

BELOW IS A SUMMARY OF THE CASE YOU ARE FILING WITH THE **APPELLATE DIVISION**.
REVIEW ALL INFORMATION AND DOCUMENTS FOR ACCURACY PRIOR TO HITTING THE **SUBMIT** BUTTON
ON THE NEXT PAGE.

FILING ID # 1315694 **TRIAL COURT DOCKET #** NO DOCKET #
APPELLATE # A-000709-19 **TRIAL COURT COUNTY**
CASE TITLE IN THE MATTER OF CHALLENGE OF DELAWARE RIVERKEEPER NETWORK AND
MAYA VAN ROSSUM-THE DELAWARE RIVERKEEPER TO DELAWARE RIVER
PARTNERS, LLC WATERFRONT DEVELOPMENT INDIVIDUAL PERMIT NO. 0807-
16-0001.2 WFD 19001
CASE TYPE STATE AGENCY **DISPOSITION DATE** 09/05/2019
CATEGORY
TRIAL COURT JUDGE

PARTY/ATTORNEY

PARTY NAME	PARTY ROLE	PARTY DESIGNATION	FIRM NAME - ATTORNEY NAME / ATTORNEY ROLE	ADDRESS
DELAWARE RIVER PARTNERS, LLC	OTHER	RESPONDENT	GIBBONS PC - PAUL M HAUGE (ATTORNEY OF RECORD)	ONE GATEWAY CTR NEWARK, NJ 07102-5310 973-596-4500 PHAUGE@GIBBONSLAW.COM (PHAUGE@GIBBONSLAW.COM)
DELAWARE RIVERKEEPER NETWORK	PLAINTIFF	APPELLANT	CURTIN & HEEFNER LLP - LAUREN M WILLIAMS (ATTORNEY OF RECORD)	2005 S. EASTON RD., STE 100 DOYLESTOWN, PA 18901 267-898-0570 LMW@CURTINHEEFNER.COM,JMD@CURTINHEEFNER.COM (lmw@curtinheefner.com)
MAYA VAN ROSSUM	PLAINTIFF	APPELLANT	CURTIN & HEEFNER LLP - LAUREN M WILLIAMS (ATTORNEY OF RECORD)	2005 S. EASTON RD., STE 100 DOYLESTOWN, PA 18901 267-898-0570 LMW@CURTINHEEFNER.COM,JMD@CURTINHEEFNER.COM (lmw@curtinheefner.com)
STATE OF NEW JERSEY	DEFENDANT	RESPONDENT	ATTORNEY GENERAL LAW - MELISSA H RAKSA (ATTORNEY OF RECORD)	25 MARKET ST, PO BOX 112 TRENTON, NJ 08625-0106 609-984-3900 DOL.APPEALS@LAW.NJOAG.GOV (DOLAPPEALS@LPS.STATE.NJ.US,DOLAPPEALS@LPS.STATE.NJ.US)

DOCUMENTS

DOCUMENT / FILE NAME	FILING PARTY	FIRM NAME / ATTORNEY ATTENTION	CATEGORY / DOCUMENT TYPE	SOURCE	DATE POSTED	STATUS
NOTICE OF APPEAL	DELAWARE RIVERKEEPER NETWORK	CURTIN & HEEFNER LLP - LAUREN M WILLIAMS	APPELLATE DOCUMENTS - NOTICE OF APPEAL	SYSTEM GENERATED	10/15/2019	SUBMITTED
CASE INFORMATION STATEMENT	DELAWARE RIVERKEEPER NETWORK	CURTIN & HEEFNER LLP - LAUREN M WILLIAMS	APPELLATE DOCUMENTS - CASE INFO STATEMENT	SYSTEM GENERATED	10/15/2019	SUBMITTED
TRIAL COURT ORDER	DELAWARE RIVERKEEPER NETWORK	CURTIN & HEEFNER LLP - LAUREN M WILLIAMS	APPELLATE DOCUMENTS - TRIAL COURT ORDER/JUDGMENT/DECISION	UPLOAD	10/15/2019	SUBMITTED

PROOF OF SERVICE	DELAWARE RIVERKEEPER NETWORK	CURTIN & HEEFNER LLP - LAUREN M WILLIAMS	APPELLATE DOCUMENTS - PROOF OF SERVICE	SYSTEM GENERATED	10/18/2019	SUBMITTED
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FEES AND PAYMENTS

Fee Type	Fee Amount	Fee Status	Fee Paid	Payment Date	Payment Type	Amount Due
FILING FEE	\$250.00	PAID	\$250.00	10/18/2019 11:35 AM	Credit Card	\$0.00
SECURITY DEPOSIT	\$300.00	PAID	\$300.00	10/18/2019 11:35 AM	Credit Card	\$0.00
SERVICE FEE	\$16.50	PAID	\$16.50	10/18/2019 11:35 AM	Credit Card	\$0.00
	\$566.50		\$566.50			\$0.00

RELATED APPEALS

CASE TYPE	APPELLATE #	TRIAL COURT/ AGENCY DOCKET #	Case Title	Disposition Date	Status
No record found.					



New Jersey Judiciary
Superior Court - Appellate Division
Notice of Appeal

TITLE IN FULL (AS CAPTIONED BELOW) IN THE MATTER OF CHALLENGE OF DELAWARE RIVERKEEPER NETWORK AND MAYA VAN ROSSUM-THE DELAWARE RIVERKEEPER TO DELAWARE RIVER PARTNERS, LLC WATERFRONT DEVELOPMENT INDIVIDUAL PERMIT NO. 0807-16-0001.2 WFD 19001	ATTORNEY / LAW FIRM / PRO SE LITIGANT			
	NAME LAUREN M WILLIAMS, Esq.			
	STREET ADDRESS 2005 S. EASTON RD. STE 100			
	CITY DOYLESTOWN	STATE PA	ZIP 18901	PHONE NUMBER 267-898-0570
	EMAIL ADDRESS LMW@CURTINHEEFNER.COM JMD@CURTINHEEFNER.COM			

ON APPEAL FROM		
TRIAL COURT JUDGE	TRIAL COURT OR STATE AGENCY ENVIRONMENTAL PROTECTION	TRIAL COURT OR AGENCY NUMBER NO DOCKET #

Notice is hereby given that **DELAWARE RIVERKEEPER NETWORK (*)** appeals to the Appellate Division from a ☐ Judgment or ☐ Order entered on _____ in the ☐ Civil ☐ Criminal or ☐ Family Part of the Superior Court ☐ Tax Court or from a ☒ State Agency decision entered on **09/05/2019**

If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.

For criminal, quasi-criminal and juvenile actions only:

Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

This appeal is from a ☐ conviction ☐ post judgment motion ☐ post-conviction relief ☐ pre-trial detention
If post-conviction relief, is it the ☐ 1st ☐ 2nd ☐ other _____ specify

Is defendant incarcerated? ☐ Yes ☐ No

Was bail granted or the sentence or disposition stayed? ☐ Yes ☐ No

If in custody, name the place of confinement:

Defendant was represented below by:

☐ Public Defender ☐ self ☐ private counsel _____ specify

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge		
Trial Court Division Manager		
Tax Court Administrator		
State Agency	ENVIRONMENTAL PROTECTION	10/18/2019
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(a), (e) or (h)		10/18/2019

Other parties in this action:

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
STATE OF NEW JERSEY	MELISSA H RAKSA, Esq. ATTORNEY GENERAL LAW 25 MARKET ST PO BOX 112 TRENTON NJ 08625-0106 609-984-3900 DOL.APPEALS@LAW.NJOAG.GOV (DOLAPPEALS@LPS.STATE.NJ.US,DOLAPPEALS@LPS.STATE.NJ.US)	10/18/2019
DELAWARE RIVER PARTNERS, LLC	PAUL M HAUGE, Esq. GIBBONS PC ONE GATEWAY CTR NEWARK NJ 07102-5310 973-596-4500 PHAUGE@GIBBONSLAW.COM (PHAUGE@GIBBONSLAW.COM)	10/18/2019

Attached transcript request form has been served where applicable on the following:

Name	Date of Service
Transcript Office	
Clerk of the Tax Court	
State Agency	

Exempt from submitting the transcript request form due to the following:

☒ There is no verbatim record for this appeal.

☐ Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).

List the date(s) of the trial or hearing:

☐ Motion for abbreviation of transcript filed with the court or agency below. Attach copy.

☐ Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by *N.J.S.A. 22A:2* has been paid.

10/18/2019

Date

s/ LAUREN M WILLIAMS, Esq.

Signature of Attorney or Pro Se Litigant

BAR ID #

002812012

EMAIL ADDRESS

LMW@CURTINHEEFNER.COM, JMD@CURTINHEEFNER.COM



New Jersey Judiciary
Superior Court - Appellate Division
Notice of Appeal

Additional appellants continued below

Appellant's Attorney

LMW@CURTINHEEFNER.COM, JMD@CURTINHEEFNER.COM, lmw@cu

Email Address: **rtinheefner.com**

☒ Plaintiff ☐ Defendant ☐ Other (Specify)

Name

LAUREN M WILLIAMS, Esq.

Client

MAYA VAN ROSSUM

Street Address

2005 S. EASTON RD. STE 100

City

DOYLESTOWN

State

PA

Zip

18901

Telephone Number

267-898-0570

Additional respondents continued below

Respondent's Attorney

Email Address: **PHAUGE@GIBBONSLAW.COM, (PHAUGE@GIBBONSLAW.COM)**

☐ Plaintiff ☐ Defendant ☒ Other (Specify) **3RD PARTY DEFENDANT**

Name

PAUL M HAUGE, Esq.

Client

DELAWARE RIVER PARTNERS, LLC

Street Address

ONE GATEWAY CTR

City

NEWARK

State

NJ

Zip

07102-5310

Telephone Number

973-596-4500

Additional parties continued below

Appellant's attorney email address continued below

PARTY NAME: MAYA VAN ROSSUM ATTORNEY NAME: LAUREN M WILLIAMS, Esq.
LMW@CURTINHEEFNER.COM
JMD@CURTINHEEFNER.COM(lmw@curtinheefner.com)

Respondent's attorney email address continued below

PARTY NAME: DELAWARE RIVER PARTNERS, LLC ATTORNEY NAME: PAUL M HAUGE, Esq.
PHAUGE@GIBBONSLAW.COM(PHAUGE@GIBBONSLAW.COM)

Additional Party's attorney email address continued below

LAUREN M WILLIAMS, Esq.
CURTIN & HEEFNER LLP
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STE 100
DOYLESTOWN, PA 18901
267-898-0570
LMW@CURTINHEEFNER.COM
JMD@CURTINHEEFNER.COM(lmw@curtinheef
ner.com)

Before Appellate Division,
Superior Court of New Jersey
DOCKET NO.

STATE AGENCY

**IN THE MATTER OF CHALLENGE OF DELAWARE RIVERKEEPER NETWORK AND
MAYA VAN ROSSUM-THE DELAWARE RIVERKEEPER TO DELAWARE RIVER
PARTNERS, LLC WATERFRONT DEVELOPMENT INDIVIDUAL PERMIT NO. 0807-16-
0001.2 WFD 19001**

PROOF OF SERVICE

I hereby certify that an original of the following documents, **NOTICE OF APPEAL,
PROOF OF SERVICE, TRIAL COURT ORDER, CASE INFORMATION STATEMENT** were
submitted and transmitted to the parties listed below in the following format:

ELECTRONICALLY TO:

**ATTORNEY NAME: MELISSA H RAKSA, Esq.
DOL.APPEALS@LAW.NJOAG.GOV(DOLAPPEALS@LPS.STATE.NJ.US
DOLAPPEALS@LPS.STATE.NJ.US)
ATTORNEY NAME: PAUL M HAUGE, Esq.
PHAUGE@GIBBONSLAW.COM(PHAUGE@GIBBONSLAW.COM)
STATE AGENCY: ENVIRONMENTAL PROTECTION**

BY MAIL:

I certify that the forgoing statements made by me are true. I am aware that if any of
the foregoing statements made by me are willfully false, I am subject to punishment.

**Attorney for APPELLANT
DELAWARE RIVERKEEPER NETWORK**

Dated: **10/18/2019**

By: **S/ LAUREN M WILLIAMS, Esq.**

Williams, Lauren M.

From: Dietrick, Suzanne <Suzanne.Dietrick@dep.nj.gov>
Sent: Tuesday, September 10, 2019 10:58 AM
To: Tracy Carluccio; Dow, Diane
Cc: Kopkash, Ginger; Jones, Christopher
Subject: RE: DRN Comment Re: Gibbstown Logistic Center #0807-16-0001.2, WFD190001
Attachments: Delaware River Partners 9-5-19 Letter Reinstate..pdf; Delaware River Partners Dock 2 RCD.pdf

Dear Ms. Carluccio,

Thank you for your comments on the Delaware River Partners, Gibbstown Logistic Center – Dock 2, Waterfront Development Permit application (DEP File #0807-16-0001.2). Please find attached the Response to Comments document and the September 5, 2019 Reinstatement Letter.

If you have any questions, please feel free to contact me at the numbers below.

Sincerely,

Suzanne U. Dietrick, Supervising Environmental Specialist
Division of Land Use Regulation
Office of Dredging and Sediment Technology
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
Phone # (609) 292-2023
Cellphone # (609) 433-0741

From: Tracy Carluccio <Tracy@delawariverkeeper.org>
Sent: Thursday, June 20, 2019 3:19 PM
To: Dow, Diane <Diane.Dow@dep.nj.gov>
Cc: Dietrick, Suzanne <Suzanne.Dietrick@dep.nj.gov>
Subject: [EXTERNAL] DRN Comment Re: Gibbstown Logistic Center #0807-16-0001.2, WFD190001

Dear Director Dow,

Please find attached a PDF containing Delaware Riverkeeper Network's comment on Delaware River Partners, Gibbstown Logistic Center - Dock 2, Gibbstown, Greenwich Township, Gloucester County, NJ, Waterfront Development IP In-Water, #0807-16-0001.2, WFD190001 with 2 enclosures.

Thank you,
Tracy Carluccio



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation

Mail Code 501-02A

P.O. Box 420

Trenton, New Jersey 08625-0420

www.nj.gov/dep/landuse

CATHERINE R. McCABE
Commissioner

SEP 05 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gary Lewis
Delaware River Partners, LLC
1345 Avenue of the Americas
New York, New York 10105

RE: **Reinstatement of Waterfront Development Individual Permit**
Application No(s): 0807-16-0001.2 WFD 190001
Applicant: Delaware River Partners, LLC
Project: Dock 2 - DRP Gibbstown Logistics Center (former EI Dupont Repauno site)
Block: 8, Lot 2,3,4.01,4.02 and portions of 1 and 4
Municipality: Gibbstown, Greenwich Township
County: Gloucester

Dear Mr. Lewis:

Pursuant to N.J.A.C. 7:7-27.7 (e) of the Coastal Zone Management Rules, the May 20, 2019 Waterfront Development Individual Permit that was suspended on June 5, 2019 is hereby reinstated. A 15-day public comment period was afforded on the subject application beginning on June 5, 2019 when noticed in the DEP Bulletin.

If you have any questions regarding this letter, please contact Suzanne U. Dietrick of my staff by e-mail at Suzanne.Dietrick@dep.nj.gov or by phone at (609) 292-2023. Be sure to indicate the Department's file number in all communication.

Sincerely,

Christopher Jones, Manager
Division of Land Use Regulation
Bureau of Urban Growth & Redevelopment

c: Municipal Construction Official
Municipal Clerk



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION

Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420

Telephone: (609) 777-0454 or Fax: (609) 777-3656

www.state.nj.us/dep/landuse



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.

Approval Date
May 20, 2019

Expiration Date
May 19, 2024

Permit Number(s):
0807-16-0001.2
WFD190001

Type of Approval(s):

Waterfront Development IP In-Water

Enabling Statute(s):
NJSA 12:5-3 et seq. WFD

Permittee:

Gary Lewis
Delaware River Partners LLC
1345 Ave of The Americas
New York, NY 10105

Site Location:

Delaware River Partners Gibbstown Logistic Center – Dock 2
Block(s) & Lot(s): [8, 2] [8, 3] [8, 4.01] [8, 4.02], portions of [8,1] and [8,4]
Municipality: Gibbstown, Greenwich Township
County: Gloucester

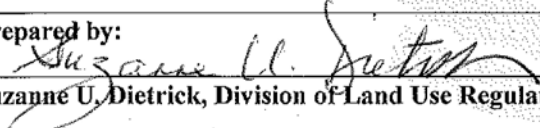
Description of Authorized Activities:

Construction of a new dock consisting of two loading platforms, eight breasting dolphins, 11 mooring dolphins and walkways. The total area of the dock structure is 139,127 square feet as shown on the approved plans on the last page of the permit.

Dredge no more than 665,000 cubic yards of sediment within a 45-acre area of the Delaware River. The depth of dredging shall be limited to -45 feet below mean low water (-45' MLW) plus two foot (2') of allowable overdraft and shall be restricted to the limits as depicted on the authorized plans. Dredging shall be accomplished using a closed clamshell environmental bucket.

This authorization to conduct activities in the Delaware River includes the issuance of a Water Quality Certificate.

Prepared by:


Suzanne U. Dietrick, Division of Land Use Regulation

**Received and/or Recorded by
County Clerk:**

If the permittee undertakes any regulated activity authorized under a permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the permit and all conditions therein.

This permit is not valid unless authorizing signature appears on the last page.

SPECIAL CONDITIONS

1. The Department, the Commissioner of the Department, and Administrator of the Spill Compensation Fund reserve all authority and rights against all parties responsible for the discharges or in any way responsible for the hazardous substances present at the site with respect to liability for all costs and damages, including but not limited to damages for injury to, destruction of, or loss of natural resources (including the costs to conduct primary restoration to pre-discharge conditions and compensatory restoration damages) and for the costs of any natural resource damage assessments. The Department and Commissioner of the Department further reserve their authorities and rights to seek all available relief, including equitable relief and the right to require any person responsible for the contamination at or migrating from the site to address natural resource injuries. Any approvals provided herein are without prejudice to the above-referenced authorities and rights.
2. Prior to the start of any in-water site disturbance authorized in this permit, the permittee shall obtain the following:
 - a. Valid Tidelands Instrument as applied for on March 1, 2019;
 - b. United States Army Corps of Engineering authorization for the project.
3. To minimize impacts to migrating and spawning of anadromous fish, any and all in-water work or sediment generating disturbances is prohibited from March 15 to June 30 of each year.
4. The depth of dredging shall be limited to -45 feet below mean low water (- MLW) plus 2 foot of allowable overdredge.
5. Dredging shall be restricted to the limits as depicted on the authorized plans. The volume of material to be dredged shall not exceed 665,000 cubic yards (cy) as shown on the approved plans.
6. A pre-construction dredging report shall be completed and sent to the Office of Dredging and Sediment Technology 14 days prior to construction. Please refer to the NJDEP, Land Use Regulation Program website.
7. The permittee shall employ the services of an independent dredging inspector to monitor dredging activities twice per week. The permittee shall submit the resume of the dredging inspector to the Department for review and receive written approval prior to the initiation of dredging. The independent dredging inspector shall perform inspections of the dredging contract a minimum of twice per week using the attached WQC Field Inspector form. The permittee shall submit the completed inspection forms to the NJDEP, ODST on at least a weekly basis.
8. Upon completion of dredging, a completion report shall be completed and sent to the Office of Dredging and Sediment Technology. The dredging contractor shall complete and submit the attached Dewatering Form to the independent dredging inspector on a weekly basis as part of the Quality Control Report provided to the permittee. Said Dewatering Form shall be certified by the independent dredging inspector that they have witnessed the dewatering process during the preceding week. The permittee shall submit the completed Dewatering Form with appropriate certifications by email to Mark.Davis@dep.nj.gov of the Office of Dredging and Sediment Technology for the preceding week.

9. REPORTING REQUIREMENTS: At the completion of the dredging project, the permittee shall submit the following information to the Office of Dredging and Sediment Technology. This information shall be submitted within three months of completion of dredging.

- Start and finish date of work order(s)
- Post-dredge hydrographic survey
- Completed "Notice of Completion of Work" attached for each work order(s)/completion of Project.

Closed Clamshell Environmental Bucket

10. Any fine-grained sediments dredged within the approved dredge area shall be removed using a closed clamshell environment bucket.
11. The dredge shall be control the rate of descent of the bucket to maximize the vertical cut of the clamshell bucket while not penetrating the sediment beyond the vertical dimension of the open bucket (i.e. overfilling the bucket). This will reduce the amount of free water in the dredged material, will avoid overfilling the bucket, and minimize the number of dredge bucket cycles needed to complete the dredging contract. The dredging contractor shall use appropriate software and sensors on the dredging equipment to ensure consistent compliance with this condition during the entire dredging operation. The independent dredging inspector shall monitor the operation of the software and sensors during the inspections as specified in the below conditions. Any malfunction of the software and sensors on the dredge at any time shall be immediately reported to the independent dredging inspector and the permittee by the dredging contractor and shall be immediately repaired to working order.
12. The closed clamshell environmental bucket shall be equipped with sensors to ensure complete closure of the bucket before lifting the bucket. Said sensors shall be operational during the entire dredging operation.
13. The closed clamshell environmental bucket shall be lifted slowly through the water, at a rate of 2 feet per second or less.
14. Dredged material shall be placed deliberately in the barge to prevent spillage of material overboard.
15. The discharge (i.e. "overflow") of water from the barge/scow into which dredged material is placed is prohibited.
16. All barges or scows used to transport sediment shall be of solid hull construction or be sealed with concrete.
17. The gunwales of the dredge scows shall not be rinsed or hosed during dredging except to the extent necessary to ensure the safety of workers maneuvering on the dredge scow.
18. All decant water holding scows shall be water tight and of solid hull construction.
19. Decant water from this project may only be discharged within the dredge area from where the sediments originated, in proximity to the dredging contract area. Discharge to another receiving

waterbody requires prior approval from the Department, and may require a New Jersey Discharge Pollutant Elimination System/Discharge to Surface Water (NJDPES/DSW) permit.

20. All decant water shall be held in the decant holding scow a minimum of 24 hours after the last addition of water to the decant holding scow. Said water contained in the decant holding scow may only be discharge after this mandatory 24-hour retention time.
 - a. Should the contractor wish to reduce the required holding time, the contractor shall demonstrate that the reduced holding time is sufficient to meet a total suspended solids (TSS) background value of 30 mg/L. The total suspended solids shall be determined through gravimetric analysis. No discharge shall be permitted from the decant holding scow until the results of the gravimetric analysis have confirmed that the 30 mg/L background level has been achieved. No additional water shall be added to the decant holding scow between the time of sample acquisition and discharge. Upon successful demonstration that the reduced holding time is sufficient to meet the TSS background level of 30 mg/L, the monitoring of TSS may be suspended and the demonstrated settling time shall replace the 24-hour minimum. A successful demonstration of the reduced holding time efficiency shall be determined once three consecutive TSS analyses have confirmed that the 30 mg/L action level has been achieved by the reduced holding time.
 - b. Should the contractor wish to demonstrate this reduced holding time, all records including time of last addition of decant water into the scow, time of TSS sampling and the results of TSS sampling shall be submitted to the NJDEP as soon as they become available, together with a request for a reduced holding time.
21. During pumping of the decant water from the holding scow, great care shall be taken to avoid re-suspending or pumping sediment which has settled in the decant holding scow.
22. The dredging contractor shall complete and submit the attached Dewatering Form to the independent dredging inspector on a weekly basis as part of the Quality Control Report provided to the permittee. Said Dewatering Form shall be certified by the independent dredging inspector that they have witnessed the dewatering process during the preceding week. The permittee shall submit the completed Dewatering Form with appropriate certifications by email to the Office of Dredging and Sediment Technology for the preceding week.
23. Acceptable Use Determination for Dredged Material

The 665,000 cubic yards of dredged material to be removed from the berthing facility was sampled in accordance with an approved Sediment Sampling and Analysis Plan (SSAP) dated December 24, 2019. The analytical results of the sediment sampling were submitted with the Waterfront Development Permit on March 20, 2019. The NJDEP has reviewed the analytical results for the project and the document entitled "Dredged Material Management Plan, DRP Gibbstown Logistics Center, - Dock 2 Gibbstown, NJ "(DMMP) dated March 2019. The NJDEP has also reviewed the five sheets entitled "Dredge Material Management Plan, Dock 2, DRP Gibbstown Logistic Center, Gibbstown, New Jersey" dated March 13, 2019, and prepared by Nestor D. Soler, PE of Ramboll Environ.

The following conditions are the Acceptable Use Determination for the 665,000 cy of material to be managed from this project:

- a. Sixty days prior to the initiation of dredging as authorized in this permit, the permittee shall schedule an on-site meeting with the NJDEP and designated contractor (s) performing the dredging, processing and placement of the material to finalize the dredging schedule, disposal and beneficial use site options.
 - b. Fort Mifflin CDF - Placement of the dredged material or processed dredged material from this project at the identified out-of-state placement sites is addressed in separate authorizations and approvals issued by the Pennsylvania Department of Environmental Protection and the owner/operator of the site.
 - c. Whites Rehandling Basin – Placement of the dredged material from this project shall comply with the conditions specified in the Weeks Marine Waterfront Development Permit In-Water, Water Quality Certificate and Acceptable Use Determination (DEP File #0809-08-0010.1 LUP190001 and CDT180001)
 - d. If the permittee proposes to place the dredged material from this project at a location different from that approved in this permit, written authorization in the form of a minor or major technical modification must be obtained from the Department prior to the transport of any dredged material to the alternative placement location.
24. To protect sensitive habitat for the State-listed Osprey, the permittee shall adhere to a seasonal restriction on the use of heavy construction equipment/machinery within 1000 feet (300 meters) of any active osprey nest along the project limit of disturbance from April 1 through August 31 of each calendar year. The initiation and implementation of work which generates disturbance (e.g., sound levels, visual interruption) that is out of character with what currently exists at or surrounding the anticipated work area during the restricted time-period recommended above may result in the permittee being in violation of the "take" clauses within State of New Jersey (Endangered and Nongame Species Conservation Act, NJSA 23:2A-1) and federal (Migratory Bird Treaty Act, 16 USC 703-712) statutes.

STANDARD CONDITIONS:

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District having jurisdiction over the site.
5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.

6. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (Warn DEP Hotline) of any noncompliance that may endanger the public health, safety, and welfare, or the environment. In addition, the permittee shall inform the Division of Land Use Regulation by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - d. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
7. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
8. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
9. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
10. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
11. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - a. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - c. Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action under.
12. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action under, as well as, in the appropriate case, suspension and/or termination of the permit.
13. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect so long as the regulated activity or project, or any portion thereof, is in existence, unless the permit is modified.
14. For Coastal Permits, Flood Hazard Permits and Flood Hazard Verifications, the permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The

permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to the Division of Land Use Regulation at the address set forth in the rules.

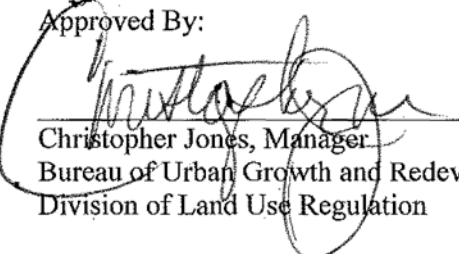
15. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
16. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
17. A permit shall be transferred to another person only in accordance with the regulations.
18. A permit can be suspended or terminated by the Department for cause.
19. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
20. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
21. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
22. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris, or structures within or adjacent to the channel while the regulated activity(ies) is being undertaken. Upon completion of the regulated activity(ies), the permittee shall remove and dispose of in a lawful manner, all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
23. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.

APPROVED PLANS:

- The drawings hereby approved consist of five (5) sheets prepared by Nestor D. Soler, PE of Ramboll Environ, dated March 13, 2019, unrevised and entitled "DREDGE MATERIAL MANAGEMENT PLAN – DOCK 2, DRP GIBBSTOWN LOGISTICS CENTER, GIBBSTOWN, NEW JERSEY"
- "DRP GIBBSTOWN – LOGISTIC CENTER, DOCK 2", prepared by Thomas Shafer, P.E. Maser Consulting, dated February 21, 2109, unrevised, and entitled:

- INDEX OF DRAWINGS, Sheets 3 of 20,
- PROJECT AREA, Sheet 4 of 20,
- PLAN - DREDGING, Sheet 5 of 20,
- SECTIONS - DREDGING SHEET 1 of 3, Sheet 6 of 20,
- SECTIONS - DREDGING SHEET 2 of 3, Sheet 7 of 20,
- SECTIONS - DREDGING SHEET 3 of 3, Sheet 8 of 20,
- PLAN - GENERAL ARRANGEMENT BERTH A AND BERTH B, Sheet 9 of 20
- PLAN - PILE BERTH A AND BERTH B, Sheet 10 of 20
- PLAN - DECK BERTH A AND BERTH B, Sheet 11 of 20
- PLAN - ENLARGED BERTH A AND BERTH B, Sheet 12 of 20
- PLAN - LANDSIDE TRANSITION BERTH A AND BERTH B, Sheet 13 of 20
- PLAN - SECTION LANDSIDE TRANSITION BERTH A AND BERTH B, Sheet 14 of 20
- SECTION - TYPICAL TRESTLE, Sheet 15 of 20
- SECTION - TYPICAL MOORING DOLPHIN, Sheet 16 of 20
- SECTION - TYPICAL BREASTING DOLPHIN, Sheet 17 of 20
- SECTION - TYPICAL SHARED DOLPHIN, Sheet 18 of 20
- SECTION - LOADING PLATFORM, Sheet 19 of 20
- SECTION - TYPICAL WATERWAY SUPPORT, Sheet 20 of 20

Approved By:



Christopher Jones, Manager
Bureau of Urban Growth and Redevelopment
Division of Land Use Regulation



Date

Original sent to Agent to record

c: Permittee

Construction Official



New Jersey Judiciary
Superior Court - Appellate Division
Civil Case Information Statement

Please type or clearly print all information.

Title in Full IN THE MATTER OF CHALLENGE OF DELAWARE RIVERKEEPER NETWORK AND MAYA VAN ROSSUM-THE DELAWARE RIVERKEEPER TO DELAWARE RIVER PARTNERS, LLC WATERFRONT DEVELOPMENT INDIVIDUAL PERMIT NO. 0807-16-0001.2 WFD 19001	Trial Court or Agency Docket Number NO DOCKET #
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• Attach additional sheets as necessary for any information below.

Appellant's Attorney * Email Address: **LMW@CURTINHEEFNER.COM**
JMD@CURTINHEEFNER.COM

☒ Plaintiff ☐ Defendant ☐ Other (Specify)

Name LAUREN M WILLIAMS, Esq.	Client DELAWARE RIVERKEEPER NETWORK*			
Street Address 2005 S. EASTON RD. STE 100	City DOYLESTOWN	State PA	Zip 18901	Telephone Number 267-898-0570

Respondent's Attorney * Email Address: **DOL.APPEALS@LAW.NJOAG.GOV**
DOLAPPEALS@LPS.STATE.NJ.US

☐ Plaintiff ☒ Defendant ☐ Other (Specify)

Name MELISSA H RAKSA, Esq.	Client STATE OF NEW JERSEY			
Street Address 25 MARKET ST PO BOX 112	City TRENTON	State NJ	Zip 08625-0106	Telephone Number 609-984-3900

Give Date and Summary of Judgment, Order, or Decision Being Appealed and Attach a Copy:
9/05/2019 Decision by NJDEP to Reinstate Waterfront Development Individual Permit for Delaware River Partners, LLC. Copy of letter and permit attached.

Notice received on 9/10/19.

Have all the issues as to all the parties in this action, before the trial court or agency, been disposed? (There may not be any claims against any party in the trial court or agency, either in this or a consolidated action, which have not been disposed. These claims may include counterclaims, cross-claims, third-party claims, and applications for counsel fees.) ☒ Yes ☐ No

If outstanding claims remain open, has the order been properly certified as final pursuant to R. 4:42-2? ☒ Yes ☐ No ☐ N/A

A) If the order has been properly certified, attach copies of the order and the complaint and any other relevant pleadings to the order being appealed. Attach a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.

B) If the order has not been certified or has been improperly certified, leave to appeal must be sought. (See R. 2:2-4; 2:5-6.) Please note that an improperly certified order is not binding on the Appellate Division.

If claims remain open and/or the order has not been properly certified, you may want to consider filing a motion for leave to appeal or submitting an explanation as to why you believe the matter

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is final and appealable as of right.

Were any claims dismissed without prejudice?

☐ Yes ☒ No

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (*R. 2:5-1(g)*) ☐ Yes ☒ No

Give a Brief Statement of the Facts and Procedural History:

On March 5, 2019, NJDEP received Delaware River Partners, LLC's ("DRP") application for a Waterfront Development Individual Permit ("Permit"). NJDEP determined the application, 0807-16-0001.2 WFD 190001, to be administratively complete on March 20, 2019.

On May 20, 2019, NJDEP issued the Permit.

However, on June 5, 2019, NJDEP suspended the Permit due to failure to provide public notice of NJDEP's receipt of DRP's application. NJDEP published notice in the June 5, 2019 NJDEP Bulletin, and provided a 15 day comment period.

On June 20, 2019, Appellants Delaware Riverkeeper Network and Maya van Rossum, the Delaware Riverkeeper, submitted timely comments and objected to the Permit on numerous grounds.

On September 5, 2019, NJDEP lifted its June 5, 2019 suspension, reinstated the Permit, and issued a Response to Comments Document.

Appellants learned of NJDEP's action on September 10, 2019.

The Permit pertains to DRP's proposed Dock 2 project, which is part of a larger approximately 371-acre proposed facility called the Gibbstown Logistics Center, which is intended to receive and export liquefied natural gas ("LNG"), to store and ship out liquefied hazardous gas ("LHG"), and to handle other miscellaneous products such as roll-on/roll-off, perishables, and non-containerized break bulk cargo. The Dock 2 project is primarily, if not solely, focused on export of bulk liquid products (e.g. LNG and LHG). The Dock 2 project entails the construction of two vessel berths, including associated dredging of approximately 665,000 cubic yards of river bottom; piping; and other needed site and water development (e.g. mooring dolphins, loading platforms, trestle with pedestrian and vehicular access, etc.).

To the extent possible, list the proposed issues to be raised on the appeal as they will be described in appropriate point headings pursuant to *R. 2:5-2(a)(6)*. (Appellant or cross-appellant only.):

As a preliminary matter, Appellants have not been able to obtain access to the full administrative record despite informal and formal requests to NJDEP. Thus, the issues set forth below are the issues they are able to identify at this time based on the information in their possession. Appellants provide these proposed issues for information purposes only at this time and reserve their right to amend and/or perfect these issues, or to add issues to this appeal as appropriate per the Rules of Court.

A. NJDEP's approval/reinstatement of the Permit ("Permit Action") is arbitrary, unreasonable, not supported by the record, and contrary to law.

B. NJDEP improperly took the Permit Action despite DRP's failure to obtain an industrial stormwater NJPDES permit.

C. The Permit Action is arbitrary, unreasonable, not supported by the record, and contrary to law because DRP's approval from the Delaware River Basin Commission ("DRBC") requires an industrial stormwater NJPDES permit.

D. The Permit Action is arbitrary, unreasonable, not supported by the record, and contrary to law because NJDEP had insufficient evidence to determine that no adverse impacts to water quality or water quality violations would result in violation of NJ Coastal Zone Management ("CZM") regulations. As one example, NJDEP replied on DRP's NJDEP-approved sampling and analysis plan to say that there would not be harm to water quality from development approved by the Permit Action. However, that plan failed to include

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parameters such as aniline and nitrobenzene, which are constituents known or suspected to be on the site, in runoff from the site, and in riverbed sediments at or near the site. Thus, for contaminants of most concern and high likelihood of being present, NJDEP has no data from which to make its water quality conclusions. NJDEP could not determine that there will be no harm when it has no data to support such a conclusion.

E. The Permit Action violates the DRBC's water quality requirements.

F. NJDEP's determination that the record supports the Permit Action's compliance with the record is arbitrary, unreasonable, unsupported by the record, and contrary to law, including NJ CZM Regulations. CZM regulations implicated include, but are not limited to, the following:

i. N.J.A.C. 7:7-16.6, regarding stormwater management.

a. DRBC requires an industrial stormwater permit for the entire DRP project, not just Dock 2 and not just "upland areas" of the proposed project.

b. DRP's project qualifies as "major development" under N.J.A.C. 7:8-1.2, as does the Dock 2 component. The over-water footprint of the Dock 2 portion of the project alone is approximately 3.2 acres (excluding the dredging) of new impervious surface. The project as a whole is approximately 371 acres.

c. NJDEP has improperly segmented the Dock 2 portion of the project from the rest of the project to avoid DRP needing an industrial stormwater NJPDES permit.

ii. N.J.A.C. 7:7-16.3, regarding water quality.

iii. N.J.A.C. 7:7-9.36, regarding endangered/threatened wildlife or plant species habitats;

iv. N.J.A.C. 7:7-9.37, regarding critical wildlife habitat.

v. N.J.A.C. 7:7-9.34, regarding historic and archaeological resources.

vi. NJ CZM regulations pertaining to compatibility of the proposed use with surrounding land uses and the local environment (e.g. lack of adverse impacts, compatibility, buffers, etc.) including but not limited to: N.J.A.C. 7:7-16.10 to 16.12, 7:7-15.4(a)-(c), (p), (q); 7:7-14.2; 7:7-9.36; 7:7-9.37; 7:7-9.39; 7:7-12.7; 7:7-14.3; 7:7-16.2(b) 7:7-9.11; see also N.J.A.C. 7:7-1.5.

G. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because the record fails to demonstrate that the proposed project, including Dock 2, would be compatible with, inter alia, residential development, existing scenic resources, and other surrounding land uses and natural resources.

H. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because it failed to address or include protections against secondary impacts and impacts from the proposed facility's operation on threatened and endangered species (e.g. Atlantic sturgeon and vessel strikes). See, e.g. N.J.A.C. 7:7-9.36(b), 7:7-9.37(b).

I. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because NJDEP failed to address legitimate concerns relative to ongoing site remediation and the impacts of the proposed project on release of contaminants and the site remediation.

J. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because NJDEP failed to address or to properly address secondary and cumulative impacts. See, e.g., N.J.A.C. 7:7-14.3.

K. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because NJDEP failed to properly and meaningfully consider the comments provided to it, as evidenced in part by the fact that NJDEP made no changes to the permit that it erroneously issued prior to public notice and comment.

L. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because NJDEP relied on conflicting reasoning and/or conclusory statements for the Permit Action. For instance, in response to comments regarding the site's naturalization, the NJDEP claims that because the site is a contaminated industrial site, the proposed facility is best located there. This is despite the site's naturalization and, without basis in the record, NJDEP's claim no habitat fragmentation will occur.

M. The Permit Action is arbitrary, unreasonable, unsupported by the record, and contrary to law because NJDEP improperly deferred and/or left review and/or consideration of impacts within its jurisdiction to other

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agencies and/or permitting processes, even if those processes occurred prior to the Dock 2 project proposal.

If you are appealing from a judgment entered by a trial judge sitting without a jury or from an order of the trial court, complete the following:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ ☐ Yes ☒ No
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ ☐ Yes ☒ No
3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? ☐ Yes ☒ No ☐ Unknown

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

Date of Your Inquiry:

1. Is there any appeal now pending or about to be brought before this court which:

- (A) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☒ No
- (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? ☐ Yes ☒ No

If the answer to the question above is Yes, state:

Case Title Trial Court Docket# Party Name

2. Was there any prior appeal involving this case or controversy? ☐ Yes ☒ No

If the answer to question above is Yes, state:

Case Name and Type (direct, 1st PCR, other, etc.) Appellate Division Docket Number

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

State whether you think this case may benefit from a CASP conference. ☐ Yes ☒ No

Explain your answer:

NJDEP did not change anything in the erroneously-issued Permit after the public comment period, despite multiple commenters identifying deficiencies and violations of NJ's coastal zone management regulations. The public comment appears to have been a mere formality for NJDEP, rather than a meaningful process to genuinely ensure the Permit was proper. Thus, it is doubtful that discussion now would result in significant progress.

Whether or not an opinion is approved for publication in the official court report books, the Judiciary posts all Appellate Division opinions on the Internet.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

DELAWARE RIVERKEEPER NETWORK

Name of Appellant or Respondent

10/18/2019

Date

LAUREN M WILLIAMS, Esq.

Name of Counsel of Record
(or your name if not represented by counsel)

s/ LAUREN M WILLIAMS, Esq.

Signature of Counsel of Record
(or your signature if not represented by counsel)

LMW@CURTINHEEFNER.COM, JMD@CURTINHEEFNER.COM

002812012

Bar #	Email Address
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New Jersey Judiciary
Superior Court - Appellate Division
CIVIL Case Information Statement

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