

August 10, 2023

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Re: NCDOT's PROTECT Grant Application for the Solving Access for NC 12 in Dare County (SAND) Project

Dear Secretary Buttigieg,

On behalf of the Southern Environmental Law Center, we are pleased to provide this letter in support of the Solving Access for NC 12 in Dare County ("SAND," or "the Project") application to the USDOT's 2023 PROTECT Grant program. This collaborative project, spearheaded by the North Carolina Department of Transportation (NCDOT), with support from project partners U.S. Fish and Wildlife Service and National Park Service, will undertake a Planning and Environmental Linkages (PEL) study. This study will establish a solid foundation for future National Environmental Policy Act (NEPA) process, permitting, and construction, with the goal of securing the long-term resiliency of NC 12 in the Outer Banks of North Carolina.

The Southern Environmental Law Center is a non-profit organization that works to protect the basic right to clean air, clean water, and a livable climate; to preserve our region's natural treasures and rich biodiversity; and to provide a healthy environment for all. Among other priorities, we have spent decades advocating for a long-term, resilient solution for NC 12 that would move threatened sections of the highway out of the Pea Island National Wildlife Refuge and into the sound to ensure the highway remains safe and reliable for residents and visitors while preserving the refuge at the same time.

Most recently, SELC participated in a multi-year stakeholder process led by Dare County, known as the NC 12 Task Force, whose goal was "to engage in a collaborative effort to develop a long-term, prioritized and resilient transportation plan" for an "approximately 67-mile long portion of N.C. 12, largely imbedded within" Cape Hatteras National Seashore and Pea Island National Wildlife Refuge in Dare and Hyde Counties, North Carolina.¹ In the last year, the group came to consensus on a path forward, and in its final report, it identified the portion of NC 12 within Pea Island National Wildlife Refuge as the "most critical area of concern" and developing a long-term solution for that section as "a top priority."² The report explained that, if NC 12 within Pea Island "is inaccessible" (which happens multiple times a year due to ocean

¹ Dare County, Highway 12 Task Force Report (Feb. 7, 2023), <https://www.darenc.gov/home/showpublisheddocument/11865/638114401900770000>.

² *Id.* at 8.

overwash that causes “unsafe road conditions, transportation delays, and road closures”), “then all other areas become inaccessible.”³ The SAND project is the first step toward implementing the Task Force’s recommendations.

We understand that NCDOT is requesting PROTECT funding for the SAND project to perform comprehensive resiliency planning, alternatives development and evaluation, and extensive public and stakeholder engagement for this 11-mile section of NC 12 between Oregon Inlet and Rodanthe in Dare County, North Carolina. As the application materials explain, this stretch of NC 12 is vital to the safety, quality of life, and economy of the Outer Banks. It is a critical lifeline connecting residents, tourists, and property owners in Hatteras Island to the rest of Dare County and mainland North Carolina. Moreover, it traverses areas with substantial ecological and recreational value in the Cape Hatteras National Seashore and Pea Island National Wildlife Refuge, which provide recreational opportunities, while conserving a diverse array of habitats that support migratory waterfowl and endangered species like the loggerhead sea turtle. Protecting these values and resources is a vital part of the work of Southern Environmental Law Center.

Storms, ocean currents, and wave and wind action are continually and dynamically reshaping the low-lying barrier islands that NC 12 traverses. Rising sea levels, coupled with the increasing severity and frequency of coastal storms, are accelerating the impacts of these forces, leading to flooding, accelerated shoreline erosion, and sand and ocean overwash that damages the roadway and causes extensive repair and cleanup costs. We understand that, since 2010, NCDOT has spent more than \$72 million to keep NC 12 south of Oregon Inlet passable following storm events. These persistent challenges disrupt the lives of residents and visitors, obstruct the evacuation route for a national seashore and eight villages, negatively impact the Cape Hatteras National Seashore and the Pea Island Wildlife Refuge, and lead to negative impacts on the regional economy.

To address these concerns, we understand the SAND project will build upon prior decision-making and environmental analyses for State Transportation Improvement Program project B-2500 and the efforts of the NC 12 Task Force to identify the range of reasonable alternatives for subsequent NEPA evaluation and support the identification of a preferred alternative. We understand the Project will perform environmental screening and develop conceptual roadway and structure design for these alternatives, including preliminary hydraulic modeling, to understand their cost, constructability, and environmental impacts. We support NCDOT’s intention that resiliency and mitigation planning will also be a key focus, and that the Project will identify opportunities to incorporate innovative strategies such as oyster reef restoration and nature-based solutions for stormwater management. We expect NCDOT to use the most up-to-date and best available scientific data on sea level rise, erosion rates, and other relevant factors in their analysis and decision-making. SAND will also identify permitting and resource needs required for successful implementation. We intend to fully participate in the robust public and

³ *Id.* at 4, 8.

Secretary Buttigieg

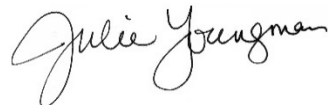
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stakeholder engagement process that we understand will occur throughout the project, ensuring all diverse perspectives are considered in the decision-making process. We support the goal that these project elements will address vulnerabilities at projected future breach locations as well as the Canal Zone and Pea Island Visitor Center hot spots. At these locations, rising tides are breaching dunes, and sand and ocean overwash are a major challenge during and after coastal storms.

We enthusiastically offer our strong support for this application and endorse this essential investment in North Carolina's vulnerable coastal infrastructure. SAND will bring together Federal and state agencies, local communities, academia, and advocacy groups to build a common framework for decision-making and advance the development of long-term solutions to enhance the resilience of this critical transportation link. Thank you for your consideration of the SAND grant application for funding through the PROTECT program.

Sincerely,



Julie Youngman
Senior Attorney



Megan Kimball
Senior Attorney