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Pursuit of Action Against the Army Corps for Violation of Deepening Order Applauded by Environmental Groups

Trenton, NJ. New Jersey's announcement that it will seek to hold the Army Corps accountable for violation of a court order with regards to their Deepening project is being applauded by environmental organizations.

"The Army Corps has been acting in bad faith, violating the law, now violating court orders, all in their blind passion to deepen the Delaware River no matter what the harm and what the cost. It is important that New Jersey's Governor and DEP Commissioner continue to champion protection of the environment, of our communities, and of the rule of law in the face of such tyranny" says Maya van Rossum, the Delaware Riverkeeper.

In documents filed earlier this week (9/7/10) in Federal District Court for the District of Delaware the Army Corps admits to dumping dredge spoils in a confined disposal facility located on New Jersey lands and discharging runoff into New Jersey waters from the Delaware Deepening. This revelation comes despite a preliminary injunction that is based upon Army Corps representations, limiting all construction, dredge spoil disposal activity and discharge of polluted water to the State of Delaware.

According to Army Corps documents filed with the court on September 7, 2010: after August 13, 2010 spoils began being dumped into a CDF located in New Jersey, and on

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August 28 a dike failed that would lead to discharge of CDF runoff into New Jersey waters, on August 30 discharge into New Jersey waters occurred. Only on August 31 did the Army Corps direct the contractor to stop disposal on New Jersey lands and discharge of CDF runoff waters into New Jersey waters.

“The Army Corps is acting in flagrant disregard of the court and the law. We applaud Governor Christie and DEP Commissioner Martin for being top environmental cops here by taking strong action to enforce the law, even against the Obama Administration. The federal government is supposed to be doing good not harm, shame on them!” says NJ Environmental Federation Vice Chair Jane Nogaki.

“This is just another demonstration that the Army Corps is not to be trusted. The Army Corps acts like a lone cowboy with unilateral authority over all its actions – but this is not the way our country works. The Army Corps is not above the law” said Maya van Rossum, the Delaware Riverkeeper. “It is time for the Courts, the Congress and the President to reign the Army Corps in when it comes to the Deepening Project and to stop all funding.”

Elizabeth Koniers Brown, attorney for the environmental groups, stated, “the court injunction allowed work to proceed only in the State of Delaware, and rationalized that New Jersey would be insulated from pollution discharges during the first phase of work. The Army Corps’ unauthorized work in the State of New Jersey should be considered a clear violation of the injunction.”

The Delaware Riverkeeper Network, National Wildlife Federation, New Jersey Environmental Federation, Delaware Nature Society, and Clean Water Action filed legal actions in November, 2009 in both New Jersey Federal District Court and Delaware Federal District Court challenging the Deepening project. The organizations claim that the Army Corps’ pursuit of the project violates the National Environmental Policy Act, the Clean Water Act, the Clean Air Act, the Coastal Zone Management Act, and 3 other federal laws.

The Deepening Project is a 1992 proposal by the US Army Corps of Engineers, in partnership with the Philadelphia Regional Port Authority, to deepen the Delaware River’s main navigation channel from 40 to 45 feet, for 102 miles. The last Environmental Impact Statement for the project was completed in 1997. The New Jersey Department of Environmental Protection revoked its Coastal Zone Consistency Determination for the project in 2003. In 2009 the Delaware Department of Natural Resources and Environmental Control denied the project State Subaqueous Lands and Wetlands permits. The Army Corps has been allowed by the courts to deepen a 12 mile stretch known as Reach C, but is under preliminary injunction preventing deepening beyond Reach C.

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