

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EL PUENTE,

CORALATIONS,

CENTER FOR BIOLOGICAL DIVERSITY,
378 N. Main Ave.
Tucson, AZ 85702,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS,
441 G St. NW
Washington, DC 20314,

LIEUTENANT GENERAL SCOTT A.
SPELLMON, Chief of Engineers
and Commanding General, Army
Corps of Engineers,
441 G St. NW
Washington, DC 20314,

GINA RAIMONDO, Secretary of Commerce,
1401 Constitution Ave, NW
Washington, D.C. 20230,

NATIONAL MARINE FISHERIES
SERVICE,
1315 East-West Highway
Silver Spring, MD 20910-3225,

DEBRA HAALAND, Secretary of Interior
1849 C Street NW
Washington, DC 20240,

U.S. FISH AND WILDLIFE SERVICE
1849 C Street NW
Washington, DC 20240,

Defendants.

Case No.: 22-2430

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. San Juan Bay on Puerto Rico’s northern coast serves important cultural, ecological, economic, and historical functions for the region. On the shores of the bay are densely populated neighborhoods and Puerto Rico’s largest port. Congress recognized San Juan Bay as an estuary of “national significance,” *see* 33 U.S.C. § 1330, with ecological values that support fisheries, tourism, wildlife, and protection against tropical storms. Two historic landmarks span the inlet of San Juan Bay—Castillo de San Felipe del Morro (El Morro) and Fortín San Juan de la Cruz (El Cañuelo)—which are preserved for their heritage and cultural values.

2. Now, an expansive federal dredging project threatens to harm San Juan Bay, nearby communities, and El Morro.

3. The U.S. Army Corps of Engineers’ ill-conceived San Juan Bay Dredging Project will deepen and widen shipping channels for massive vessels. The primary purpose of dredging is for larger tankers of liquified natural gas (LNG) and petroleum to transit the bay.

4. In 2015, the Corps announced it would prepare an Environmental Impact Statement for the project, but it ultimately finalized a less robust Environmental Assessment that ignored a full array of environmental impacts. In August 2018, the Corps erroneously determined that the San Juan Bay Dredging Project would have no significant environmental impacts.

5. The Corps’ environmental review omitted analysis of environmental damage from LNG tanker traffic, a new LNG import terminal, and fossil fuel imports. Near the port, overburdened environmental justice communities in Puerto Nuevo, Guaynabo, and Cataño will be exposed to risks from LNG explosions, oil spills, and pollution. The Corps failed to examine the health impacts of breathing smog, particulate matter, mercury, and hazardous air pollution. The LNG tankers would deliver the highly volatile fuel to a newly constructed LNG import

terminal that threatens the safety and health of residents. The Dredging Project increases LNG imports to fuel power plants whose emissions will worsen air pollution and climate change.

6. The Corps ignored how its decision locked in a fossil fuel pathway for Puerto Rico. While the Corps planned the San Juan Bay Dredging Project, Hurricanes Irma and Maria wiped out power and services throughout Puerto Rico. As it recovered, strong support grew for Puerto Rico to transition its energy utilities away from imported fossil fuels—including enactment of a law requiring 100 percent renewable energy by 2050. The Dredging Project impairs this transition and hampers a move away from fossil fuels.

7. The Corps' Environmental Assessment also overlooked and underestimated other environmental damage from the Dredging Project.

8. For example, the Environmental Assessment failed to evaluate the impacts of its plan to enlarge the dredging footprint by 15 acres and transport the dredged materials to Condado Lagoon Estuarine Reserve. Disposing dredged materials in Condado Lagoon threatens to contaminate and degrade this reserve.

9. The Environmental Assessment also discounted harms to historic landmarks and cultural resources like El Morro, which is part of a World Heritage Site, and Old San Juan.

10. Additionally, the Environmental Assessment ignored damage to infrastructure, water quality, and coral reefs from sediment. It ignored, for example, the effects of dumping more than two million cubic yards of dredged material in the ocean.

11. Sediment will also degrade critical habitat and kill corals that are protected under the Endangered Species Act and provide coastal storm protection to San Juan. The Corps claimed there would be no damage to corals from dredging but arbitrarily limited its analysis of

impacts to a 150-meter zone. However, a similar Corps' dredging project in Florida killed a half-million corals with damage extending as far as 3,000 meters—20 times that zone.

12. Compounding these problems, the Corps, the National Marine Fisheries Service (NMFS), and the Fish and Wildlife Service (FWS) failed to consult adequately on the impacts of the Dredging Project on endangered and threatened species, in violation of the Endangered Species Act (ESA).

13. Plaintiffs El Puente, CORALations, and the Center for Biological Diversity bring this action challenging the Corps' actions under the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*; the ESA, 16 U.S.C. §§ 1531–44; and the Administrative Procedure Act (APA), 5 U.S.C. § 702.

14. Plaintiffs seek an order from this court vacating the Corps' invalid environmental documents and ordering completion of ESA consultation on endangered and threatened species. Plaintiffs also seek an order requiring the Corps prepare a supplemental Environmental Assessment or full Environmental Impact Statement that provides a complete analysis of the Dredging Project's impacts and considers alternatives and robust environmental safeguards. Pending completion of the ESA and NEPA documents, Plaintiffs seek to enjoin the Corps from soliciting bids for the Dredging Project, entering into dredging contracts, or any further implementation of the Dredging Project.

JURISDICTION & VENUE

15. The Court has jurisdiction over this matter under the ESA's jurisdictional provision, 16 U.S.C. § 1540(g), and 28 U.S.C. § 1331, because this case presents a federal question under the laws of the United States. An actual, justiciable controversy now exists between Plaintiffs and Defendants, and the requested relief is proper under 28 U.S.C. §§ 2201–2202, 5 U.S.C. §§ 701–706, and 16 U.S.C. § 1540(g).

16. Venue in this Court is proper under 28 U.S.C. § 1391. This action is brought against an agency of the United States and officers of the United States acting in their official capacities, and Defendants the Corps, Department of Commerce, and Department of Interior are headquartered in the District of Columbia.

17. Plaintiffs provided 60-days' notice of intent to file this suit pursuant to the citizen suit provision of the ESA, 16 U.S.C. § 1540(g), by letter to Defendants dated June 13, 2022. Defendants have not taken action to remedy their continuing violations by the date of this complaint's filing. Therefore, an actual controversy exists between the parties under 28 U.S.C. § 2201.

PARTIES

18. El Puente de Williamsburg, Inc. is a nonprofit organization with offices in Puerto Rico and Brooklyn, New York. In New York, El Puente founded the Community Alliance for the Environment and co-founded the New York City Environmental Justice Alliance. Its Puerto Rico program, Latino Climate Action Network, is comprised of a group of Puerto Rican residents concerned about the impacts of air pollution and climate change in Puerto Rico. In 2013, El Puente lead a campaign that fostered the Governor's signature on five Executive Orders in support of climate mitigation and adaptation that, taken collectively, lead all stateside governors' actions regarding climate change policy and paved the way for the approval of Act 33-2019, the Puerto Rico Climate Change, Mitigation, Adaptation, and Resiliency Act. El Puente seeks to build community sustainability through strategies to mitigate and plan for climate change. The organization works with communities affected by Hurricane Maria and other environmental crises by providing support and resources, including supplies and efforts to transform communities to sustainable solar energy. Through community organizing and policy advocacy, El Puente promotes environmental justice and climate change preparedness and prevention. El

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