April 2, 2022

VIA ELECTRONIC MAIL
Suzanne U. Biggins, Supervising Environmental Specialist
Office of Dredging and Sediment Technology
Division of Land Resource Protection
Department of Environmental Protection
Mail Code 501-02A
P.O. Box 420
Trenton, NJ 08625-0420
Suzanne.biggins@dep.nj.gov

Re: Delaware River Partners, LLC Minor Modification Application
Activity No. 0807-16-0001.2 – WFD 180002, FHA180001

Dear Ms. Biggins,

Delaware Riverkeeper Network and Maya K. van Rossum, the Delaware Riverkeeper, (collectively, "DRN") provide the following comments for your review in evaluating Delaware River Partners LLC's ("DRP's") application for a minor technical modification to its Upland Waterfront Development ("WFD") and Flood Hazard Area ("FHA") individual permits issued April 10, 2017, revised August 3, 2017, and modified November 29, 2018. DRP seeks to modify the layout of liquid energy products storage tanks at the Gibbstown Logistics Center ("GLC") in Greenwich Township, Gloucester County.

New Jersey Department of Environmental Protection ("DEP") must deny DRP's Application because the entire GLC has been segmented through piecemeal applications; because it is unclear whether the modifications reflect DRP's actual plans for the GLC operations; because the Application fails to include the site-specific information concerning water quality impacts necessary to justify the issuance of the modification requested; and because the activities proposed in the Application include a risk with unacceptable impacts to threatened and endangered species as well as wetlands and vegetation.

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215)369-1181
drn@delawareriverkeeper.org
www.delawareriverkeeper.org

The Application should be denied because the development of the GLC has been segmented through piecemeal applications, depriving DEP of its authority to engage in a holistic analysis of the GLC's environmental impacts.

The Freshwater Wetlands Protection Act Rules provides that "an applicant shall not segment a project of its impacts by separately applying for individual permits for different portions of the same project."[1] The GLC, from its inception, was planned as a major facility handling bulk liquid products including LNG,[2] although that commodity did not come to light throughout the regulatory process until DRN discovered it through a Freedom of Information Act appeal. Nevertheless, DRP has applied to DEP for several sets of permits and modifications for development, all during the GLC's development process, not after long periods of operation.

A development as significant as the GLC must not be allowed to move through the regulatory process in a piecemeal fashion, and DEP's regulations forbid it. Accordingly, DRP's Application should be denied to enforce the Freshwater Wetlands Protection Act Rules' prohibition against segmentation.

DRP's proposed modification is unclear and confusing in describing the total number and volume of tanks to be located at the GLC.

Section 2 of DRP's compliance statement describes an ever-shifting configuration of storage tanks of different designs and different sizes holding different fossil fuel products. Currently, it appears DRP plans to construct "one (1) storage tank with a capacity of 629,000 barrels (bbls) and . . . six (6) bullet tanks, each with a capacity of 90,000 gallons (2,100 bbls)."[3] DRP also states that the area in which the 629,000 bbls tank would be constructed is an area "previously identified for seven 100,000 bbls tanks that were originally intended for refined product storage" and that the bullet tanks would be "installed in an area originally identified for crude oil storage tanks."[4] DRP also identifies six tanks for crude products and five tanks for refined products were eliminated from the plan in 2018, but then states that "the previously approved tanks shown on the revised plans will be needed in the future based on discussions with current customers."[5] It is unclear what "previously approved" tanks will still be needed—the ones that were originally slated to be located where the seven new tanks would be located? Or the tanks that were eliminated in 2018? Will DRP need to seek another modification to place these previously-approved tanks in a new location?

The minor modification currently claims that the footprint of the GLC will actually *decrease* from what was originally proposed, but is that only because DRP is once again

[1] N.J.A.C. 7:7A-10.1. Although DRP claims that the proposed modification does not affect its permits that required compliance with the Freshwater Wetlands Protection Act Rules, this technicality is a result of the GLC development's segmentation.
[2] Prospectus [Rule 424(b)(4)], Fortress Transportation & Infrastructure Investors LLC, SEC Accession No. 0001193125-15-191922 (May 18, 2015).
[3] Compliance Statement at 3.
[4] *Id.*
[5] *Id.*

segmenting its applications and "holding back" on additional information about future tank locations? If DRP is currently in conversations with its customers about additional storage for the future, it should supply DEP with all currently-known information about plans for liquid energy products storage on the site, so that DEP is not misled into believing that it is taking an action that lessens the environmental impact of the GLC. Throughout the construction of the GLC, plans have changed dramatically several times, depriving DEP and the public of the full picture of what this facility truly is. A port for roll-on roll-off cargo? An LNG export facility using massive unit trains and high volumes of truck traffic? An LPG facility? Now possibly a pyrolysis/gasification facility?[6] These changes are being made as construction progresses, increasing the chance that it will be too late by the time DEP and the public realize the full scale of the GLC's operations.

DRP does not provide a justification for why containment dikes are no longer warranted in the tank area.

In DRP's Technical Memorandum by Langan, they claim that "[g]iven the nature of the materials stored within the proposed tank and the design of the tank structure itself, the containment dikes that were included in that portion of the site in the approved design are no longer warranted."[7] This conclusory statement cannot be taken at face value by DEP, and thus the containment dikes should remain a part of the design if DEP approves the modification request.

The GLC is an Energy Facility because it is a "facilit[y], plant[] or operation[]" for the distribution and storage of energy or fossil fuels.[8] Accordingly, the Project may not be sited in special areas or marine fish and fisheries areas "*unless* site-specific information demonstrates that such facilities *will not result* in adverse impacts to these areas."[9] Indeed, DRP plans to construct a much larger tank, creating a risk that a leak or spill from the tank will be environmentally catastrophic. Even if the new tank is better designed than the previously-approved tanks, the containment dikes should remain as a last line of defense for the River and its habitats.

The Application contains insufficient information regarding the combined stormwater impacts of the proposed modification and the currently-approved Rail Loop and thus the Project does not comply with the Stormwater Management Rules.

On December 30, 2021 and February 25, 2022, DEP issued two land use permits to DRP for the construction of a rail loop at the GLC that would be able to store large unit trains in support of Dock 2 operations. DRP's application does not include the rail loop in the

[6] Fortress Transportation and Infrastructure Investors partners with Clean Planet Energy to develop waste plastic recycling and circular-fuel production facilities across North America, GlobeNewswire, https://www.globenewswire.com/news-release/2021/11/19/2338126/35538/en/Fortress-Transportation-and-Infrastructure-Investors-partners-with-Clean-Planet-Energy-to-develop-waste-plastic-recycling-and-circular-fuel-production-facilities-across-North-Ameri.html (last visited April 2, 2022).
[7] Application Attachment F: Stormwater Management Review at 1.
[8] N.J.A.C. 7:7-15.4(a).
[9] N.J.A.C. 7:7-15.4(b)(1).

drawings submitted,[10] and it is not clear whether the rail loop is included in the stormwater analysis. Even if the rail loop is adjacent to the tank area, it may affect stormwater flows. As stated previously, DRP should submit for approval all information concerning currently-approved or planned development at the GLC.

Although the Rail Loop met the regulatory definition of "major development" at N.J.A.C. 7:8-1.2, and accordingly, DRP was required to comply with the Stormwater Management Rules,[11] an updated Stormwater Management Plan was not provided with the application for the Rail Loop. DRP must provide an updated Stormwater Management Plan that includes the proposed Rail Loop and modified tank area so that DEP and the public may review the stormwater effects of the GLC as a whole.

In addition, the latest version of DRP's Stormwater Pollution Prevention Plan ("SPPP") associated with its 5G2 Basic Industrial Stormwater permit (that DRN is aware of) fails to address compliance with the Total Maximum Daily Load for polychlorinated biphenyls in the Delaware River.[12] Thus, an updated SPPP that includes the Rail Loop, the proposed tank area modification, and any potential for PCB-laden discharges is necessary for DEP to evaluate site-specific water quality impacts.[13]

The Application fails to address the risk of unacceptable adverse impacts to threatened and endangered species as well as wetlands.

The Bald Eagle, Osprey, and Atlantic and Shortnose sturgeon use habitat in the vicinity of or near the project area. Bald Eagles were recently observed by DRN near the GLC site, and it is currently the bald eagle's nesting season. DRP should affirmatively identify the locations of any and all bald eagle nests to ensure that they will not be disturbed by construction of the proposed tanks. The stormwater information contained in the Application is insufficient for DEP to adequately evaluate the impacts on fishlife, including the endangered sturgeon habitat.

The threatened red knot, bog turtle, and sensitive joint vetch were also identified as being potentially present in the area. The Application must include *site-specific* information about these species. Red knots: forage in wet habitats, they move towards sedge meadows and shores as they get older. They especially use marine habitats, sandy beaches, salt marshes, mudflats of estuaries to forage (where invertebrate prey may be high). Excess siltation from construction activities may disturb the red knot's foraging area by reducing sunlight necessary for vegetation growth or filling in crevices and other complex habitat necessary for invertebrate species.

---

[10] Aside from Figure 01 showing the locations of bald eagle and osprey nests.
[11] *See* N.J.A.C. 7:8.
[12] *See* Delaware Riverkeeper Network, Petition to Require Delaware River Partners, LLC to Apply for Individual NJPDES Permits Implementing the TMDL for PCBs in Zone 4 of the Tidal Delaware River, Permits NJG0263541, NJG0304042 & NJG0299201 (without enclosures) (Attachment A).
[13] *See, e.g.,* N.J.A.C. 7:7A-10.2(b)(5), (b)(8), (b)(15); N.J.A.C. 7:13-12.1(b)(1), -12.2; N.J.A.C. 7:7-16.3.

Bog turtles occur in small discrete populations and are incredibly dependent on a mosaic of many habitats such as sedge meadows, marshes, and rivers next to wooded areas. Eggs are often laid in areas elevated from the waterway and occupied habitat occupied. Siltation of bog turtle habitat poses a great threat to them. Bog turtles feed on insects, snails, and worms—all of which depend on predictable conditions in benthic habitat and will suffer when the conditions change too much too quickly.

Finally, DRP ignores the potential impacts to several NJ Species of Special Concern that likely inhabit the project area, including the Fowler's toad (Anaxyrus fowleri) and eastern box turtle (Terrapene carolina carolina). The marsh habitat within the GLC is also highly suitable for the Atlantic Coast leopard frog (Lithobates kauffeldi), the conservation status of which has not been assessed yet due to how recently the species was discovered.

Conclusion

DEP must deny DRP's Application because the entire GLC has been segmented through piecemeal applications; because it is unclear whether the modifications reflect DRP's actual plans for the GLC operations; because the Application fails to include the site-specific information concerning water quality impacts necessary to justify the issuance of the modification requested; and because the activities proposed in the Application include a risk unacceptable impacts to threatened and endangered species as well as wetlands and vegetation.

Sincerely,

Maya K. van Rossum

the Delaware Riverkeeper
Delaware Riverkeeper Network

Kacy C. Manahan, Senior Attorney
Delaware Riverkeeper Network

Attachment A

December 8, 2020

VIA ELECTRONIC MAIL
New Jersey Department of Environmental Protection
Division of Water Quality – Mail Code 401-02B
Bureau of Nonpoint Pollution Control
P.O. Box 420
401 E. State Street
Trenton, NJ 08625-0420
dwq@dep.nj.gov
dwq_bnpc@dep.nj.gov

Re: Petition to Require Delaware River Partners, LLC to Apply for Individual NJDPES Permits Implementing the TMDL for PCBs in Zone 4 of the Tidal Delaware River
Permits NJG0263541, NJG0304042 & NJG0299201

To Whom it May Concern,

Delaware Riverkeeper Network and Maya van Rossum, the Delaware Riverkeeper, (collectively, "DRN") hereby petition the New Jersey Department of Environmental Protection ("NJDEP") in accordance with N.J.A.C. 7:14A-6.13(*l*) and N.J.A.C. 7:14A-24.3(b) to take action under N.J.A.C. 7:14A-6.13(e) requiring permittee Delaware River Partners, LLC ("DRP") to apply for and obtain individual New Jersey Pollutant Discharge Elimination System ("NJPDES") permits for stormwater discharges associated with the construction of the Gibbstown Logistics Center[1] and for stormwater discharges associated with the operation of the Gibbstown Logistics Center.[2] DRN makes this request based on evidence that DRP's discharges may be a significant contributor of pollutants based on the location of the discharges, the nature of the pollutants known to be present at that location, and the impaired quality of the tidal Delaware River, for which a Total Daily Maximum Load ("TMDL") has been established by the United States Environmental Protection Agency ("EPA") to control discharges of polychlorinated biphenyls ("PCBs").[3]

[1] Currently authorized under General Permit 5G3, at Permit Nos. NJG0263541 & NJG0304042.
[2] Currently authorized under General Permit 5G2, at Permit No. NJG0299201.
[3] *See* N.J.A.C. 7:14A-6.13(e)(1).

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215)369-1181
drn@delawareriverkeeper.org
www.delawareriverkeeper.org

Petitioners' Interest in the Petition

The Delaware Riverkeeper Network was established in 1988 to protect and restore the Delaware River, its tributaries and habitats. To achieve these goals, Delaware Riverkeeper Network organizes and implements stream restoration projects, volunteer water quality and ecosystem monitoring, educational programs, community technical assistance projects, environmental advocacy initiatives, community/member action and involvement projects, recreational activities, and environmental litigation throughout the entire Delaware River watershed, including the Delaware Estuary and Delaware Bay, and at a state or national level when necessary to advance the organization's mission. The watershed includes portions of New Jersey, New York, Pennsylvania, and Delaware. Delaware Riverkeeper Network is a not-for-profit membership organization with over 25,000 members, including members who live in, work in, and/or recreate in the State of New Jersey. Delaware Riverkeeper Network members fish, canoe, kayak, boat, swim, birdwatch, hike, bike, and participate in other recreational activities in the Lower Delaware River Watershed, including in the State of New Jersey. Delaware Riverkeeper Network undertakes numerous activities and initiatives that take place in, directly benefit from, and/or directly impact State of New Jersey waters, habitats, ecosystems, and communities.

Maya van Rossum, the Delaware Riverkeeper, works full-time for the protection of the waterways in the Delaware River Watershed. The Delaware Riverkeeper advocates and works for the protection and restoration of the ecological, recreational, commercial and aesthetic qualities of the Delaware River, its estuary, bay, tributaries, and habitats. The Delaware Riverkeeper regularly visits the Delaware River for professional reasons. The Delaware Riverkeeper is the chief executive officer of the Delaware Riverkeeper Network.

The Delaware Riverkeeper Network was instrumental, through litigation and advocacy, in the securing of the PCBs TMDL for the Delaware Estuary – in fact it was litigation advanced by the Delaware Riverkeeper Network, when an affiliate of the American Littoral Society, that provided the underpinning driving the entire process. Thereafter, the Delaware Riverkeeper Network, represented by van Rossum, served on the Delaware River Basin Commission ("DRBC") Toxics Advisory Committee and PCBs Implementation Advisory Committee involved in the development of the PCBs TMDL and associated implementation plans. In addition to being an instigator for the creation of the PCBs TMDL, the Delaware Riverkeeper Network has been active through the TMDL development and implementation process – not only serving on the aforementioned DRBC committees deeply involved in the TMDL development, but providing expert reviews, comment, community engagement and input on its implementation in a variety of case-specific situations.

The TMDL for PCBs in the Tidal Delaware River

The Gibbstown Logistics Center is located at 200 North Repauno Avenue, Gibbstown, New Jersey, and occupies a portion of the former DuPont-Repauno facility, one of the top ten

sources of PCB point source discharges to the Delaware River.[4] The location of the Gibbstown Logistics Center and the site's historic and ongoing contribution of PCBs to the Delaware River must not be ignored, and any potential new discharges must be carefully evaluated through NJDEP's individual permit process to ensure compliance with the TMDL and EPA regulations.

In 2003, EPA Regions II and III established a TMDL for PCBs in Zones 2 through 5 of the Delaware River.[5] A TMDL is a calculation defining the level of a certain pollutant "necessary to attain and maintain the applicable narrative and numerical [water quality standards]" established under the federal Clean Water Act.[6] It is "[t]he sum of the individual [wasteload allocations ("WLAs")] for point sources and [load allocations ("LAs")] for nonpoint sources and natural background."[7]

Relevant to this petition, WLAs are "the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of *water quality-based effluent limitation*."[8] The Stage 1 TMDLs for Total PCBs in Zone 4 of the tidal Delaware River is 56.71 milligrams per day (mg/d), 6.54 mg/d of which is allocated to WLAs, 47.34 mg/d to LAs, and with a margin of safety of 2.84 mg/d.[9] "Reasonable assurance" of meeting the TMDL is provided by "[e]ffluent quality data and source minimization plans required through NPDES permits issued by state permitting authorities will provide the basis for assessment regarding consistency with the WLAs developed or issued in Stage 1 . . . ."[10]

As a part of the Stage 1 implementation of the TMDL, NPDES permitting authorities are to impose non-numeric water quality-based effluent limitations on point source discharges in the tidal Delaware River.[11] In accordance with the implementation plan, NPDES permit requirements for certain dischargers, including existing point source discharges from the DuPont-Repauno site currently operated by the Chemours Company, must "include waste minimization and reduction programs and additional monitoring with

---

[4] U.S. Envtl. Prot. Agency Regions II & III, Total Maximum Daily Loads for Polychlorinated Biphenyls (PCBs) for Zones 2 – 5 of the Tidal Delaware River at Appx. Table 3-4 (Dec. 15, 2003) (hereinafter, "TMDL") (Attachment A); Cavallo, Gregory J., Del. River Basin Comm'n, Evaluation of PCB TMDL Efforts in the Delaware Estuary (2015); Cavallo, Grejory J., Delaware River Basin Comm'n, Implementation of the PCB TMDLs in the Delaware Estuary and Bay (Feb. 20, 2018).

[5] *See* TMDL. The Gibbstown Logistics Center is located in Zone 4 of the tidal Delaware River.

[6] 40 C.F.R. § 130.7(c)(1); *see also* 33 U.S.C. § 1313(d)(1)(C).

[7] 40 C.F.R. § 130.2(i).

[8] 40 C.F.R. § 130.2(h).

[9] TMDL at xi. On December 4, 2013, DRBC amended its Water Quality Regulations, Water Code, and Comprehensive Plan to establish a water quality criterion of 16 picograms per liter for Zones 2 through 6 of the Delaware Estuary and Bay. DRBC Res. No. 2013–8. Implementation of this criterion will be incorporated in the Stage 2 TMDLs. *Id.*

[10] TMDL at 11. *See also Am. Farm Bureau Fed'n v. U.S. Envtl. Prot. Agency*, 792 F.3d 281, 299 (3d Cir. 2015) ("'[T]otal maximum daily load' is broad enough to include allocations, target dates, and reasonable assurance.").

[11] *See* TMDL at 10

Method 1668A."[12] Waste minimization and reduction programs have been implemented by the DRBC for discharges containing PCBs—these programs are known as pollutant minimization plans ("PMPs").[13] Upon issuance of an NPDES permit by a Clean Water Act permitting authority, the permitting authority either incorporates the PMP as an effluent limitation, or imposes a more stringent state or federal requirement.[14]

As of 2005, the DuPont-Repauno site's point source discharges were contributing 463 mg/d—more than *eight times* the entire TMDL for Zone 4—which by 2016 had been reduced by 61% through the implementation of a PMP approved by DRBC and incorporated in an NJPDES permit.[15] As DRP proposes to create several new point sources at this very same site, any NJDPES permit issued for these discharges must incorporate water quality-based effluent limitations in accordance with the TMDL and EPA regulations.

Clean Water Act Regulations Governing the NPDES Permitting Process

EPA's Clean Water Act regulations governing National Pollutant Discharge Elimination System ("NPDES") permits contain provisions specifically addressing how a TMDL affects the permitting process. First, states are prohibited from issuing such permits to "a new source or discharger where the discharge from its construction or operation will cause or contribute to the violation of water quality standards."[16] Specifically, where a new source or discharge is proposed in a water segment subject to a TMDL, the permit applicant "must demonstrate, before the close of the public comment period, that: (1) There are sufficient remaining pollutant load allocations to allow for the discharge; and (2) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards."[17] Effluent limitations included in a NJPDES permit must also be consistent with approved WLAs.[18]

Currently, DRP's discharges are authorized under NJPDES general permits 5G3 and 5G2. These permits do not specifically address whether the permitted discharges cause or contribute to violation of a water quality standard, nor do they contain a condition prohibiting such discharges. Furthermore, because the amount of PCBs being discharged has not been evaluated, there is no determination of consistency with approved WLAs, or any water quality-based effluent limitations such as a PMP specifically targeting PCB pollution.

---

[12] TMDL Appx. 3 at ii.
[13] *See* DRBC Water Quality Regulations at 4.30.9 (codified at 18 C.F.R. Part 410).
[14] *See id.* at 4.30.9(I).
[15] Cavallo, Gregory J., Delaware River Basin Comm'n, Implementation of the PCB TMDLs in the Delaware Estuary and Bay (Feb. 20, 2018); *see also* Parsons, PCB Pollutant Minimization Plan 2019 Annual Report Repauno Site Gibbstown, NJ (Apr. 2020) (Attachment B).
[16] 40 C.F.R. § 122.4(i).
[17] *Id.* The permitting authority may waive this requirement if it "determines that [it] already has adequate information to evaluate the request." *Id.* at § 122.4(i)(2).
[18] *See* 40 C.F.R. § 122.44(d)(1)(vii)(B).

DRP's Stormwater Pollution Prevention Plan and PCB Sampling Plan

As a part of the required Stormwater Pollution Prevention Plan ("SPPP") submitted under the 5G2 Basic Industrial Stormwater Permit, DRP proposes a years-long evaluation process to determine the permitted discharges' effect on water quality. As explained above, this process must occur *before* an NPDES permit is issued, not after. According to NJDEP, permit authorization under General Permit 5G2 is intended for "light industries" that can easily eliminate exposure through the implementation of Best Management Practices (BMPs)" such as "covering [sources of pollution] with a roof or tarp, moving source materials inside, or simple housekeeping procedures."[19] Indeed, the SPPP submitted to NJDEP by DRP includes BMPs such as designating certain areas as loading/unloading areas to contain spills and paving those areas, inspecting transloading system equipment to ensure no leaks are present, and training employees how to handle source materials.[20]

Potential PCB discharges are not discussed in the SPPP BMPs, but are instead included in a section dedicated to coordination of the SPPP with other environmental management plans, where DRP states that it has "developed and will implement a PCB stormwater sampling plan as stormwater outfalls become operational."[21] The PCB stormwater sampling plan, attached to the SPPP as Appendix E, provides that "[s]amples will be collected within one year of completion of construction activities and during a qualifying precipitation event. Monitoring will continue at a frequency of one sample per year for three years.[22] Finally, after *all three years of data* has been collected for *each* outfall (which will be more than three years from now, since half of the outfalls have a start-of-operation date labeled "TBD"), DRP will prepare "recommendations regarding future PCB sampling and the possible need for DRP to develop a PMP for its operations," which will then be reviewed with NJDEP and DRBC.[23] This multi-year sampling plan and some-day intent to discuss whether a PMP is appropriate does not comply with the TMDL implementation plan or EPA's regulations, which require a determination of consistency with approved WLAs, and any effluent limitations required to achieve consistency, *prior* to issuance of a NPDES permit.

Conclusion

In sum, if DRP is not required to apply for and obtain individual permits for its stormwater discharges, then from March 2017[24] to some yet-to-be-determined date after 2023, DRP will have been discharging into the Delaware River without any data showing whether those discharges are consistent with WLAs nor whether they contain an amount of PCBs that will cause or contribute to the violation of water quality standards. This

[19] N.J. Dep't of Envtl. Prot., Bureau of Nonpoint Pollution Control, Div. of Water Quality, Basic Industrial Stormwater General Permit Guidance Document, NJPDES Permit No. NJ0088315 (rev. Feb. 1, 2013).
[20] *See* SPPP Form 4 – Best Management Practices, submitted June 30, 2020 (Attachment C).
[21] *See* SPPP Form 7 – Coordination of SPPP with Other Existing Environmental Management Plans, submitted June 30, 2020.
[22] SPPP Appx. E at 8.
[23] SPPP Appx. E at 10.
[24] *See* Permit No. NJG0263541.

information is a *prerequisite* to issuing an NPDES permit.[25] To remedy this defect, DRN requests that NJDEP require DRP to apply for and obtain individual NJPDES permits for its construction-related and operational stormwater discharges so that NJDEP can evaluate their consistency with the TMDL and impose enforceable water quality-based effluent limitations to control PCB discharges.

Respectfully submitted,

Maya K. van Rossum

the Delaware Riverkeeper
Delaware Riverkeeper Network

Enclosures

cc: Delaware River Partners, LLC (*via electronic and first-class mail*)
Delaware River Basin Commission (*via electronic mail*)

[25] *See* 40 C.F.R. §§ 122.4(i), 122.44(d)(1)(vii)(B).