



December 9, 2009

Ed Bonner, US Army Corps of Engineers  
Chad Pindar, Delaware River Basin Commission  
Pamela Shellenberger, US Fish & Wildlife Service  
Karen Greene, NOAA  
Stanley W. Gorski, NOAA  
Jamie Stark Davis, US EPA  
Suzanne Dietrick, NJDEP

Dear Ed, Chad, Pamela, Karen, Stanley, Jamie and Suzanne,

The Delaware Riverkeeper Network is very concerned about the proposed Southport development project.

The Southport Project, as we understand it, consists of a new container facility to be built in and along the Delaware River. The project requires filling an estimated 7 acres of wetlands and 33 acres of open waters in the Delaware River in and around existing piers 122 and 124. The site used to be on the National Priority List of contaminated sites, we are unclear as to its current status in this regard.

This reach of the River (according to the US Fish & Wildlife Service, July 19, 2004) is used by a wide variety of fish species including (but not limited to):

- ✓ In the deeper inter-pier areas: spot, striped mullet, bay anchovy
- ✓ In the shallower inter-pier areas: hogchoker, channel catfish, largemouth bass, spottail shiner.
- ✓ In addition this reach of river is used by American shad, blueback herring and striped bass.

According to US Fish and Wildlife the interpier area has particular ecological importance “because of the occurrence of fourspine stickleback, mudflats, and submerged and emergent vegetation.” “Furthermore, the area of the Delaware River downstream ... within the former Philadelphia shipyards is a significant spawning area for striped bass. In addition to the aquatic habitat values of this area, the shoreline around inter-pier 3B, although disturbed by concrete rip-rap, also supports shrubs and other vegetation that attract a variety of warblers and other songbirds.”

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“...the Fish and Wildlife Service is concerned about the future development of these two sites.” [SouthPort and Piers 78-80-82] According to the Service Inter-pier areas 3A and 3B “should be left undisturbed, and every effort should be made to avoid or minimize adverse impacts to all of the other interpier areas.”

The PA Fish and Boat Commission has described the resident and anadromous fisheries located in this part of the River as “of considerable value both ecologically and recreationally.” (PA Fish and Boat Commission to the PRPA, Letter 6/1/04)

According to a 2004 Normandeau Associates report done for the project (Aquatic and Benthic Resources Study for Assessment and Improvements to Berthing Area South Port Project No. 03-149.S prepared by Normandeau Associates March 2004) aquatic vegetation found in the proposed project area “is important for its function as a substrate for macroinvertebrates and as cover for small fish as well as a source of dissolved oxygen for the water. Vegetated intertidal and shallow subtidal habitat is not common along the Delaware River Philadelphia waterfront and should be considered ecologically important along this shoreline.”

The Normandeau study notes the presence of water celery in the subtidal Interpier Area 3B portion of the Southport project. In other contexts, NJDEP has articulated the importance of rebounding wild celery species in the estuary and the importance of protecting this protected species. (*NJDEP Briefing, Delaware River Main Channel Deepening Project, Supplemental Environmental Impact Statement (SEIS) Information, January 2007.*) To the extent we are talking about the same species of emergent vegetation, it seems clearly important that there be careful consideration of the impacts of Southport on this species.

The site used to be on the National Priority List of contaminated sites, we are unclear as to its current status in this regard.

According to a July 7, 2005 Feasibility Assessment regarding spoils to be used to support this development, the project is being postured as a method for disposing of spoils from the Army Corps' Delaware deepening proposal. The issue of spoils disposal and costs of disposal have been a major stumbling block for the deepening project to date. Thus, allowing the Army Corps unfettered oversight of the Clean Water Act reviews and permitting for the project is of grave public concern.

Studies regarding Atlantic Sturgeon are demonstrating the precariousness of this species in the Delaware Estuary and documenting the importance of protecting the freshwater reaches of the river as necessary for Atlantic and Shortnose Sturgeon habitat and reproduction. The failure to find Sturgeon, either Atlantic or Shortnose, in the 33 acres planned to be filled by Southport is not surprising considering that there are presumed to be less than 1,000 Shortnose sturgeon throughout the Delaware estuary and less than 100 Atlantic sturgeon. (See Delaware River State of the Basin Report, 2008) It is the value of this reach of the River as habitat for the Sturgeon that should be controlling in terms of the need for careful study and review, not whether any were found present during limited sampling by Normandeau in support of the project.

While the Normandeau information discounts much of the habitat value of the area to be filled in by Southport due to bulkheading and other manmade harms, as well as the presence of macroinvertebrates tolerant of reduced dissolved oxygen conditions, the destruction that has been inflicted to date by manmade activities is not what should control the review of the value of this reach of the River. There are ongoing efforts at the Delaware River Basin Commission to address low Dissolved Oxygen levels in the Estuary. There are also many strategies for

restoring damaged lengths of river bank using proved, proven and available science and technology. So the consideration of the habitat value of the 33 acres Southport proposes to fill should be driven by the environmental habitat and benefit this area could provide under restored condition, as water quality restoration efforts are currently underway and physical habitat restoration is a viable and available opportunity if the site were to remain undestroyed by the Southport project.

The documentation we have received from the Army Corps states that there will be an “enhanced EA” conducted for the project. Based on the record that exists at this time, there is ample reason to believe that a full environmental impact statement will be needed for this project. Modified NEPA reviews in an effort to skirt such a requirement of full review is not appropriate. We urge all agencies to ensure an objective and appropriate EA is conducted for this project. We also assert that there should be every expectation that a full EIS will be needed for this project.

Yours sincerely,

Maya K. van Rossum  
the Delaware Riverkeeper