



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF WATER RESOURCES
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

WETLANDS & SUBAQUEOUS
LANDS SECTION

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July 27, 2010

Lt. Colonel Philip Secrist, III
US Army Corps of Engineers – Philadelphia District
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

Dear Lt. Colonel Secrist:

My name is Timothy Bureau, and I have been appointed Hearing Officer by the Delaware Department of Natural Resources & Environmental Control (DNREC) for the Corps of Engineers application for a permit to deepen the Delaware River Main Shipping Channel.

As you are likely aware, I have provided the public with 60 days to comment on your application, or until September 13, 2010. Secretary O'Mara has committed DNREC to a timely and efficient review process, and I am attempting to meet those goals in performing my duties as Hearing Officer.

Rather than wait until all comments are received, I am transmitting a list of questions which have been developed from my initial review of the Record. Please review and respond accordingly. The enclosed request for information should not be viewed as limiting potential future questions, but is an attempt to work through the application process in an expedited manner as the review progresses.

Your prompt attention to this matter is sincerely appreciated, and will assist me in achieving a timely review. Please respond to:

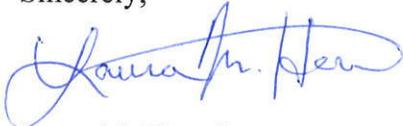
Hearing Officer
Main Channel Deepening Project
DNREC
89 Kings Highway
Dover, DE 19901

Delaware's good nature depends on you!

July 27, 2010
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Be advised, the enclosed questions and your responses will be posted on the project web site created by DNREC to facilitate public review of your application. If there are any questions, please do not hesitate to contact me. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Laura M. Herr". The signature is fluid and cursive, with the first name being the most prominent.

Laura M. Herr for
Timothy Bureau
Main Channel Deepening Hearing Officer

C: The Honorable Collin P. O'Mara, DNREC Secretary

Enclosure

QUESTIONS FOR US ARMY CORPS OF ENGINEERS July 27, 2010

1. Does the Corps intend to reply to the remaining questions posed by DNREC at your joint meeting on June 14 and in their June 15, 2010 letter? If so, when do you anticipate those responses will be sent (the Corps June 24, 2010 letter committed the response would be received prior to the Public Hearings)?
2. Please provide a chart or graphic depiction of all pertinent dredge windows by species. Please indicate whether the project proposes to comply with each window. If a modified window is proposed, specify reduction in window felt necessary, justification for the request, and document agency concurrence or attempts to gain concurrence for each proposed modification.
3. Please provide copies of any comments received in response to the April, 2009 Environmental Assessment (the Record does contain USF&W and NMFS comments).
4. Please provide a copy of the complete project sponsor contractual agreement and any supporting documents.
5. Please provide reasoning why the endangered piping plover has not been included in any project documentation.
6. Please provide documentation from Bombay Hook National Wildlife Refuge that the Corps conceptual proposal to restore Kelly Island has their concurrence and permission.
7. The Record to date reveals significant concern regarding the conceptual Kelly Island beneficial use component of the project. Other than Egg Island, the Corps submittal of May 21 indicates no other potential beneficial sites have been examined, and states there are administrative impediments in considering other sites. Please elaborate and explain why other potential mitigation or beneficial use sites cannot be considered at this time.
8. Please provide the planned procedure, by species, should the authorized "take" of any protected species be met or exceeded during dredging or blasting.
9. Does the Corps have any plans to address the continuing wake-generated erosion on the south side of Pea Patch Island? In your opinion, will larger vessels accelerate the rate of erosion?
10. There was considerable testimony at the Public Hearings regarding benefit of the project to the Port of Wilmington. Yet, several Record documents reveal the Corps does not attribute any benefit to Delaware industry or ports. Will the Corps include examination of Wilmington port benefit and associated costs in the updated economic reassessment being prepared for GAO? If not, do you have any comment on this apparent discrepancy?