

# **EXHIBIT D**

# MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

**Brandon P. Matsnev**  
484-430-2328  
bmatsnev@mankogold.com

*Admitted in PA*

THREE BALA PLAZA EAST, SUITE 700  
BALA CYNWYD, PA 19004  
TEL: 484-430-5700  
FAX: 484-430-5711  
WWW.MANKOGOLD.COM

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*Partner responsible:*  
*John F. Gullace (NJ)*  
*Brenda H. Gotanda (HI)*

December 22, 2023

VIA EMAIL AND U.S. FIRST CLASS MAIL

Karen M. Lee  
Commander, D5 Deputy Staff Judge Advocate  
U.S. Coast Guard  
U.S. Department of Homeland Security  
431 Crawford Street  
Portsmouth, VA 23704  
[karen.m.lee@uscg.mil](mailto:karen.m.lee@uscg.mil)

Re: FOIA Request No. 2023-CGFO-02455

Dear Commander Lee,

I write to follow-up from your letter dated November 1, 2023, concerning the above-referenced FOIA request from my office dated September 13, 2023. As explained more fully in the request, we are seeking documents regarding the Port of Wilmington Edgemoor Expansion in New Castle County, Delaware (the “Project”), including documents concerning the Project’s potential impact on navigation in the Delaware River, and any communications about the Project with either the Delaware Department of Natural Resources (“DNREC”) or the United States Army Corps of Engineers (“Army Corps”). Your November 1, 2023 letter indicates that you were “unable to locate or identify any responsive records.”

This conclusion is surprising, as we are aware of at least some email communications involving the Coast Guard relating to the Project. Specifically, I have attached hereto a series of email communications from 2021 between DNREC and the Coast Guard concerning the Project and its impacts to navigation in the Delaware River. In an email from September 2021, LCDR Andrew Cooke stated that “Sector Delaware Bay does not see this project posing a risk to safe navigation.”

Such records presumably should have been identified as part of any diligent search for responsive records. Additional records relating to the Project and/or the Coast Guard’s evaluation of it may exist as well, including any internal Coast Guard communications, other communications with DNREC, or communications with the Army Corps. I therefore respectfully request that the Coast Guard revisit its search for responsive records, including but



Karen M. Lee  
December 22, 2023  
Page 2

not limited to records in the possession of Sector Delaware Bay and/or LCDR Andrew Cooke.  
Please do not hesitate to reach out to me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon P. Matsnev', written over a horizontal line.

Brandon P. Matsnev  
For MANKO, GOLD, KATCHER & FOX, LLP

BPM/acr/11604-1001

CC: [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil)