



The Delaware RIVERKEEPER® Network's Quarterly Newsletter

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## Upcoming events

**July 28**  
**Members' Day on the Bay**  
 Cape Henlopen State Park  
 Lewes, DE

**September 23**  
**Taste of the Delaware River Region**  
 Prallsville Mill  
 Stockton, NJ

**March 1, 2008**  
**Schuylkill Watershed Congress**  
 Montgomery County  
 Community College  
 Pottstown, PA

For more news about Delaware Riverkeeper Network activities, go to [www.delawareriverkeeper.org](http://www.delawareriverkeeper.org) and look for the latest information under **News/Calendar** on our homepage.

## New guidance weakens Clean Water Act

*A note from the Delaware Riverkeeper*

This year marks the thirty-fifth anniversary of the passage of the Clean Water Act. Many people now take that landmark law for granted, rarely thinking of the hard-won protections it affords our waterways. At the same time, they give the law too much credit – assuming it stops pollution when in fact it really legalizes, albeit limiting, the amount of pollution that can be discharged to a stream.

People also assume the Clean Water Act protects wetlands and small streams with intermittent flow from fill, pollution or other harms. By itself, the Clean Water Act does not provide wetlands and small waterways with clear and needed protections, but Supreme Court rulings of the past and regulations by the agencies have thus far provided them some measure of defense. Today the Clean Water Act is being undermined by the very agencies charged with interpreting, implementing and enforcing it. The U.S. Environmental Protection Agency and Army Corps of Engineers are now using their regulatory discretion and authority to chisel away at the protections the Clean Water Act provides.

These agencies recently issued guidance making it harder to protect wetlands and intermittent streams unless a “significant nexus” connects them to a navigable waterbody. Whether or not a significant nexus exists will be decided on a case-by-case basis, completely disregarding the collective role wetlands and intermittent streams play in watershed health.

This guidance comes in response to last year’s splintered Supreme Court decision that ruled the Clean Water Act had been interpreted too broadly. The new guidance draws upon the opinion of Justice Kennedy, which called for the significant nexus test. However the new guidance does not accurately implement the language of Justice Kennedy and does not take full advantage of the breadth of perspective he allowed for in wetlands and stream protection. Justice Kennedy’s opinion took a broad view of the effects of wetlands on water quality and ecosystems. The new guidance apparently does not.

The Clean Water Act may not have been the best piece of legislation, but it has provided critical and progressive protection for our waterways. The Supreme Court decision scraped away a good degree of that protection. The EPA and Army Corps are turning the scrape into a gouge. The result may well be fewer wetlands, more pollution, more flooding, exacerbated drought and loss of some of the most important, sensitive and beautiful ecosystems that protect and enrich our lives.

*Maya K. van Rossum*  
 the Delaware Riverkeeper

**Want to comment on a topic in this issue of River Rapids?** We want to hear from you. Simply send your emails to [riverrapids@delawareriverkeeper.org](mailto:riverrapids@delawareriverkeeper.org).

# The Delaware RIVERKEEPER® Network

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## Petty's Island Update

Cherokee Redevelopment and their wildlife consultant, Thomas Cullen, were charged with violating New Jersey's endangered species law for actions that directly led to the death of Petty's Island's baby bald eagle.

Seeking to avoid taking responsibility for their actions, Cherokee asked the Superior Court if they could just pay \$10,000 of the state imposed \$30,000 fine, but refuse to admit guilt.

The Delaware Riverkeeper Network and other members of the Save Petty's Island Coalition attended the hearing to show support for full enforcement of the law and to learn the judge's decision. Superior Court Judge Koenig, as well as New Jersey's Deputy District Attorney insisted that only Cherokee's admission of guilt would offer "full relief" of the State's legal complaint. When Cherokee refused, the Court refused their request and set a trial date for July 24, 2007.

## PFOA found in New Jersey drinking water

How important is your non-stick cookware? Are you willing to trade your health for stain resistant fabrics? The chemical that creates that slippery surface that prevents food from sticking to pans or stains on clothing is perfluorooctanoic acid, or PFOA, it has been labeled a "likely carcinogen" by the U.S. EPA's Science Advisory Board and has been linked to human health problems including birth defects. And it's here in New Jersey's drinking water.

The New Jersey Department of Environmental Protection announced in February that PFOA had been found in 17 of 23 tested drinking water systems. This study and associated guidance report are the first steps toward regulating the chemical. The guidance report set a safe drinking water value of .04 parts per billion, the toughest standard in the nation.

The Delaware Riverkeeper Network is working with other environmental and labor groups as the DuPont Accountability Coalition to document PFOA contamination in and near workplaces and communities where PFOA is manufactured: West Virginia, North Carolina, and New Jersey drinking water systems in Sayreville and in the Penns Grove, Pennsville and Deepwater area.

Drinking water samples from Thorofare, New Jersey, taken by the United Steelworkers, a member of the DuPont Accountability Coalition, showed trace levels of PFOA at 4.86 parts per trillion or .004 parts per billion (NJDEP did not test Thorofare's drinking water). Even low levels in drinking water are cause for concern because the body's difficulty to excrete PFOA means higher levels will accumulate in the blood.

The presence of PFOA in Thorofare's drinking water argues for the clean-up of the Solvay Solexis site, which has a history of fluoropolymer manufacturing and known groundwater contamination. Employees have alleged extremely high levels of PFOA in their blood.

The Coalition also wants NJDEP to require PFOA monitoring at Solvay Solexis, as is required in the discharge permits for DuPont's Chambers Works Facility in Deepwater, NJ. DuPont announced it would end production of PFOA by 2015, but recently refused the Coalition's request to begin reducing and making public its monthly PFOA production amounts.

PFOA contamination extends beyond the workplaces and communities where the chemical was manufactured or handled. All of us have an average of 5 parts per billion in our blood streams. To help stop PFOA pollution, go to the **Take Action** page of our website to learn more and get help preparing a letter for elected officials.

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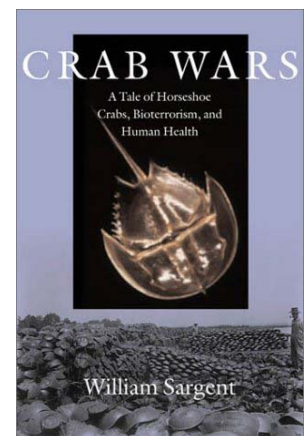
**Stay informed, get involved with E-Activist . . .** Be the first to get breaking news about the River through **E-Activist**, a free service available through our website. Click on *Take Action* and then on *E-Activist Sign-up* to register.

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## A Book for the Beach

Looking for a good book to read this summer? We recommend William Sargent's *Crab Wars*, the perfect beach reading. Sargent tells the story of the ancient horseshoe crab and its role in the biomedical industry, local fisheries, and endangered migratory birds. *Crab Wars* also provides context for the Delaware Riverkeeper Network's ongoing efforts to save horseshoe crabs and the endangered red knot *rufa*.

Buy *Crab Wars* from us for a special summer sale price of \$10.00! Send your check payable to Delaware Riverkeeper Network, plus \$3.00 for shipping and handling to: Delaware Riverkeeper Network, 300 Pond St, 2nd Floor, Bristol, PA 19007.



## Corzine makes deal on the deepening

Now we know where Governor Corzine really stands. Although he previously expressed opposition to the plan to deepen the Delaware River shipping channel, Governor Corzine has buckled to political pressure from Pennsylvania regardless of the ramifications for New Jersey's drinking water, environment and jobs. Pennsylvania doesn't own the Delaware River, but it's now in the driver's seat with the States of New Jersey and Delaware being taken along for the ride. This deal, which has been in the works for months, means that:

- The Philadelphia Regional Port Authority, an independent agency of the Commonwealth of Pennsylvania, will become the project sponsor.
- Pennsylvania will be asking the Army Corps of Engineers for an updated Environmental Impact Statement to be issued within a 6-month period (an unreasonable time-frame given the breadth of cost, threats, data and ongoing concerns).
- New Jersey will retain whatever limited permitting authority it might hold for the project and will seek to release a permit decision on some kind of expedited basis.
- New Jersey makes no financial commitments to the project.
- A committee with representatives from Pennsylvania, New Jersey and Delaware will have to agree unanimously on the dredge spoil disposal plan for the project (Pennsylvania has said it will take them all).
- Delaware River Port Authority funds previously set aside for the project (\$38 million) will be divided between New Jersey and Pennsylvania to use as they see fit (New Jersey says it will use the funds for environmental projects and a port improvement effort).

Since Fall 2006, opponents of the deepening project in New Jersey have been seeking - and have repeatedly been denied - a meeting with Governor Corzine. As far as we understand, no South Jersey legislators were included in the conversations surrounding the deal or the negotiations themselves - and especially not Congressman Andrews or State Senator Sweeney who have been such staunch opponents of the deepening project and such strong allies to our efforts to defeat the proposal. No one from the State of Delaware has been included in the conversations or negotiations for this deal.

The Delaware Riverkeeper Network is among the environmental organizations calling for public hearings to identify the safeguards that need to be put in place to protect us from this unenforceable and dangerous deal, which by its very terms suggests that it is likely to be violated.

## How can you take action?

### *In New Jersey*

New Jersey citizens should write State legislators asking them to call for hearings to investigate and review the deal and to identify safeguards that need to be put in place to protect our communities, river and environment from it. A sample letter can be found at the Take Action page of our website, [www.delawriverkeeper.org](http://www.delawriverkeeper.org).

### *In Delaware*

Delaware citizens should write Governor Minner and ask her to remain firm on the issue, to not allow any State of Delaware permits to be issued for this project, and to fight for safeguards to protect Delaware from this dangerous, bilateral deal.

## Tarnishing a treasure

The Delaware River serves many purposes: it provides an entrance way to major east coast ports, it provides drinking water to over 15 million people, it supports recreation and ecotourism; and it provides food, water and habitat to fish, wildlife and plants throughout the region.

What will the Delaware River deepening mean for the environment?

- It poses a variety of toxic pollution threats including the introduction or reintroduction of toxins into the River and drinking water aquifers as well as bioaccumulation of toxins in fish, birds and wildlife.
- It threatens an array of ecologically and economically important species such as horseshoe crabs, oysters, shortnose sturgeon, sportfish, Red Knot *rufa*, peregrine falcon and bald eagle.
- It may compound sea level rise impacts including erosion, flooding and habitat loss.

What will the Delaware River deepening mean for the economy?

- Economically the project has a negative benefit-cost ratio; in other words, money is lost on every dollar invested.



*The Delaware River at Penn's Landing.*

*Photo: M van Rossum*

# Delaware RIVERKEEPER® Network

*The Voice of the River and its Tributary Streams*

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## DRN's Members' Day

**Saturday, July 28th, 2007**

**10:00 AM to 6:30 PM**

**Cape May, NJ, to Cape Henlopen, DE**

Can't get enough of the beach this year? Come to the Delaware Riverkeeper Network's **Members' Day on the Bay** on **Saturday, July 28th**.

It's a day for you and your friends and family to explore the Delaware Bay and meet Delaware Riverkeeper Maya van Rossum and Delaware Riverkeeper Network staff. Members' Day 2007 is better than ever starting with a ferry ride from Cape May, New Jersey, to Lewes, Delaware, followed by a catered lunch and some R&R on the beach. Join in the fun with our fish-printing activity with replica native fish (bring a plain T-shirt for printing). Or take a guided nature hike around Cape Henlopen State Park.

If you'd like to register by phone, please call Katy Diana at 215-369-1188, ext.106. Tickets for this fun-filled day are just \$20 per adult, \$10 per child ages 6 to 10. Younger children attend for free. Groups of 6 people or more get a 10% discount on their ticket price so bring your friends and family!

## Members' Day Schedule

- 10:00 AM - Arrive in Cape May, NJ, to
- 10:30 AM - board the **Cape May-Lewes Ferry**. *Please note: The boat cannot be held for latecomers.*
- 11:00 AM - Ferry leaves Cape May for the 17-mile crossing to Lewes, DE.
- 12:15 PM - A bus will shuttle us from Lewes 1/2 mile to **Cape Henlopen State Park**.
- 12:30 PM - A **catered lunch** will be provided at the pavilion.
- 1:00 PM - **Relax on the beach and enjoy the Delaware Bay!**
- 5:00 PM - **Fish-printing** with colorful paints!
- 2:00 PM (Optional)
- 3:00 PM - **Guided Nature Walk**.
- (Optional) (Limited to 20 participants)
- 5:15 PM - Board the bus for the ride back to Lewes for the Ferry.
- 6.30 PM - Ferry returns to Cape May.

**Thanks to our Members' Day sponsors!**

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