



For Immediate Release
January 31, 2011

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Delaware Report Challenges Corps Claims on Deepening Restoration Benefits

Dover, DE – The Delaware Riverkeeper Network, through public document requests, obtained copies of a new Investigation and Review report prepared for the Delaware Department of Natural Resources and Environmental Control that challenges claims by the U.S. Army Corps of Engineers regarding the restoration benefits of two key spoil disposal plans associated with the Delaware River and Bay Main Channel Deepening project.

“The Army Corps has become a master of deception when it comes to the Delaware Deepening project. In an age when government transparency and integrity is under immense scrutiny and attack, the Philadelphia District has become the poster child for bad government wasting limited tax dollars (in this case \$332 million) on earmarks that will not generate benefits and will generate harm – harm to jobs, communities, and the health of the environments we depend on to sustain us,” said Maya van Rossum, the Delaware Riverkeeper.

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Continues van Rossum: “No wonder the Army Corps is illegally and unilaterally exempting itself out of state and federal legal obligations – the Corps knows that this project can’t meet the requirements of the law without deception and secrecy. The Government Accountability Office has three times challenged the Army Corps economic claims for the project. Many federal and state agencies, including the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the environmental protection agencies of both New Jersey and Delaware, have raised numerous environmental concerns and challenges. Now this new report documents additional deceptions by the Army Corps as to the supposed ‘beneficial uses’ of the millions of cubic yards of contaminated dredge spoils to be dug up from the riverbed. And still the Corps persists with the Project.”

The spoil disposal plan for the Delaware Deepening depends upon 2.5 million cubic yards of dredge spoils being dumped at Kelly Island and 1.6 million cubic yards being dumped on Broadkill Beach. The Army Corps has long asserted the spoils will be used in projects beneficial to Delaware and its natural resources, particularly horseshoe crabs. The new report, titled “Investigation and Review of the Surface and Sub-Surface Sediment Distribution of Reach E for the Delaware River and Bay Main Channel Deepening Project,” which the Delaware Riverkeeper Network understands to have been peer reviewed, highlights many issues with the Corps’ scientific analyses, including:

- ✓ “...**numerous discrepancies and sampling errors** were found. The existing data collected by the PD-ACOE is therefore considered inadequate ...”
- ✓ “An **artificial skewing** of the grain size results occurred due to the **inappropriate sampling** scheme.”
- ✓ “The **sediment sampling errors, discrepancies in grain size descriptions, and gaps** in core locations reduce the validity of the PD-ACOE’s efforts to accurately characterize the sub-surface sediments for Reach E.”

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- ✓ “The discrepancy between grain sizes means that **the requirements set by the ASMFC Fishery Management Plan for Horseshoe Crab** that placed sediment matches existing conditions **would not be met.**”
- ✓ “...these beneficial use sediments would be inadequate for horseshoe crab habitat.”
- ✓ “... the proposed beach to be constructed **would likely have a detrimental effect on horseshoe crab spawning habitat.**”
- ✓ “The potential Broadkill Beach nourishment by the PD-ACOE does not meet the beneficial use requirements for this project, if anything it would negatively impact the prevalence of horseshoe crab spawning habitat and **impede horseshoe crab egg development.**”
- ✓ Regarding Kelly Island the report finds “...it is **doubtful** that a CDF design could **pass a rigorously engineering and geological review.**”
- ✓ “...it is essential that information be provided to the State of Delaware indicating that the beneficial use projects will be able to achieve their proposed purpose and **not become a financial burden and/or ecological catastrophe.**”

Says van Rossum, “Without the use of Kelly Island and Broadkill Beach, two fundamental elements of the Army Corps’ spoil disposal plan for the project fall away and the Corps’ project no longer is able to fulfill its own legal plans and obligations for moving the project forward. This further emphasizes the need for the Corps to complete a comprehensive Environmental Impact Statement for the project based on today’s science – instead of continuing to rely on overran outdated 13 year old document.

The project is estimated to result in 16 million cubic yards of spoils for initial construction with an additional 862,000 cubic yards per year, just for the increased depth. Yet, when dredging Reach C in the spring of 2009 the Corps found “the need to dredge and dispose of approximately 1 million cubic yards of *additional* material not anticipated in the Reach C contract.” (emphasis added; see Declaration of Anthony DePasquale filed with US District Court District of Delaware and attached to this

comment.) This means that the Army Corps' estimates of the volume of spoils that would need to be dredged for Reach C were wrong by a stunning 38%.

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