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Press Advisory

Judge's Injunction on Deepening a Sign of Things to Come Say Environmental Challengers

Wilmington, DE – After over one month of deliberation, U.S. District Court Judge Sue L. Robinson issued a preliminary injunction against the Army Corps' proposed Delaware deepening project, but did allow deepening work to begin in only an area of the River known as "Reach C" while the legal challenge proceeds before her.

"An underpinning of any decision to grant an injunction is a judge's finding that the plaintiffs -- in this case Delaware, New Jersey, Delaware Riverkeeper Network, National Wildlife Federation, New Jersey Environmental Federation, Delaware Nature Society, and Clean Water Action – are likely to succeed on the merits of their case. The Environmental Plaintiffs argued that deepening now will violate state and federal law, so the Judge's issuance of a preliminary injunction demonstrates the strength and merit of these legal claims. A concession for limited deepening in Reach C, while perplexing, does not change the import of this finding" states Maya van Rossum, the Delaware Riverkeeper and an individual plaintiff in the litigation.

The Judge's decision was rendered without the judge hearing oral argument from the Environmental Plaintiffs or New Jersey. The legal basis of Delaware's motion and its complaint was more constrained than Environmental Plaintiffs or New Jersey.

"We are disappointed that the Army Corps, supported by Governor Rendell, are able to deepen one inch of the River in violation of their obligation to serve the public good. The Environmental Plaintiffs have repeatedly provided information showing that this project does not pay. That the Army Corps has so vigorously pursued an exception to the State of Delaware's oversight - stripping the states of their sovereign and legal authorities - should outrage every state in the union and the Obama Administration" states Delaware Riverkeeper Maya van Rossum.

"Segmentation of federal projects is itself a violation of federal law and policy that cannot be remedied with a judge's sanction and is itself grounds for legal challenge" confirms van Rossum.

Asked whether the Environmental Parties will appeal the decision, lead attorney, Elizabeth Koniers Brown stated: "The Environmental Plaintiffs are of course pleased that the Court partially granted the injunction. They are reviewing the Court's decision and assessing their options."

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