



Delaware Deepening Denied Needed Permit – Decision Applauded by Environmental Community

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Dover, Delaware – On Jul 24, 2009 the Department of Natural Resources and Environmental Control (DNREC) announced their decision to deny the Army Corps of Engineers' application for a Subaqueous Lands and Wetlands permit for the Delaware River Main Channel Deepening project.

Maya van Rossum, the Delaware Riverkeeper, applauded the decision: "DNREC made the decision it needed to protect the environments and citizens of Delaware. The science, facts and economic studies have shown us all the tremendous harm deepening the Delaware to 45 feet could cause." van Rossum warns "If the Army Corps attempts to ignore the need for a Delaware permit and move the project forward without one, as it has repeatedly threatened, we will take whatever steps necessary and possible to challenge and stop them."

The decision seems to have been issued in response to a Petition for a Writ of Mandamus filed December 15, 2008 by the Delaware Riverkeeper, Delaware Riverkeeper Network, Delaware Audubon Society, Delaware Nature Society and the American Littoral Society. The Petition for a Writ of Mandamus asked the Superior Court, New Castle County, to command Delaware's Secretary of DNREC to act upon the subaqueous lands and wetlands permit and water quality certification application for the proposed Delaware River Deepening project. "We are pleased that DNREC has finally issued a permit decision, eliminating the need to maintain our legal challenge," says Elizabeth Brown, Senior Attorney for the Delaware Riverkeeper Network and lead counsel for the organizations who filed the petition. Mid-Atlantic Environmental Law Center served as local counsel for the groups.

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Bill Moyer, former Delaware DNREC Section Manager of the Wetlands and Subaqueous Lands Section, and Delaware Riverkeeper Network member, was elated with the decision to deny the issuance of a permit to the Corps of Engineers. "It has been clear that this project has been flawed economically and environmentally since it was first approved by Congress in 1992. It is now time to deauthorize the proposal and end the continued waste of taxpayers dollars for this needless dredging."

The proposal to deepen the Delaware River's main navigation channel was first put forth officially in 1992.

The Army Corps submitted an application to the DNREC seeking a subaqueous lands and wetlands permit and water quality certification for the project in January 2001. In December 2003 the administrative hearing officer issued a report to the Secretary of DNREC recommending the Secretary deny the Corps' permit application finding that the Army Corps failed to provide "sufficient and necessary information to meet the regulatory burden to obtain a permit under the authority of Chapter 66, as potential adverse effects have not been proven to be minimized." (Hearing Officer's Report, p. 58).

Until this decision was issued, DNREC had been challenging the Petition filed by the organizations.