northwest Atlantic Marine Alliance
NY4WHALES
Ocean Conservation Research
Oceanic Preservation Society
Ohio River Foundation
Oil Change International
Pacific county Marine Resources Committee
Planning & Conservation League
Protect the Bay Coalition
Raritan Riverkeeper
Recirculating Farms Coalition

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