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Citizen Environmental Organizations File Appeals to Stop Deepening and Set Good Precedent

Philadelphia, PA – Delaware Riverkeeper Network, New Jersey Environmental Federation, Clean Water Action, Delaware Nature Society and National Wildlife Federation filed the first documents necessary for appealing rulings regarding the Delaware deepening project issued by Judge Sue L. Robinson, District Judge for the United States District Court District of Delaware (released November 17, 2011) and Judge Joel A. Pisano, District Judge for the United States District Court District of New Jersey (issued January 13, 2011). The District Court judges both ruled, but for different reasons, that the deepening project was not in violation of state and federal laws and should be allowed to proceed. The five environmental organizations will challenge both the legal interpretations and factual errors included in the District Court rulings. The five environmental organizations contend the project violates multiple federal and state laws including the Clean Water Act, National Environmental Policy Act, Coastal Zone Management Act and Delaware State law.

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“The Army Corps has played fast and loose with the law for a project that many other branches of government have questioned and challenged. Stripping states of their legal rights and placing a federal agency above the law betrays the trust and obligations promised by our country to its citizens,” said Maya van Rossum, the Delaware Riverkeeper. Says Maya van Rossum, “Our appeal isn’t just about the Delaware Deepening; it is about the precedent that is getting set for all federal projects on our River and every other River in the country. If the Army Corps is allowed to operate above the law here and now, it will be allowed to do so everywhere – and every community, every river, every environment, and all the drinking water, jobs, and fish for food they provide will be in jeopardy from our very own federal agency.”

Jane Nogaki, Vice Chair of the New Jersey Environmental Federation, stated: “The Army Corps must be held to the same standard as any private or public entity, and we are confident that when the full weight of evidence is heard by the judge, that a ruling will go in our favor to protect the precious resources of the Delaware River”

“It is important that the appeals court overturn these rulings that bless the unprecedented, and, we believe, illegal use of narrow loopholes to avoid important state review of the water quality impacts of this disastrous project,” said Jim Murphy, Wetlands and Water Resources Counsel for the National Wildlife Federation. “A failure to do so could give the Corps license to ignore state’s concerns about clean water for future projects.”

Jane Davenport, senior attorney for the Delaware Riverkeeper Network, noted that “the Judges’ decisions gave the Army Corps the benefit of a deference that the agency did not deserve. Unfortunately, both judges took many of the agency’s assertions at face value without probing deeper into the Corps’ conclusory analyses and outdated assumptions.”

“It is unfortunate that the two judges were unwilling or unable to see past the rhetoric and set the precedent necessary to protect our natural resources and communities without which we will not thrive. So in the tradition of our founding fathers, the citizens of the region will take the legal steps necessary to defend our water, rights and laws.” said Maya van Rossum, the Delaware Riverkeeper.

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