



August 26, 2016

Submitted electronically and by mail

New Jersey Department of Environmental Protection
Division of Land Use Regulation
P.O. Box 420, Code 501-02A
Trenton, New Jersey 08625
Attn: Greenwich Township Supervisor

Re: File # 0807-16-0001.2, Application submitted by Delaware River partners, LLC re. Property at: 200 N. Repauno Avenue, Block 8; Lots 1, 2, 3, 4, 4.01 and 4.01, Greenwich Township, Gloucester County, NJ

Delaware Riverkeeper Network submits these comments on the flood hazard area individual permit, the individual waterfront development permit, and a coastal wetlands permit for the project referenced above and described in the letter we received from Gibbons Law, Shawn M. LaTourette, attorney for the applicant dated August 1, 2016 (copy attached).

Ms. Suzanne Dietrick, New Jersey Department of Environmental Protection (NJDEP) Case Manager, Land Use Management, informed Delaware Riverkeeper Network that the applications are still under administrative review and that an administrative deficiency letter would be issued this week, keeping the file open for public comment. This comment letter is submitted as an interim step in Delaware Riverkeeper Network's review and analysis of the permit applications for this project.

Delaware Riverkeeper Network submitted two letters to Ms. Suzanne Dietrick and additional emails documenting the files, documents, plans and maps that are missing from the Greenwich Township Municipal Building and seeking guidance about the comment period. Delaware Riverkeeper Network also submitted a letter on August 8 requesting an extension of the public comment period on the above referenced permits and a public hearing on the applications.

Delaware Riverkeeper Network conducted a review of the documents regarding the permit applications available at the municipal building on August 8 and scanned all documents in the file. There were several important documents missing that are needed by our experts whom we have engaged to review the permit applications.

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawariverkeeper.org
www.delawariverkeeper.org

We submitted a letter dated August 15, 2016 (copy attached) and an email dated August 24, 2016 to Ms. Suzanne Dietrick detailing the documents that our consultants require but are not available at the municipal building. Our consultants could not conduct a review or prepare an analysis or comments on the applications for the flood hazard area individual permit, the individual waterfront development permit, and a coastal wetlands permit because the required documents were not available. Ms. Dietrick arranged for the applicant's attorney to provide Delaware Riverkeeper Network with documents regarding the permit applications referenced above and access was received on August 25. The files have been transferred to the two consulting firms that Delaware Riverkeeper Network has retained to conduct expert reviews and we will be filing comment on the three permit applications utilizing these files once they have been able to complete the reviews. We will inform Ms. Dietrick if any necessary documents are still missing.

We do not know if the applicant's files are now available at the Greenwich Township Municipal Building but we have spoken with residents who have attempted to review the files, but have not been able to get all the documents needed as recently as Wednesday, August 24. Delaware Riverkeeper Network considers it of utmost importance that the public have access to all documents at the municipal building so that all members of the public can participate in the review and comment process. Delaware Riverkeeper Network also considers it essential that enough time be provided during an open public comment process for the public and our organization to review all files and prepare comment for submission to NJDEP.

In an effort to provide comment in a timely way on what could be gleaned from the permit applications and information that was made available at the municipal building, Delaware Riverkeeper Network submits these comments.

Enclosed is a copy of the review of two permit applications - individual waterfront development permit and coastal wetlands permit - by James A. Schmid, PhD. of Schmid and Company, Consulting Ecologists. Delaware Riverkeeper Network agrees with the findings reported by Dr. Schmid and submits his report as comment on these two permit applications. Delaware Riverkeeper Network will be submitting comment on the flood hazard area permit application when our consultants complete their review of the documents submitted by the applicant for that permit. Further comment may be submitted on the individual waterfront development permit and coastal wetlands permit.

As stated by Dr. Schmid, the scope of the applicant's proposed work is not clearly identified. Some of the aspects of the planned project and existing site of which there is inadequate information or evaluation include: the areas to be utilized for the project, those areas to be "conserved" (although there is no mention of a conservation easement), the plans for further subdivision and use of the property, the plans for the disposal of spoils that would be dredged for the project, location of public access to the Delaware River, and how proposed construction and use relate to onsite existing conditions. Additionally, secondary impacts that will result from the project are sparse and superficial but are required to be addressed as per NJAC 7:7-14.3. The applicant claims that potential impacts to the environment from the proposed permit activities will be minimized but Dr. Schmid states there is no way to independently assess that claim or to begin to review compliance with the numerous relevant coastal policies that have been adopted by NJDEP based on the information provided.

Further details of the inadequacy of the application are documented in Dr. Schmid's report. He concludes that compliance with all of the relevant coastal rules (NJAC 7:7-1 et seq.) has not been demonstrated based on the materials that were available for review.

Thank you for the opportunity to comment on these permits applications.



Maya van Rossum
The Delaware Riverkeeper



Tracy Carluccio
Deputy Director

Attachments:

Letter to DRN from Gibbons Law, Shawn M. LaTourette, attorney for the applicant dated August 1, 2016

Letter to Ms. Suzanne Dietrick, NJDEP from Delaware Riverkeeper Network dated August 15, 2016

Report to Delaware Riverkeeper Network from James A. Schmid, PhD. of Schmid and Company,

Consulting Ecologists dated August 25, 2016



SHAWN M. LATOURETTE
Associate

Gibbons P.C.
One Gateway Center
Newark, New Jersey 07102-5310
Direct: (973) 596-4719 Fax: (973) 639-6262
slatourette@gibbonslaw.com

July 27, 2016

VIA REGULAR & CERTIFIED MAIL (R.R.R.)

Delaware Riverkeeper Network

Delaware Riverkeeper
925 Canal Street, Floor 7
Suite 3701
Bristol, PA 19007

JUL 29 2016

RECEIVED

Re: *Application submitted by:*
Delaware River Partners, LLC
Regarding property at:
200 No. Repauno Avenue
Block 8; Lots 1, 2, 3, 4, 4.01, 4.01 and 4.02
Greenwich Township, Gloucester County

Dear Interested Party:

This letter is to provide you with legal notification that our client, Delaware River Partners LLC (“DRP”), will be submitting applications for a flood hazard area individual permit, an individual waterfront development permit, and a coastal wetlands permit, to the New Jersey Department of Environmental Protection, Division of Land Use Regulation (the “Department” or “NJDEP”) for the development shown on the enclosed plan. A brief description of the proposed development follows:

The DRP Gibbstown Logistics Center will be a multi-use, deep-water seaport and international logistics center at the site of the former DuPont Repauno Works in Gibbstown, New Jersey. This marine terminal is planned to include uses such as an automobile import and processing facility, perishables and bulk cargo handling, a bulk liquids storage and handling facility, logistics and associated warehousing.

The complete permit application package can be reviewed at either the municipal clerk’s office or by appointment at the Department’s Trenton Office. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the proposed development and site. Please submit your written comments within 15 calendar days of the date of this letter to:

New Jersey Department of Environmental Protection
Division of Land Use Regulation
P.O. Box 420, Code 501-02A
Trenton, New Jersey 08625
Attn: Greenwich Township Supervisor

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This letter is also sent to inform you that DRP is submitting an application for a permit or approval to the NJDEP under the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A. The permit or approval will either establish the boundary of freshwater wetlands on the above property, or will authorize DRP to conduct regulated activities on the property. Specifically, DRP is applying for the following approvals:

- (1) Individual permit (authorizes regulated activities in wetlands, for example construction or development)
- (2) Open water fill permit (authorizes regulated activities in open waters, for example construction or development)
- (3) Transition area waiver (authorizes regulated activities, for example construction or development, in areas adjacent to wetlands)

The activities for which DRP's application requests NJDEP approval involve:

- Cutting or clearing of trees and/or other vegetation
- Placement of pavement or other impervious surface
- Placement of one or more buildings or other structures

If you would like to inspect a copy of DRP's application, it is on file at the Municipal Clerk's Office in Greenwich Township, or you can call the NJDEP at (609) 777-0454 to make an appointment to see DRP's application at NJDEP offices in Trenton during normal business hours.

The rules governing freshwater wetlands permits and approvals are found in the NJDEP's Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A. You can view or download these rules on the NJDEP Land Use Regulation Program website at www.state.nj.us/dep/landuse, or you can find a copy of these rules in the county law library in your county courthouse.

As part of the NJDEP's review of DRP's application, NJDEP personnel may visit the subject property, and the portion of any neighboring property that lies within 150 feet of the property line, to perform a site inspection. This site inspection will involve only a visual inspection and possibly minor soil borings using a 4" diameter hand auger. The inspection will not result in any damage to vegetation or to property improvements.

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The NJDEP welcomes any comments you may have on DRP's application. If you wish to comment on DRP's application, your comment should be submitted to the NJDEP *in writing* within thirty (30) days after the Department publishes notice of the application in the DEP Bulletin, a copy of which is available on the NJDEP website at www.nj.gov/dep/bulletin. The Department shall consider all written comments submitted within this time. The Department may, in its discretion, consider comments submitted after this date. Comments cannot be accepted by telephone. Please submit any comments you may have *in writing, along with a copy of this letter*, to:

New Jersey Department of Environmental Protection
Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625
Attn: Gloucester County Section Chief

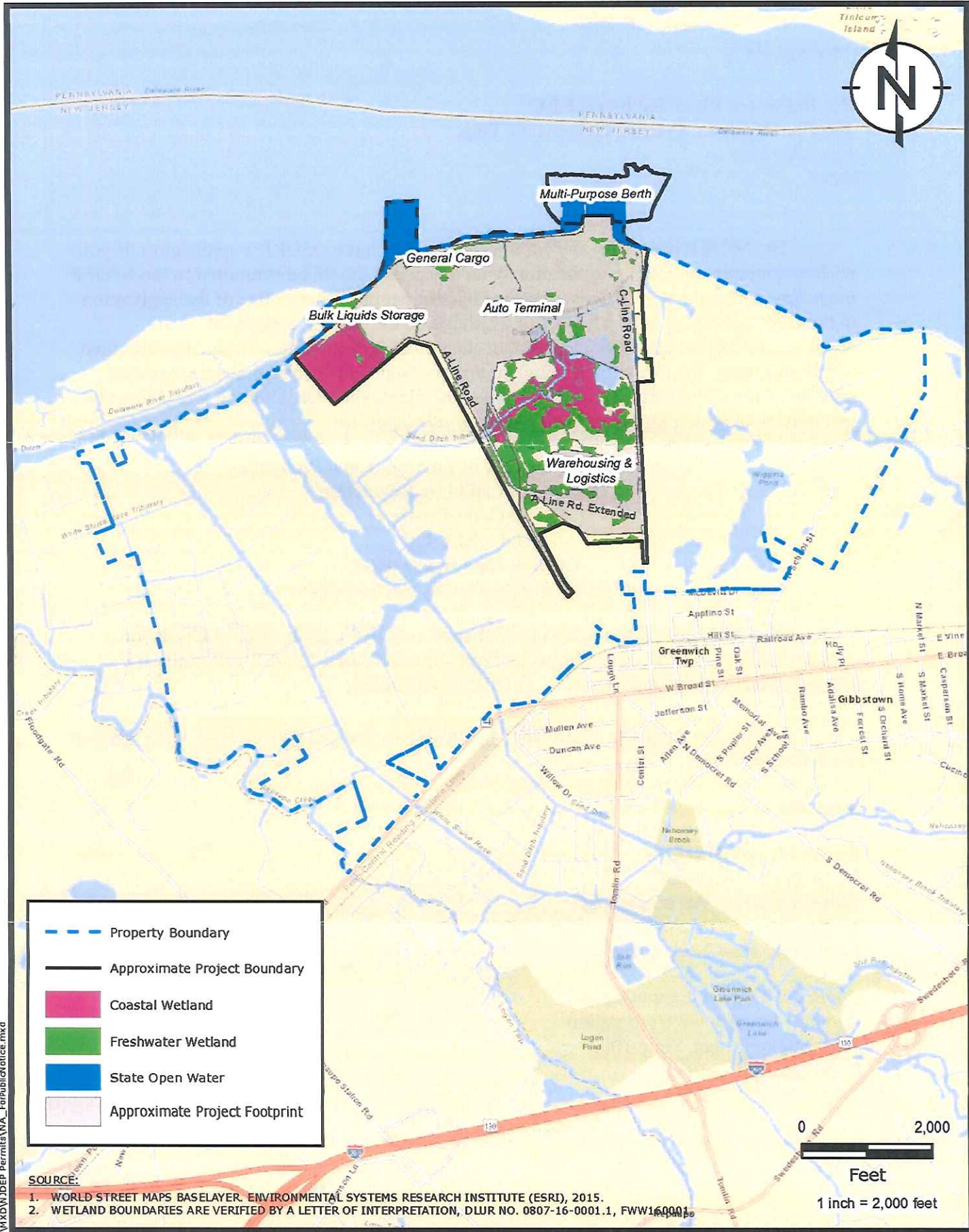
When the NJDEP has decided whether or not DRP's application qualifies for approval under the Freshwater Wetlands Protection Act rules, NJDEP will notify the municipal clerk of the final decision on DRP's application.

If you have questions about DRP's application, you can contact DRP or its agent at the addresses below.

Sincerely,

Shawn M. LaTourette
Attorney for Applicant:
Delaware River Partners, LLC
1345 Avenue of the Americas, 45th Floor
New York, New York 10105

Applicant's Agent: Laura George
Ramboll Environ US Corporation
1760 Market Street, Suite 1000
Philadelphia, PA 19103
Tel.: (215) 523-5603



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August 15, 2016

Suzanne Dietrick
Case Manager, Land Use Management
New Jersey Department of Environmental Protection
Trenton, New Jersey

Re: File # 0807-16-0001.2, Application submitted by Delaware River partners, LLC re. Property at: 200 N. Repauno Avenue, Block 8; Lots 1, 2, 3, 4, 4.01 and 4.01, Greenwich Township, Gloucester County, NJ

Dear Ms. Dietrick,

As a follow up to our letter of August 8 and your email informing us that we have until August 26 to submit comment on the three permits for the above referenced project - flood hazard area individual permit, the individual waterfront development permit, and a coastal wetlands permit – we are submitting this letter based on comments we have received from the wetlands expert we have retained to review the individual waterfront development permit and a coastal wetlands permit. Basically, the files he needs to conduct a review are not available at the Greenwich Township municipal building. We copied the entire box of materials provided by the Township Clerk and there are essential documents and maps missing that our expert requires in order conducting a review for us. We have double-checked with the municipal clerk at Greenwich Township and there are no other documents available.

Please note the following comments regarding the materials made available at the municipal building:

There is no LOI documentation nor any Wetlands Survey or wetlands maps.

The following are other documents referenced but not provided:

Note that the Contents mentions "Site Plans (folded and enclosed separately)" between Volumes 2 and 3.

Volume 4/ Appendix G is mentioned but not included.

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawareriverkeeper.org
www.delawareriverkeeper.org

Project Drawings are mentioned on p. 7

Wetlands Survey (the 16 sheets of the LOI) is mentioned on p. 9 and in the Appendix C LOI.

On p. 50 (Executive Summary #3 file) a Submerged Aquatic Vegetation study is to be performed for the eastern waterfront in the study area but the report is not included.

Other large drawings mentioned in the compliance statement (Executive Summary) text (at page # in parentheses) but not found in the files:

SD-101 (14)
S-100 (14)
D-101 (14, 35, 44, 62)
C-100 (15, 16, 38)
C-401 (16)
C-101 through C-123 (42)
C-113 (44)
C-115 (44)

Also missing are the following documents that are needed to evaluate the site regarding these permits:

The location of SWMUs and AOCs.

A copy of the LURP File 0807-06-0002.1 for GPs and TAWs for site cleanup, per which 2 acres of existing wetlands are to be filled before the present project starts. That file should show locations of the contaminated areas, among other things.

On p. 55 the document claims that a concurrent Freshwater Wetland Permit application is being filed, and thus the project complies with coastal policies on wetlands and transition areas. And yet the FWW application is not included in the documents but is referenced and contains information needed for these permit reviews. It is unknown if the LOI regulatory boundaries are settled yet.

On p. 56 the document says an archaeological study is being undertaken on part of the property that was an old farm. So the archaeological compliance documentation cannot be said to be complete.

On page 70 the document claims low impact because only 220 of the 1,630 acres of project site are being disturbed. Nothing else in this application provides any information about the rest of the 1,630-acre Repauno Works site, yet it is being proposed for further subdivision. An evaluation of the claimed low-impact nature of the project cannot be done unless documentation of the rest of the site's condition and future planning is made available.

Soil Erosion and Sediment Control plans are not available but will affect the wetlands permitting.

We have also engaged a flood hazard area expert to review that permit application and we will inform you if there are documents missing that are needed for that review when we get a report back from the consultant.

Delaware Riverkeeper Network requests that the comment period be indefinitely extended. In order for the public to comment, these applications must be complete and all information needed to conduct a review and analysis must be provided by the applicant. After the application materials have been provided, there must be a period of time allowed for Delaware Riverkeeper Network and members of the public to review the materials and submit comment.

Thank you for the opportunity for input into this process.

Sincerely,



Maya van Rossum
The Delaware Riverkeeper

Tracy Carluccio
Deputy Director

SCHMID & COMPANY INC., CONSULTING ECOLOGISTS
1201 Cedar Grove Road, Media, Pennsylvania 19063-1044
610-356-1416 fax: 610-356-3629
www.schmidco.com

25 August 2016

Tracy Carluccio
Delaware Riverkeeper Network
925 Canal Street, Suite 3701
Bristol, Pennsylvania 19007

In re: Proposed Gibbstown Logistics Center at DuPont Repauno Works

Dear Ms. Carluccio:

Per your request I have reviewed information provided to me from permit applications to develop a multi-use general cargo port at the former DuPont Repauno Works along the Delaware River in Gloucester County, New Jersey. This letter transmits my comments.

You provided me with all the information that you could obtain from the municipal clerk concerning applications to the New Jersey Department of Environmental Protection (NJDEP) that would be required to authorize port development on this inactive industrial site. It appears that Greenwich Township received incomplete copies of the applications. Complete copies of permit applications to NJDEP are required to be filed with any municipality. That a municipality's files would be so incomplete regarding active applications is highly unusual in my experience with New Jersey permits. I recommend that you secure a complete copy of these applications and related files.

My principal conclusion from reviewing the information is that there is insufficient information to provide a thorough review of this project. In particular, most site-specific drawings cited in the application documents are missing. These omissions include all site plans, wetland delineation maps, wetland documentation and Letter of Interpretation application files, soil erosion and sediment control plans, and stormwater management plans. Some existing conditions information is acknowledged as incomplete in the application text. In general, proposed construction activities are not shown in relation to onsite existing conditions, so there is no way independently to assess the applicant's claims regarding minimization of potential impacts or to begin to review compliance with the numerous relevant coastal policies that have been adopted by NJDEP. In addition, a significant number of applicable policies have not been addressed (see below).

The scope of the applicant's proposed work is not clearly identified. Apparently the current applications deal primarily with about 233 acres within 381 acres of a 1,630-acre property. Ground elevations are to be raised by fill and regrading on about 218 acres. Most contaminated soils apparently are to be covered by fill and pavement, rather than excavated and removed offsite. Existing conditions appear to have been addressed for that 233-acre parcel to some extent, although the resulting drawings have

not been provided to me. The initial project for the subject property apparently was larger by 50 acres, although no graphic depiction of the earlier plan appears in the files. The reduced area appears to have been near the center of the construction site, where 44 acres of an existing regrowth deciduous forest now are to be preserved, apparently in isolation from remaining onsite wetlands. Whether a conservation easement will encumber the 44 acres was not stated.

Even now, some or all of the remainder of the property is vaguely said to be slated for further subdivision, with no details offered. Some of the land east and west of the proposed port complex is proposed for encumbrance by conservation easement, according to a conceptual mitigation plan, although there is no discussion of the amount of land involved. Mitigation is proposed for sections of the property outside the currently proposed construction footprint, although existing conditions have not been examined there, such as the extent of wetlands and present soil contamination. The applicant takes "credit" for buffering provided by the entire Repauno Works property, but does not clearly indicate which (if any) of the remaining land will undergo future development. Adjacent to the project site the applicant believes that there is "ample" high quality habitat. The applicant states an intent to provide public access to the Delaware River somewhere within the 1,630-acre property, but no such access shown on any drawing provided to me.

Approval is being sought to fill about 8 acres of freshwater wetlands, 49 acres of transition areas, 6 acres of coastal wetlands, less than half an acre of state open waters, and 7.2 acres of riparian zones, in addition to 2 acres of freshwater wetlands already approved for fill during ongoing site remediation independent of this port project. The stated acreage of aquatic and transition area fill varies from place to place in the application documents.

Onsite road and rail facilities, as well as wharf berths along the waterfront, will be improved to facilitate movement of cargo. Powerlines apparently will be placed underground. The construction of onsite pipelines to convey liquid petroleum pipelines is not clearly discussed in the application, and whether offsite pipeline construction will tie the site into existing regional pipelines is unknown. The applicant does not say that adequate connection to municipal sewage treatment abuts the property, or whether offsite sewer line construction will be necessary. The applicant claims that truck traffic offsite will not cause problems, but provides no existing conditions data or projected traffic estimates to support this claim. The applicant reports township efforts to create a highway bypass to reduce traffic in residential neighborhoods of Gibbstown. No mass transit facilities exist or are proposed to bring workers to the marine terminal.

The site itself exhibits complex conditions as a result of past industrial use for chemical manufacturing over more than a century. As a consequence, most of the extensive wetlands on the property have long been diked off from full tidal exchange with the Delaware River. Large areas have been filled, and about 4 miles of artificial ditches were constructed during the years of chemical manufacture. The resulting pattern of wetlands (nearly 50 acres each of freshwater and coastal wetlands) and state open waters (about 20 acres including tidal and nontidal) and largely manmade uplands

within the proposed construction site is quite complex. Outside the proposed construction footprint there has been somewhat less past disturbance, with considerable variation from place to place. Hence environmental sensitivity as defined in NJDEP coastal policies would be expected to vary dramatically across the property.

The current extent of tidal fluctuation in water levels within the property apparently has not been determined. There is no description of actual current water quality in the ditches and waters onsite. Stormwater apparently is to be collected into newly constructed basins, but no stormwater analysis was provided forecasting future water quality (Volume III = Appendix G is absent from the files you provided). No improvement of the applicant-characterized "poor" quality existing aquatic habitat in onsite state open waters is proposed. Proposed impervious surfaces are to occupy 220 acres, 13% of the 1,630-acre property (presumably not counting stormwater basins). How much of the remaining land will be vegetated and how much will be open water was not stated. Summary written comments on specific existing wetland parcels are provided, but no drawings show their locations. Additional fill is proposed in some of the coastal and freshwater wetlands and in regulated transition areas adjacent to them, but again, no drawings show the location of proposed incursions into NJDEP-regulated areas. Archaeological investigations into a former farm in the southeastern section of the construction area where warehouse construction is proposed are not complete.

There is also a long history of discharge of wastewater laced with chemical contaminants onto this property. Considerable sampling has been undertaken, and cleanup operations are underway on some parts of the property. How the proposed development will relate to ongoing site remediation is not shown on any of the drawings you provided, and how the time frame for proposed remediation interacts with proposed port construction is not made clear. Apparently there has been little or no chemical sampling in sections of the site now under consideration for future development and for habitat improvement as partial mitigation for proposed fill. The excavation that may be necessary for such mitigation and for wharf construction may encounter acid-producing soils, but the applicant apparently has not searched for such soils onsite. Thus there is a serious potential for ongoing pollution of onsite ecosystems and the Delaware River that must be examined carefully. The source of potable water to be used at the port complex is not stated. It likely will come from groundwater, either onsite or municipal. No project use is quantified.

State endangered and threatened species such as bald eagles and ospreys currently nest onsite and will not benefit from the proposed port development and industrial activity. Dredging of more than 450,000 cubic yards of bottom sediments from 29 acres (again, this number varies within the applications) of the Delaware River potentially may damage endangered species of sturgeon if not performed carefully, and the applicant's specific plans for disposal of dredged spoil are not identified. The applicant does not commit to use silt curtains to contain turbidity during dredging operations. Dredging is claimed to have no impact on groundwater resources, but no information is provided on groundwater recharge along the Gloucester County shoreline. Submerged aquatic vegetation was surveyed in small areas of shallows near the proposed wharf in December, and the applicant recognizes a need for additional investigation of

submerged aquatic vegetation during the growing season. The onsite flora was not cataloged, either for the construction areas or the surrounding “high quality” habitat on and near the subject property. No information is provided on the location of areas judged to be “forested” and “not forested” in terms of NJDEP coastal policies, although the applicant apparently has measured their extent from aerial photographs.

I noted no consideration given to planning for the likely rise in sea level during the operational life of this facility, which apparently is to last for some unspecified number of decades if hoped-for marine trade revives. Onsite railroad grades, roadways, and parking lot elevations are not proposed to be raised above existing design flood elevations because of cost and unidentified “additional wetland impacts”. There is no discussion of plans for future decommissioning of the facility at the end of its economic life.

The old Repauno Works site is a brownfield waterfront location potentially developable as a marine terminal with access to the Delaware River navigation channel and transoceanic commerce. Redevelopment of disused industrial sites is encouraged by New Jersey coastal policies, provided potential adverse impacts are minimized. It is possible that the proposed impacts are justifiable, but the present information allows no way to confirm that impacts have been minimized or that conceptual suggestions for mitigation are appropriate.

Compliance with NJDEP coastal policies cannot be determined from the information made available to me. The applicant has addressed claimed compliance with a number of sections of the New Jersey coastal zone management policies (NJAC 7:7-1 et seq.). I append a list of 26 additional policies that appear relevant and should be discussed thoroughly in the compliance statement.

I hope this information is useful for your purposes.

Yours truly,

A handwritten signature in cursive script, appearing to read "James A. Schmid".

James A. Schmid, Ph. D.

Attachment

Apparent Omissions from Applicable Coastal Policies Discussed in existing Compliance Statement

Most of these cited policies appear applicable. Applicant should state the reasons why any deemed not applicable are considered so.

All cites to NJAC 7:7-

- 9.49 Dredged material management areas
 - 11.1 T/E species
 - 11.2 Habitat impact assessment
 - 11.3 Habitat evaluation
 - 11.4 Standards for reporting
- 12.8 Environmental dredging in Special Hazard areas
- 12.17 Dams and impoundments (dikes and sluice gates)
- 12.19 Realignment of water areas
- 12.23 Living shorelines
- 13.3 Impervious upland waterfront development
- 13.4 Vegetation in upland waterfront development
- 13.10 Development potential for major industrial development
- 15.4 Energy development (storage of liquid petroleum)
- 16.5 Groundwater
- 16.8 Air quality (expected emissions from ships, trucks, storage tanks)
- 16.9 Public access to waterfront
- 16.12 Traffic
- 17.2 General mitigation requirements
- 17.3 Timing
- 17.4 Amount
- 17.5 Property suitability (ecological risk)
- 17.10 SAV mitigation
- 17.11 Intertidal/subtidal shallows
- 17.12 Riparian zone
- 17.13 Wetlands
- 17.14 Wetland mitigation hierarchy