



For Immediate Release

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Appellate Court Defers to Army Corps on Delaware Deepening; Environmental Groups Vow to Fight On

Philadelphia, PA – The Third Circuit Court of Appeals deferred to the Army Corps of Engineers in issuing a decision today that allows the Delaware River Deepening Project to move forward without up-to-date environmental analyses or full compliance with state permit and approval obligations. The appellate court ruling affirms decisions issued by the U.S. District Courts for the Districts of New Jersey and Delaware.

“While we understand that it would have been politically inconvenient for the judges to render a decision that would put a hold on this project so that state and federal laws could be fully complied with, that is clearly what they should have done here,” said Maya van Rossum, the Delaware Riverkeeper. “An injustice has been perpetrated on all of the communities that depend upon the Delaware River for clean water, healthy fish, and jobs worth hundreds of millions of dollars. Sadly, the judges drew conclusions that were simply unsupported by the facts in manipulating their ultimate findings. A travesty of justice of this magnitude cannot be allowed to stand, and so we will forge forth to protect the River for the benefit of all, not just a politically connected few,” van Rossum added.

According to Sharon Finlayson, board member of the New Jersey Environmental Federation: “The New Jersey Environmental Federation (NJEF) has worked closely with the

coalition in opposition to the Delaware Deepening Project. NJEF is dismayed with the recent court decision. The Deepening Project has been extensively studied and demonstrated to be a potential environmental and economic disaster. It is not the answer to our port needs. This is strictly an Army Corps and political maneuver.”

“While we are disappointed with the Court’s decision, certain facts remain unchanged: namely, that the Delaware Deepening Project will cost taxpayers more money than the economic benefits that can possibly be produced,” says George Sorvalis, Water Resources Campaign Manager with National Wildlife Federation. “We remain committed to challenging this economically wasteful and environmentally destructive project.”

“Although the standard of review is normally deferential to a federal agency, in this circumstance, that deference was not warranted under the law or the facts of the case. Across the board and despite the very limited public comment period the Corps allowed the public to address a twelve-year gap in environmental analysis, state and federal resource agencies and other experts submitted extensive new information on the Deepening’s environmental impacts to water quality, endangered species, and other River resources. The Corps simply chose to ignore this information, and the Court’s uncritical decision let the agency get away with it,” says Jane Davenport, Senior Attorney, Delaware Riverkeeper Network.

The Army Corps is currently applying to Delaware for a state permit and a Water Quality Certification for maintenance dredging of the existing shipping channel in Delaware waters, but, in what the Delaware Riverkeeper Maya van Rossum characterizes as a “massive overreach,” the Corps’ application seeks approval to take the channel to 46 feet, well beyond the 40 foot existing channel depth approved by Congress. The Delaware Riverkeeper Network is following this “dishonest action by the Corps as well,” says van Rossum.

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