

**Delaware Riverkeeper Network ~ NJ Sierra Club
Eastern Environmental Law Center ~ NJ Environmental Federation
Delaware Chapter Sierra Club ~ Delaware Audubon Society
Coalition for Peace and Justice**

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**Organizations Seek Orders Compelling Agency Action on Salem Nuclear
Generating Station and Delaware City Refinery Clean Water Act Permits**

*Legal Action Kicks Off "Stop the Delaware Fish Kills" Campaign to
Reduce Massive Loss of Aquatic Life at Local Industrial Facilities*

Trenton, N.J. – Today a coalition of environmental organizations took legal action in New Jersey and Delaware to require three industrial facilities on the Delaware estuary to reduce fish kills and limit pollution discharge. Delaware Riverkeeper Network and New Jersey Sierra Club filed a Complaint in Lieu of Prerogative Writs in the Superior Court of New Jersey for Mercer County requesting an order demanding that the New Jersey Department of Environmental Protection (NJDEP) take action on PSE&G's permit renewal application for the Salem Nuclear Generating Station in Lower Alloways Creek Township, New Jersey. PSE&G submitted its renewal application for a New Jersey Pollution Discharge Elimination System (NJPDES) permit in February 2006, but NJDEP has yet to make a determination on the application by either issuing a draft permit for public notice and comment, or by denying the permit.

In a parallel action, the Delaware Riverkeeper Network, Delaware Audubon Society and Delaware Sierra Club filed for a Writ of Mandamus in Superior Court in Delaware to similarly compel action by the Department of Natural Resources and Environmental Control (DNREC). A renewal application for the Delaware City Refinery was submitted in 2002. While DNREC has been engaged in some behind the scenes activity on the application, DNREC has yet to make a determination on the application either by issuing a draft permit for public notice and comment, or by denying the permit.

According to the legal documents filed, Salem kills over 3 billion Delaware River fish and organisms a year and the Delaware City Refinery kills over 45 million (these figures represent only a few species where the industry or agency actually counted, they do not include the impingement and entrainment deaths of all species affected by the plants).

According to **Maya van Rossum, the Delaware Riverkeeper**, "Salem and the Delaware City refinery are having a devastating and lasting impact on the Delaware Estuary's ecosystem – for example, together these two facilities kill 56% of the Striped Bass in the Delaware River. They are the largest predators in the Delaware Estuary and Bay, and yet our environmental agencies have turned a blind eye to their operations and allowed them an unscrupulous right to continue their fish kills. It is a breach of their legal and moral duties for the NJ Department of Environmental Protection and the Delaware Department of Natural Resources and Environmental Control to fail to stop the needless fish slaughter at these three facilities by ensuring they comply with the Clean Water Act."

"For 20 years PSEG has been able to get away with not having cooling towers. Instead they got green cover by giving out money for mitigation projects that were a fraud and did not help the river or make up for the plants' pollution. For far too long polluters have been able to do what they want to the Delaware River. They have been robbing the river of its vitality, killing fish, depleting river flows, and dumping in super heated and polluted water. The Delaware River is a treasure that belongs to all of us whether we boat or kayak, walk along the River's banks or fish. This is our river and we want it back. We are going to court to do the job that government should be doing because it is our river," said **Jeff Tittel, Director, NJ Sierra Club**.

Dr. Amy Roe, Conservation chair of the Delaware Chapter of the Sierra Club, said, "The Delaware City Refinery's fish kills have had a wide-reaching impact on the Delaware River and Bay's ecology and economy. Those who rely upon the Delaware River and Bay for their livelihoods and recreation, including commercial and recreational fishermen, will directly benefit from new permitting by the State of Delaware and the implementation of improvements that dramatically reduce the impact of the refinery on fish."

"Delaware Audubon is concerned that even after an extended period of EPA sanctions related to DNREC's record to update NPDES permits, we have not seen an improvement in their administration of the Clean Water Act and regulations thereunder," said **Dave Carter, Delaware Audubon Society Conservation Chair.** "The continued failure to conduct the required update of the permit for the Delaware City Refinery is unconscionable. What good does it do for the State of Delaware to aggressively prosecute fisherman for possessing undersized fish while at the same time Governor Markell and DNREC Secretary O'Mara turn a blind eye to the continuous and avoidable slaughter of tens of millions of fish annually at PBF's refinery due to their failure to follow and effectively implement existing laws."

"The Coalition for Peace and Justice, the UNPLUG Salem Campaign, and the Stop the Salem Nukes Fish Slaughter Campaign urge, especially in light of the continuing problems in Japan at the Fukushima plants, that now is the time to end the slaughter of fish and other marine life at Salem/Hope Creek. NJ DEP should follow its own lead at Oyster Creek, and join what is becoming a national movement to shut down old, dangerous, fish killing nuclear plants," said **Norm Cohen, Executive Director of The Coalition for Peace and Justice, the UNPLUG Salem Campaign, and the Stop the Salem Nukes Fish Slaughter Campaign.**

David Pringle, Campaign Director for Clean Water Action/NJ Environmental Federation, said, "We're appealing to the courts because these three oil, nuclear and coal plants are violating our nation's clean water laws and the states of New Jersey and Delaware are letting them get away with it! The health of the Delaware Bay and River, it's fishing industry, basic law and order, and so much more are at stake. Four years ago this

week then gubernatorial candidate Christie said he would stop the fish slaughter at Salem in his first 100 days in office, but Gov. Christie has been MIA ever since, the courts make him show up for work."

The lawsuits to compel agency action are one of many steps that a coalition of concerned organizations are undertaking as part of their "Stop the Fish Kills" campaign, targeting the Salem plant, the Delaware City Refinery, and the PSEG's Mercer Generating Station. Because of long delays (7 years at Salem, 11 years at the Delaware City Refinery, and 2 years at Mercer), these industrial facilities have been allowed to utilize outdated cooling water intake structures that kill billions of fish every year. Through this legal action, Delaware Riverkeeper Network and the New Jersey Sierra Club seek to spur NJDEP to issue a draft permit, and to include in such permit a requirement that PSE&G replace its outdated "once-through" cooling water intake system with a Closed-Cycle Recycling System, which could reduce kills by nearly 98%, and which represents the "best available technology" required by Section 316(b) of the Clean Water Act.

The "*Stop the Delaware Fish Kills*" Campaign coalition includes: Delaware Audubon Society, Delaware Chapter Sierra Club, Delaware Riverkeeper Network, Eastern Environmental Law Center, NJ Environmental Federation, NJ Sierra Club, and the Coalition for Peace and Justice. Attorneys that have been engaged to assist with the initiative include those at the Eastern Environmental Law Center, the Delaware Riverkeeper Network, and the Super Law Group.

For a copy of the filings, go to:

http://www.delawariverkeeper.org/resources/Comments/DCR_writ_10-01-2013.pdf

http://www.delawariverkeeper.org/resources/Comments/Salem_writ_10-01-2013.pdf

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