



9/8/2009

Back Room Strategy to Ignore Delaware Permit for Delaware Deepening Uncovered

Bristol, PA – Documents uncovered and released by the Delaware Riverkeeper show the Army Corps' plan to circumvent Delaware State environmental protection laws for the Delaware River deepening proposal.

In a document dated April 30, 2009 then Assistant Secretary of the Army Civil Works (ASACW) John Paul Woodley, Jr. issued a "Memorandum of Finding that, based on Section 404(t) and 511(a) of the Clean Water Act, the Delaware River 45' Channel Deepening Project will not be subject to any requirement imposed under the authority of the Delaware Subaqueous Lands Act."

"The Army Corps has been threatening Delaware for over a year to undermine its legal authority – but now we know they have been laying the groundwork for months for their carefully crafted strategy – going so far as to get a signed position from an outgoing Civil Works officer knowing that any new incoming official was unlikely to take such a legally dubious position as to usurp a State's right to protect itself from a damaging federal project" says Maya van Rossum, the Delaware Riverkeeper.

According to van Rossum, the Delaware Riverkeeper, "this is not a legally successful position for the Army Corps to be taking – but it just proves the lengths the Army Corps is willing to go in order to get this project done."

According to van Rossum, the questionable nature of the position is demonstrated by a February 05, 2009 email (also released by her organization) in which Army Corps personnel state "... we must act quickly because Woodley's days are numbered and an Acting ASACW or a new Obama ASACW is not likely to support such Action."

The proposal to deepen the Delaware River's main navigation channel was first put forth officially in 1992.

The Army Corps submitted an application to the Delaware Department of Natural Resources and

Delaware Riverkeeper Network
300 Pond Street, Second Floor
Bristol, PA 19007
tel: (215) 369-1188
fax: (215) 369-1181
drkn@delawareriverkeeper.org
www.delawareriverkeeper.org

Environmental Control seeking a subaqueous lands and wetlands permit and water quality certification for the project in January 2001. In December 2003 the administrative hearing officer issued a report to the Secretary of DNREC recommending the Secretary deny the Corps' permit application finding that the Army Corps failed to provide "sufficient and necessary information to meet the regulatory burden to obtain a permit under the authority of Chapter 66, as potential adverse effects have not been proven to be minimized." (Hearing Officer's Report, p. 58). On Jul 24, 2009 the Department of Natural Resources and Environmental Control (DNREC) announced their decision to deny the Army Corps of Engineers' application for a Subaqueous Lands and Wetlands permit for the Delaware River Main Channel Deepening project.