



February 17, 2017

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

Re: Comment Gibbstown Logistics Center (Repauno Site) Greenwich Township, Gloucester County, NJ;  
Revised Multi-Permit Application to DLUR on Delaware River Partners, LLC permit applications including  
permits regarding freshwater wetlands, coastal wetlands, and waterfront development

Dear Ms. Dietrick,

Delaware Riverkeeper Network submits this comment letter and attached expert report by Schmid & Company Inc., Consulting Ecologists regarding the Multi-Permit Application to DLUR regarding the Delaware River Partners proposed Gibbstown Logistics Center.

Delaware Riverkeeper Network requests a public hearing on the proposed project under wetlands regulations, NJAC 7:7A-12.4, based on the important issues that have been raised in the attached report. It is critically important that the public be informed and has the opportunity to comment on the proposed project and the impacts of the development and activities of the proposed project on wetlands and related resources. Dr. Schmid points out that how environmental protection will be maximized needs to be fully and publicly disclosed for this large and complex project, recommending a public hearing as the minimum outreach that should be made by the Department. Delaware Riverkeeper Network considers public input into the decisionmaking process essential and that public engagement will help inform and improve the decisions that are made by the Department.

Delaware Riverkeeper Network supports the analyses and conclusions of the Schmid & Company report. The inconsistencies, internal contradictions, uncertainties and other issues that have been meticulously examined in the report establish that the proposed permits are not ready for action by the Department and the lack of adequate information does not allow a conclusion that the proposed activities comport with regulations. In fact, Schmid & Company conclude that revisions must be made to correct these inconsistencies and apparent errors; applications must be revised and resubmitted before the Department can finalize evaluation of the applications for the site. Once that is accomplished, Delaware Riverkeeper Network and the public can review and comment on the applications containing complete information as required by regulation.

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Much of this large riverfront and river-connected property, which is now naturally vegetated and habitat-rich after decades of dormancy as an industrial site, is proposed for expansive, intense, and multi-faceted activities. Yet the impacts that would occur from the proposed project on the important wetlands, riparian, riverine, ground and surface water, and flora and fauna species and habitat on the site have not been fully identified or analyzed in the application materials. The successful avoidance and/or minimization of adverse impacts to these resources cannot be concluded from the information presented and Schmid & Company advises that this must be accomplished by the applicants. Delaware Riverkeeper Network opposes the issuance of approvals for any of the multi-permit applications for this project.

Thank you for the opportunity to comment.

Sincerely,

Handwritten signatures in blue ink. The signature on the left reads "Maya K. van Rossum" and the signature on the right reads "Tracy Carluccio".

Maya van Rossum  
the Delaware Riverkeeper

Tracy Carluccio  
Deputy Director

Attached: Schmid and Company Inc., Consulting Ecologists report re. Multi-permit applications to NJDEP for Delaware River Partners LLC Gibbstown Logistics Center (Repauno Site Redevelopment), Greenwich Township, and Gloucester County, NJ dated February 17, 2017

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17 February 2017

Maya K. van Rossum  
Tracy Carluccio  
Delaware Riverkeeper Network  
925 Canal St., Suite 3701  
Bristol, Pennsylvania 19007

In re: **Applications to NJDEP for Delaware River Partners, LLC**  
**Gibbstown Logistics Center (Repauno Site Redevelopment)**  
**Greenwich Township, Gloucester County**

Dear Ms. van Rossum and Ms. Carluccio:

Pursuant to your request we have reviewed certain information related to the above-referenced permit applications as revised through 9 December 2016. The project site is large. Its pattern of waters, waste treatment facilities, coastal wetlands, and freshwater wetlands is complex as a result of topography and past land uses.

We note that additional changes have been made in the Resource Value Classifications assigned to freshwater wetlands on the subject property in a second amended LOI dated 11 October 2016, but a number of contradictions remain unaddressed since our letter to you dated 14 October 2016. These contradictions carry over into the applicant's site plans dated December 2016. Until resolved, they render unclear the environmental sensitivity under present conditions at the project site. Consequently it is impossible to make a rational evaluation of the permit applications.

We also note that supplemental information was provided and certain changes were made in the applicant's site plans between August and December 2016 in response to the Department of Environmental Protection's 26 August 2016 deficiency letter. Some of these changes appear to have reduced the extent of proposed development within wetlands and associated regulated areas. It is gratifying to observe steps take to reduce the proposed direct wetland impacts. But there are many remaining questions as to whether proposed impacts in fact have been minimized and wetland avoidance maximized, as required by regulation. Few of the concerns expressed in our letter to you dated 25 August 2016 have been addressed. In the paragraphs below we offer first our concerns with the LOI and then our comments on the permit applications.

#### **Freshwater Wetlands Letter of Interpretation (LOI)**

Application was made for a Letter of Interpretation covering parts of the applicant's property during January 2016 (File 0807-16-0001.1). As of this date we have not seen the accompanying consultant's report, wetland documentation forms, the unrevised set of drawings dated 29 December 2015, or the

intermediate version of those drawings dated 23 May 2016 (which added certain wetlands following field inspections by agency reviewers). Greenwich Township claims never to have had a copy of this application and has never been able to make it available for public review. We understand that you have also requested a copy of this information from the New Jersey Department of Environmental Protection, but it has not been provided by them in response to your Open Public Records Act request. We are not aware that the LOI files have been provided to Greenwich Township, as requested in the Department's deficiency letter.

We have reviewed the text of the Line Verification LOI letter issued by the New Jersey Department of Environmental Protection on 11 July 2016, and the LOI Amendment letters issued on 29 July and 11 October 2016. We reviewed a single set of 17 drawings related to the subject LOI that had been provided to you electronically by the Department separately from the LOI letters. The status of those drawings is unclear --- as discussed in detail in our 14 October 2016 comments, they appear to be the 8 June 2016 drawings marked up by the Department's staff during preliminary review of Resource Value Classifications. We have never seen a final set of clean, unmarked LOI drawings.

The LOI letters all refer to the set of drawings as of the applicant's third (last) revision dated 8 June 2016. We believe that the applicant has transferred those approved wetland boundaries to its V series and C series of site plans in the permit applications. No flag points or line segments are labeled on those site plan drawings, however, so we cannot confirm accurate transcription. The applicant claims that there are 62 wetland polygons onsite (December 2016 compliance statement, page 10), but there is no way readily to confirm this tally. In a table included on permit application Sheet C-001, the applicant lists the areal extent of impacts associated with 33 wetlands. For clarity we reference our specific comments to the applicant's flag numbers shown on the LOI drawings.

We previously provided comments to you on the two July LOI letters in our comments dated 14 October 2016. Some of the issues we raised regarding the July LOI letters continue to be problems with the 11 October 2016 LOI, and there are new problems as well, all of which have a direct effect on any evaluation of the proposed project. The Department's Resource Value Classification (RVC) of freshwater wetlands affects the standards applicable to evaluating requests for damaging them. The RVC also establishes the extent of regulated Transition Areas adjacent to those wetlands. We offer the following comments based on the information currently available to us.

Some of the more significant problems with the 11 October LOI amendment include the following:

- The Department's basis for classifying specific freshwater wetlands on this project site as having Exceptional or Intermediate resource value is not explained in the LOI letters, nor is it clear from the drawings reviewed. The Department clearly disagrees with many of the applicant's recommended classifications, which themselves are not clearly explained.

- Wetland DW3 in the south-central section of the site consists of 5 distinct parcels. In the original LOI, all 5 parcels of Wetland DW3 were assigned the RVC of Exceptional Value. In the 29 July LOI

Amendment, 4 of the 5 parcels were classified as Exceptional Value; a small 0.12-acre rectangular area bounded by Flags DW3-158 through DW3-161A was inexplicably changed to Intermediate Value. In the October LOI, that 0.12-acre parcel plus 3 others (and possibly part of the fourth, see below) were classified as Intermediate Value. We can see no obvious reason for these changes, and no justification was articulated by the Department for these changes in its LOI amendments.

- The part of a parcel of DW3 that might possibly have been reclassified to Intermediate Value in the October LOI involves the southwestern section of the largest of the 5 separate parcels; specifically the part bounded approximately by Flags DW3-76 through DW3-105 (LOI Sheets 13 and 14). That part of Wetland DW3 is classified differently in the Department's listing for the two adjacent, overlapping sheets in the October LOI. It is classified as Exceptional Value in the listing for LOI Sheet 13 (DW3-92 through DW3-106M, DW3-79 through DW3-87), but it is classified as Intermediate Value in the listing for LOI Sheet 14 (DW3-76 through DW3-105). The applicant apparently used this discrepancy to its advantage and selected the lesser value (Intermediate) for this section of the wetland, showing only a 50-foot wide Transition Area on Project Drawing Sheets V-119 and C-119. The discrepancy in the value classification for this section of Wetland DW3 has not been resolved by the Department.

- If the portion of Wetland DW3 south of a line connecting Flags DW3-105 to DW3-76 was intentionally reclassified to Intermediate Value, no reason occurs to us for splitting this large, contiguous, forested wetland into two RVC categories. All nesting habitats mapped for bald eagle and osprey (per Appendix E of the December 2016 Joint Permit Application) extend across this entire central forest wetland and do not arbitrarily split it into two.

- Similarly, Wetland DW2 on LOI Sheet 14 (Flags DW2-8 through DW2-27M, DW2-27M to DW2A-1, DW2A-1 through DW2A-5, DW2A-5 to DW2-27a, DW2-27a through DW2-4M) is classified as Intermediate Value in the October LOI, but as Exceptional Value in the original July LOI. It was inexplicably reclassified to Intermediate Value in the 29 July Amendment. This wetland is within the same central forest area as Wetland DW3 just to its north (Flags DW3-38 through DW3-62) and as Wetland DW1 (Exceptional Value) just to its east (Flags DW1-1 through DW1-18).

- Wetland U (Flags U-1 through U-24; LOI Sheet 15) was classified as Exceptional Value in both July LOIs, but was inexplicably changed to Intermediate Value in the October LOI. This change has the effect of reducing the encroachments for which approval is required on Project Drawing Sheets V-122 and C-122.

- In some places on this site coastal wetlands now are surrounded by or bordered by uplands where the officially promulgated upper inland wetland boundary indicates that there previously was wetland. It is unclear whether those changes are a result of fill which was illegally placed since implementation of the Wetlands Act of 1970. If no prior authorization had been granted, the apparent fill in such areas may need to be authorized by inclusion in the current application. In our experience, where potential enforcement issues such as this arise, the applicant must resolve such matters with the Department before a permit can be issued. Specific examples on this project site include: LOI Sheet 8 Inset C, LOI

Sheet 10 near Flags PMDA-East-1 and PMDA-West-5, LOI Sheet 11 near Flag DW3A-17, LOI Sheet 12 by Flag DW3A-32, and LOI Sheet 13 by Flag KW-1.

- The LOI letter addresses freshwater wetlands, State Open Waters, and coastal wetlands. State Open Waters are not consistently or completely shown on the approved LOI drawings or on the applicant's site plans. The Department should see that all State Open Waters are clearly indicated when the other necessary corrections are made to the approved drawings.

- All onsite freshwater wetland polygons are classified as either Exceptional Value, Intermediate Value, or Ordinary Value, and they have an associated, regulated Transition Area of 150, 50, or 0 feet in width, respectively. No mention is made in the LOI letter about the buffer width associated with onsite coastal wetlands. Regulated transition areas adjacent to coastal wetlands can be as much as 300 feet in width, according to NJAC 7:7-9.28, as the Department specifically noted on page 5 of its LOI letters. Yet the Department failed to specify the width of coastal wetland transition areas on this site. In its June (page 3) and December (page 4) 2016 conceptual mitigation plans the applicant assumes that each coastal wetland has the same buffer as the transition area of nearby, adjacent freshwater wetlands. In some cases, however, there are more than one RVC of freshwater wetlands adjacent to a coastal wetland polygon. Coastal wetland buffers are difficult to discern on the applicant's December site plan revisions, because all buffers are identified the same, whereas on the July site plans, freshwater and coastal buffers were identified separately. The Department must specify the width of coastal wetland transition areas here, whether they are all the same or vary from polygon to polygon.

Furthermore, we have no evidence that the Department concurs with the applicant's assumption that coastal wetland transition areas should be the same as those around nearby freshwater wetland transition areas. That assumption limits any possible coastal wetland buffers onsite to 150 feet in width, based on the underlying presumption that the onsite coastal wetlands "are not subject to tidal influence due to a system of tide gates and levees". This presumption cannot be accepted without proof. Typically in impounded riparian wetlands in New Jersey, tidal influence is dampened by water control structures but not eliminated. The movement of aquatic organisms is reduced by tide gates, but not necessarily eliminated. If present, the remaining tidal fluctuations onsite can be readily measured by a recording tide gage. The Department must decide whether it accepts this applicant's unsupported claim that the onsite "coastal wetlands are functionally equivalent to delineated freshwater wetlands" (December 2016 conceptual wetlands mitigation proposal, p. 10) and can be mitigated by the proposed purchase of freshwater mitigation bank credits. It would be appropriate for the Department to advise the public of the technical or policy basis for any such determinations.

Additional and continuing unresolved concerns regarding the LOI, previously raised in our comments dated 14 October 2016, include the following:

- The October LOI letter ambiguously identifies the subject property as:

Block(s)/ Lot(s): [8 / (current) 2, 3, 4.01, 4.02, and (current portions 1 and 4)]; (proposed) 4.08  
Greenwich Twp., Gloucester County

Many of the "verified" flag points, however, are located on other proposed lots, outside the LOI Boundary Limit according to the drawings. It is unusual in our experience for the Department to verify flag locations beyond the limits of the specific LOI area for which an application fee has been paid.

- Like those dated 11 July and 29 July, the October LOI letter contains the following language on page 1:

Based upon the information submitted, and upon site inspections conducted by Division staff on March 22<sup>th</sup>, 2016 and April 13<sup>th</sup>, 2016, the Division has determined that the wetlands and waters boundary line(s) as shown on plan map sheets entitled: "PLAN OF WETLANDS AND TOPOGRAPHY, DRP GIBBSTOWN LOGISTICS CENTER No. 200 REPAUNO AVENUE, TOWNSHIP OF GREENWICH, GLOUCESTER COUNTY, NEW JERSEY", consisting of sixteen (16) sheets labeled Drawing No. W-2 through W-17, dated 12/29/2015, last revised on 06/08/2016, and prepared by Monarch Surveying & Engineering, are accurate as shown

The statement above is then specifically contradicted on pages 2, 3, and 4, where it is set forth that more than 50 specific flag points denote lines that are "incorrectly labeled, not verified, and to be ignored". The Department cannot have it both ways. The LOI drawings must be corrected.

- On page 6 of the LOI Amendment letters the Department states that the applicant can rely on this jurisdictional determination for "five years from the date of this letter", but that contradicts the statement on page 1 of the same letters which declares that "the expiration date (5 years form [sic] the date of the original LOI) remains unchanged". It would not be difficult for the Department to eliminate this contradiction.

- The LOI letter is not consistent in describing whether a listed series of flags encloses a wetland area or encloses an upland "island" within a wetland area. For example, for Sheet W-11, the LOI lists as Exceptional Value Flags DU4-1 through DU4-14 and Flags DU5-1 through DU5-14, without noting that those flags outline two upland islands within the Exceptional Value Wetland which surrounds them.

- We observe that the July 2016 submission of permit applications included the Department's September 2015 checklist for LOI submissions. Page 8 of 8 from that document specifically directs applicants to name all the line segments between each pair of individually named flag points, so that ambiguities can be avoided when reciting RVC assignments. Such guidance would be particularly appropriate to a complex site such as this, for which the original LOI application was submitted in late January 2016, months after the Department's checklist revisions were made available. The applicant, however, elected not to name any wetland boundary line segments. Apparently Department staff did not notice or request compliance with its directives, which might have helped to eliminate the confusion in the LOIs for this project site as described above.

## **Permit Applications**

The applicant's 29 June 2016 submission of permit applications (apparently filed on 1 August 2016) contained a list of 26 Land Use Regulation files pending or issued for the subject property since July 2008. Prior permit files were not mentioned, such as the 1965 approval of cavern storage for anhydrous ammonia, which the Department authorized for reuse to store petroleum products in Commissioner Martin's letter of 11 August 2016. We note that the applicant hopes to store butane in the cavern at a much higher pressure than authorized in Commissioner Martin's letter. A waterfront

development permit was determined to be unnecessary for reactivation of this cavern, and associated rail improvements within the flood hazard area were deemed approved by rule, in the Department's letter of 27 June 2016. Several freshwater wetlands general permits were approved on 14 July 2016 pertaining to those parts of this applicant's property identified as Lots 4.05 and 4.06 in Block 8. None of the port project drawings identifies those nearby lots, although the proposed cold storage facilities on them are expected to function in conjunction with the proposed port.

The applicant's 9 December 2016 submission in response to deficiencies noted by the Department addressed pending individual permits for work in freshwater wetlands and coastal wetlands, in flood hazard areas, and for waterfront development, plus a transition area waiver for freshwater wetland transition areas. We do not know whether the Freshwater Wetlands General Permit 1 application dated August 2016 for clearing 0.3 acres of freshwater wetlands for onsite railroad reconstruction has been approved or not. Similarly, we do not know the status of the FWW General Permit 4 application for work by Chemours in the nitrobenzene area. No water quality certificate was requested in the 29 June 2016 application form, but the need for it is acknowledged in the December 2016 compliance statement. We do not know whether federal dredging and filling permit or berth construction permit applications have been filed with the Army Corps of Engineers, whether soil erosion and sediment control plans have been filed with the Gloucester County Conservation District, or whether local approvals have been requested from Greenwich Township and Gloucester County.

The applicant states in its revised December 2016 compliance document that direct impacts on regulated wetlands (6 acres coastal wetlands, 10 acres freshwater wetlands, plus 0.5 acre open waters for which application fees were paid) have been reduced 72%, from 16 acres to about 4.5 acres of wetlands; state open water impact was reduced to 0.2 acre. The project footprint properly has been reduced in several locations, as shown on the December site plan drawings. No drawings label in detail the size of individual wetland areas proposed to be affected, so it is not possible to verify the applicant's totals of direct impact. The applicant nowhere discusses the indirect impacts on remaining wetlands and wildlife that would result from disturbing 233 acres of land on the project site, from creating a net of 203 acres of new impervious surfaces, and from returning economic activity to a site virtually inactive for 30 years where native vegetation has been reestablishing itself.

The July documents indicate fee payment for proposed disturbance in less than 6 acres of regulated freshwater wetland transition areas but proposed construction in 46 acres of such transition areas; the December submission has reduced proposed impacts on freshwater transition areas, after the Department's revisions of resource value classifications, by nearly half to 24.65 acres (drawing C-001). Proposed impacts on coastal wetlands reportedly have been reduced to 0.3 acre and on coastal wetland transition areas to 0.9 acre. About 0.2 acre of state open waters is to be impacted directly, not counting proposed dredging of 457,000 cubic yards of material from about 29 acres of the Delaware River. The new berth also would include a platform above the River occupying about 2.5 acres extending beyond the existing solid fill wharf at Crab Point.



In July 2016 the applicant took “credit” for reducing its initial hoped-for footprint for complete, unconstrained development on the 381-acre project site next to the waterfront by about 50 acres because of the presence of 114 acres of wetlands and state open waters onsite (not counting artificial wastewater management ditches). The applicant claimed then to have refined the project footprint so as to “...reduce impacts to wetlands to the maximum extent feasible...”. The significant further reduction of coastal plus freshwater wetland impact between July and December 2016, however, serves to call into question this previous claim. On p. 21 of the July 2016 compliance statement, the applicant went on to say: “All steps having been taken to reduce the development footprint to meet the project demand, there is no practicable alternative to the selected configuration of the project that would have a less adverse impact on the aquatic ecosystem or would not involve a freshwater wetland or State open water”. The December 2016 compliance statement (p. 20) similarly claims: “The selected project design minimizes impacts to the environment to the maximum extent practicable.” The obvious question is whether, by looking at the site plans once more, the applicant could again reduce its proposed wetland impacts substantially without compromising the basic purpose of the project? Has the applicant truly avoided/minimized wetland impacts this time around? From inspection of the plans we think further reductions could be made.

The applicant properly moved various warehouses on the December 2016 plans away from the waterfront, inasmuch as they do not require a waterfront location within a port facility. But that process could be carried farther. For example, December 2016 site plan drawings C-104 and C-109 show a proposed employee parking lot with 106 spaces. Employee parking easily could be provided inland, with a shuttle to the proposed terminal, thereby freeing up land along the waterfront for uses actually requiring location along the Delaware River. Employee safety would benefit, inasmuch as personal vehicles would not have to use onsite roadways constructed below flood elevation. Some of the proposed roadway encroachments into wetlands appear unnecessary and avoidable. On Sheets C-118 to C-119, however, there is proposed incursion into intermediate value Wetland S that might be avoided by a very minor shift of the proposed disturbance to the west. On Sheet C-121, there is another proposed incursion into intermediate value Wetland A that might be avoided by a very minor shift of the proposed disturbance to the west.

Similarly, no justification has been provided for the proposed storage of crude oil (twelve 120-foot diameter tanks), refined product (six 175-foot diameter tanks), and pressurized petroleum (six 82-foot diameter spherical tanks) at the waterfront. No doubt it would be possible to place this proposed petroleum storage in uplands remote from the waterfront itself, yet connected to the proposed multi-purpose ship berth by pipelines operable even during flood events, and thereby free up most of the 60 acres of waterfront land currently proposed for petroleum liquids storage. The currently proposed petroleum storage area is 36% larger than such storage in the applicant’s original concept for this project (44.2 acres, p. 61, December 2016 alternative analysis). The applicant has offered no justification for the proposed amount of waterfront petroleum storage, which clearly could be reduced to enlarge workspace along the waterfront. The proposed pipelines that are to connect onsite storage with existing pipelines offsite are not shown on the current drawings, although the ability to connect

the proposed petroleum storage with existing pipelines was a major factor attracting the applicant to this site.

It is difficult to interpret one section of the December plans. In a change from the July drawings, there now appear to be no plans for disturbing about 600 feet of railway on drawings C-115 and C-118. This section of the railroad previously was within the proposed limit of disturbance.

The Department must confirm the applicant's reported total of about 39 acres of impervious surfaces existing on the project site (including 10 acres of gravel). The December 2016 site plan drawings C-001 and C-002 state that existing impervious surfaces were estimated using recent aerial photography. There is no claim that these estimates were confirmed by field investigations. The extent of existing impervious surface on the property is significant for identification of environmental sensitivity of the site. It is a basic factor in stormwater calculations. Also, the applicant proposes not to compensate for about 2.5 acres of transition area disturbance in areas identified as impervious.

As of the December 2016 submission there were no comments on this project from the State Historic Preservation Office. Except for a small area in the southern part of the project site, no archaeological investigations were undertaken, despite the long prehistoric use of the site and prior identification of significant prehistoric remains. There is a high potential for remaining onsite artifacts.

The December 2016 documents provide more information concerning the location of regulated riparian areas than were provided in July. Nevertheless, the Department must look closely at the proffered extent of riparian zones. Given the tidal nature of the streams on the project site, currently reduced by water control structures, there appear to be no onsite natural watercourses where the drainage area is less than 50 acres. Hence the extent of riparian zones appears to have been significantly underestimated on site plan drawing C-003. That drawing also appears to conflict with drawings such as C-114 and C-109. Consequently the extent of proposed disturbance of riparian vegetation is underreported. It is not clear from the application whether any of the currently proposed 3 acres of permanent disturbance to vegetated riparian zones requires mitigation, whether substantially more than 3 acres of vegetated riparian zone will be disturbed and thus actually require mitigation, and if so, what the riparian mitigation will be.

The applicant states that past fill has covered over any acid-producing soils that may have existed onsite as suggested by regional mapping. There will, however, necessarily be excavation associated with the proposed construction. No field documentation supports the claim that acid-producing soils are absent and will not be encountered during project construction. Disturbance of such soils presents a potential adverse impact on water quality.

The applicant states that the New Jersey Natural Heritage Program database did not report any plants of concern on the project site (December 2016 compliance statement, page 12). Thus no directed search for rare plants was performed. Yet this vicinity was a prime botanical collecting area for Witmer Stone during the late nineteenth century. On a disturbed, industrial site within the Repaupo Creek watershed

and Delaware River margin about 1 mile southwest of the project site a brief botanical survey in 1995 yielded a diverse flora of three dozen kinds of shrubs and woody vines, 27 kinds of trees, and more than 200 species of herbs. Included were *Rhexia virginica* var. *ventricosa* (Endangered in New Jersey) and *Utricularia gibba* (rare in New Jersey and protected in the Pinelands and the Highlands). On a recent Philadelphia Botanical Club visit to parcels adjacent to this site *Najas gracillima* and *Bidens bidentoides* (both species listed as imperiled in New Jersey and protected in the Highlands) were found by Gerry Moore. There is a high probability that other State-listed rare plants exist on the Repauno site. No survey by qualified botanists has been performed here during appropriate field seasons.

The applicant does not propose to raise access roads and railroads above flood elevation during period of freshwater or tidal flooding. This appears short-sighted, given the expected rise in flood events associated with global warming. Inasmuch as existing rail lines are to be reballasted and furnished with new ties and rails, this would appear to be the time to raise the tracks above flood elevation. Similarly, access roads are to be widened and resurfaced, and also should be raised above flood elevation. It is not clear whether the rest of the proposed 200 acres of new impervious surfaces are going to be placed above flood elevation, but that also would appear prudent to minimize future damage to life and property. The applicant has provided no substantiation of claimed excessive cost or “additional wetland impacts” that lead it to reject adequate flood protection. The potential impact of the proposed new impervious material on groundwater recharge along the Gloucester County shoreline has not been thoroughly addressed.

The applicant has proposed to restore onsite waters, wetlands, and wetland transition areas where temporary impacts are deemed essential to construct this project. In addition the applicant has considered possibilities for compensatory mitigation for what it considers unavoidable permanent impacts on regulated waters and wetlands. A summary of what the applicant understood to be required mitigation was presented in the July 2016 conceptual mitigation proposal and revised in December 2016.

At present it is not clear how much unavoidable impact is necessary to develop a logistics center on the Repauno site. As discussed above, some dramatic reductions in proposed impact to regulated areas were made between July and December 2016. Additional reductions almost certainly are possible. The Department must determine how much impact is actually unavoidable and requires mitigation. There is no proposed mitigation for the currently expected loss of 0.064 acre of submerged aquatic vegetation in the Delaware River or the dredging of 2 acres of tidal shallows.

The applicant currently proposes to compensate for all of its acknowledged permanent impacts to state open waters, freshwater wetlands, coastal wetlands, and transition areas by purchase of 4.8 acres of credits from an offsite freshwater wetland mitigation bank. Onsite mitigation opportunities exist, but are not proposed for other than temporary construction impacts. The applicant identifies opportunities for onsite wetland creation, restoration, and enhancement, but expresses concern for the feasibility of such manipulations given the past history of site contamination. The applicant also

has expressed a willingness to provide public access to the waterfront remote from the active port facilities, but has not shown a location for such access on project drawings. It is also unclear whether any limitations on future public access are entailed by the deed restriction on use of the property.

There is no consideration given to the decommissioning of this facility at the end of its economic life. Moreover, no information is provided by the applicant concerning plans for the remainder of its Repauno property, although the applicant takes credit for its adjacent lands as buffering against non-industrial uses. No conservation easement is proffered for the central forest or for wetlands within the project site. Instead, the applicant indicates that further subdivision for development is under consideration. The Department owes the public an explanation of why it has been approving numerous general permits for this property, when Department regulations require that proposed activities be combined into individual permits.

Based on the inconsistencies, internal contradictions, uncertainties, and other issues identified above we recommend that the LOI drawings be formally revised by the surveyor to accurately display the information which the Department has verified. Furthermore, we recommend that the LOI letter be revised, corrected, completed, and reissued by the Department and that copies of the revised drawings and reissued LOI letter be provided to Gloucester Township and made available to the public.

We further recommend that the issues raised above under Permit Applications and in our prior correspondence be examined carefully by the Department, after securing the appropriate but currently deficient information from the applicant, as appropriate. The LOI revisions must be made and reflected in the permit applications prior to the Department's final evaluation of any permit applications for this site.

Finally, once the Department has gained clear and consistent information regarding the project site and what is to be constructed on it, the Department should hold a public hearing to disclose its understanding of the consequences in the event this project were approved, and how environmental protection is to be maximized. Given the limited availability of information to date regarding this large and complex project, a public hearing would be the minimum outreach that should be made regarding these applications.

Please let us know if you have any questions about any of the above.

Yours truly,



James A. Schmid, Ph.D.

President



Stephen P. Kunz

Senior Ecologist