THE STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF FISH AND WILDLIFE

In Re:)
)
Corps of Engineers Main)
Channel Deepening Project)
)

TRANSCRIPT OF PUBLIC HEARING

Delaware State University
Bank of America Bldg, Room 113
College Road
Dover, Delaware 19904
July 14, 2010
6:10 p.m.

HEARD BEFORE: TIMOTHY BUREAU

APPEARANCES:
Lisa Vest
Laura Herr

WILCOX & FETZER
1330 King Street, Wilmington, Delaware 19801
(302) 655-0477
www.wilfet.com

MS. VEST: Okay. If we could all take our seats, I think we're going to start to begin the proceedings tonight.

Good evening and welcome. My name is Lisa Vest. I'm a public hearing officer for the Office of the Secretary for DNREC, and I'd like to welcome everyone to the second of two nights of public hearings regarding the U.S. Army Corps of Engineers' permit application regarding the Delaware main channel deepening project.

I'd also like to once again express thanks on behalf of everybody here to the Delaware State University for making this facility available to us once again for use.

This is the second of two evenings set aside to receive testimony and receive public comments and questions regarding the Corps' application for State permits to conduct the proposed deepening of the Federal navigation channel in the Delaware River and Bay.

Tonight's session is scheduled to run from 6 p.m. to 10 p.m., if necessary. If you have not yet done so, I would ask that you please sign in at the back of the room, indicating

whether or not you wish to present comments for the record this evening.

Based upon the number of folks who have indicated that they would like to speak thus far, and in an effort to accommodate everyone who has indicated their desire to testify, we do anticipate allowing ten minutes per speaker this evening.

Speakers may also be allowed an opportunity to present additional testimony after everyone who has wanted to has had an opportunity to testify, and of course, based on the time remaining.

Whether listening or speaking this evening, we ask that everyone here tonight be respectful of opinions regarding the project that may be different from your own. We would also ask that all cell phones be either muted or turned off at this time, and for the duration of these proceedings.

I would now like to introduce the individuals here with me on stage. To my immediate right is Laura Herr. She is the manager of the Department's wetlands and

subaqueous lands section. Secretary O'Mara has asked Ms. Herr to coordinate the Department's review of the Corps' application for this deepening project.

Before we get to the public testimony, Laura will be presenting the Department's exhibits to be entered into the record.

And to her right is our hearing officer for this evening, Timothy Bureau. Mr. Bureau is an environmental consultant from Timothy Bureau Consulting, LLC. The Department has entered into a professional services contract with him to serve in this capacity. He will also have some opening remarks to lay the groundwork for tonight's hearing.

With that, I'd like to turn this hearing over to Mr. Bureau.

MR. BUREAU: Thank you, Lisa. Well, good evening, ladies and gentlemen. As Lisa said, my name is Timothy Bureau. I'm an independent environmental consultant from Michigan. I've been appointed to be hearing officer on this project by the Secretary of the

Delaware Department of Natural Resources and Environmental Control, the Honorable Collin P. O'Mara.

As many of you may recognize, I was also the hearing officer on the original Corps of Engineers application for the main channel deepening project in 2001 through 2003.

My charge is to conduct these public hearings, review the record, including technical analysis and recommendations from DNREC, and prepare a report with recommendations to the Secretary.

My report will summarize the evidence in the record regarding public and environmental impacts. As set forth in State of Delaware law and regulations, for each issue of concern, I will make specific findings of fact, and where necessary, conclusions of law.

The report will be furnished to the Secretary with conclusions as to whether the applicant has adequately and completely addressed the issues and met the statutory requirements.

The report will recommend whether to issue or to deny the permit. And if the

recommendation is for issuance, what conditions, specifications, and/or requirements should be included in the permit.

I will not make the decision in this matter. The Secretary, Mr. O'Mara, will make the final decision.

This hearing constitutes the record from which my recommendation to the Secretary will be made. Therefore, it is important that any comments, concerns, or advocacy that each of you may have be entered into the record.

To ensure the record is as complete as possible, and to provide ample opportunity for everyone to review the large amount of record documents, I have decided this record will remain open for written comment for 60 days, or until Monday, September 13th, 2010. Please note that any correspondence in regard to this project must be received by that date, and by 4:30 p.m. on that date.

You may hand-deliver, fax, mail, or e-mail comments to Hearing Officer, care of DNREC, 89 King's Highway, Dover, 19901. And please refer, on any comments you may submit, to

the main channel deepening project.

Now, I ask that each of you conduct yourself in a professional, courteous, and respectful manner. There are diverse opinions present, all of which are important, and all of which deserve to be heard. Let's all try to be good listeners this evening. If anyone is disruptive, they may be requested to leave the proceedings.

To ensure everyone has the opportunity to testify, please be as concise and succinct as you can. I would refer you not read lengthy letters into the record, but rather, you can summarize your comments and the content of the letter, and submit the written document in the box provided for comment, for public comment, on this stage, such that it will become acknowledged and become part of the record.

With that introduction, Laura Herr of DNREC has a few brief remarks and will discuss the exhibits.

MS. HERR: Thanks. Good evening, everyone. We're going to be moving very briefly to the public testimony phase of the hearing, but

before we do so, and as I did last night, I wanted to take a moment to stress the importance to the Department of the public input phase of the process that we're engaged in tonight.

The Delaware laws and regulations that govern the Delaware main channel deepening project all require that the Department seek public comment and public input into our decision-making process. So, I wanted to stress how important that is to us, and thank you for your attendance tonight, for your participation in the hearing, and for your interest in the project.

I'd like to take care of a couple of housekeeping things, if I could. There were some handouts at the back of the auditorium as you entered. Two of those handouts in particular I'd like to draw your attention to. One contains a Department summary statement on one side, and on the reverse side, there's a chronology of key milestones in the permitting process to date, starting with the March, 2010 submittal of the Corps permit application.

I hope you take a moment to review

that, because it's intended to give you kind of a snapshot, a sense of the current status of the Department's review at this point in time.

And equally important, a second handout contains a list of the 22 documents that make up the Department's exhibits. I'd like you to note that at the bottom of the page of that list of exhibits, there is a link to the main channel deepening part of the Department's website, where you can get access to those documents online.

And on the reverse side of that document, we've given instructions on how to submit comments during the 60-day comment period.

The 22 exhibits are also available for public inspection at the back of the auditorium. And they are available online, as I said.

I'd like to remind everyone that as we did notice in our public notice of the hearing tonight, we are going to continue to update our website with additional information or additional documents as they become available, so that will be a continual process of update by the

Department.

And lastly, the same 22 exhibits on that list that you have are in this box on the stage marked "main channel deepening," and I would like at this time to formally submit them to the hearing officer for inclusion in the public record for tonight's proceeding.

Thank you.

MR. BUREAU: Thank you, Ms. Herr. The Department of Natural Resources and Environmental Control scheduled this hearing after receiving the application for a subaqueous lands and wetlands permit from the Army Corps of Engineers on March 22, 2010, for the construction on the main channel deepening project.

The Department is conducting this hearing in accordance with section 6004 of Title 7 of Delaware Code, and in compliance with the Court's January 29, 2010 decision in the Delaware District Court action, DNREC versus United States Army Corps of Engineers, et al., case number 09-821.

The Department has identified deficiencies in the Army Corps' permit

application, and has requested the Army Corps to supplement the permit application. Despite these permit application deficiencies, the Department is processing the application in an expedited fashion, based on the Court's decision and Secretary O'Mara's commitment to the Court that the Department would conduct a timely, efficient, and transparent permit process.

As Laura said, the Department will make any additional information available to the public on the website as soon as the Department receives it from the Army Corps.

You are welcome to pose questions this evening. However, there will be no question and answer format. I will consider each question in light of the application documents, the appropriate statutes, and the weight of the issue, based on the overall application contents.

Due to the expedited process, as hearing officer, I will convey questions to the Army Corps or to DNREC which I believe are pertinent and important to my eventual recommendation to the Secretary.

I may convey questions to the Army

Corps on multiple occasions. Those questions and any responses are also be made available to the public on the Department website.

I will make a decision on whether to provide the public with an opportunity to further comment, based on the timing and the content of future Corps submittals for the record.

Be advised, should an additional public comment period be warranted, in my opinion, that period will likely be limited. Should this occur, those of you who have provided an e-mail address on the sign-up sheets will be provided the subject document or documents and advised of the comment deadline.

The Department has invited the Army Corps to present their project at the hearing this evening, but they have declined to make a presentation, so we will go directly to your comments regarding the pending permit application.

A project summary taken from the application is available as a handout at the sign-in table.

I will call on each of you who

indicated on the sign-up sheet that you wish to make a statement, and I will also indicate who the next speaker is in line.

In order to give everyone who wishes to speak the opportunity -- and we had a lot more people here last evening, but we want to be consistent with the time that we've allotted each speaker -- we'd like you to limit your presentation to ten minutes.

If time permits, I will then ask if anyone else has changed their mind and wishes to make a comment, or an additional comment.

It is important that each of you has completed the sign-up sheet, so that we have a complete record of attendance at the hearing this evening.

I will now acknowledge for the record and hereby accept into the record the list of exhibits offered by DNREC to date. With that accomplished, we will now begin the public comments.

The first speaker is William Moyer. On deck, Rich Heffron. And we would ask, as you come up to speak, if you would state your name,

spell your name, please, for the court reporter, and give us your address, or where you're from. Thank you.

MR. MOYER: Good evening. My name is William Moyer, M-o-y-e-r. I reside at 554 Troon Road, Dover, Delaware 19904. Last evening I presented my full testimony for the public record for this hearing. One of the points that I made, I would like to emphasize, and then pose several questions to the Corps of Engineers for follow-up.

My first questions have to do with the reduction in the number of bends that will be widened as part of the deepening project. The 1997 supplemental environmental impact statement states that 16 bends would need to be widened to the accommodate the operating and hailing characteristics of design vessels operating at the 45-foot depth. That's section 3.1.1.1 of the 1997 SEIS.

The same SEIS states that the number of bends to be widened will be reduced from 16 to 12, section 2.3.2.3, page 16 of the April, 2009 environmental assessment.

The April, 2009 environmental assessment states that the number of bends to be widened will be further reduced to 11. There is no explanation of what effects this will have on the ability of the deepened channel to accommodate deeper draft vessels.

These are my questions: A. Why were the number of bends to be widened reduced from 16 to 11?

B. If the original design called for 16 widenings, what effect will the reduction to 11 have on the safer passage of deeper draft vessels navigating the river? Will navigation safety be compromised?

C. What is the reduction in the number of cubic yards of material that were to be dredged that was realized by eliminating the widening of the five bends? What was the cost savings?

Second question, 2. What was the source of funding that was used by the Corps of Engineers to dredge reach C?

3. Does the Corps of Engineers intend to comply with DNREC's request to submit a

supplemental Coastal Zone consistency determination as required by the Federal Coastal Zone Management Act for projects that have substantially changed in design?

4. Is economic loading planned as part of the dredging, and if so, where will it be utilized?

5. Will bucket dredging be allowed, and if so, where will it be utilized?

6. If DNREC issues a permit for the dredging, how will the Corps proceed if it needs a waiver from any of the imposed permit conditions?

7. Will the Corps of Engineers be liable for violations of any permit issued by DNREC? If not, who will be?

8. Can the State of Delaware sue the Corps of Engineers if any issued permit conditions are violated?

And 9. Why did the Corps of Engineers choose not to participate in DNREC's public hearing on its own permit application?

That completes my testimony this evening.

MR. BUREAU: Are you going to submit those written questions?

MR. MOYER: I am.

MR. BUREAU: Thank you, Mr. Moyer. We appreciate that.

MR. MOYER: This same box here?

MR. BUREAU: Yes, please. Next up, Rich Heffron. And after Mr. Heffron, Pat Todd.

MR. HEFFRON: Rich Heffron, H-e-f-f-r-o-n. I'm senior vice-president for government affairs at the Delaware State Chamber of Commerce, 1201 North Orange Street, Wilmington, Delaware 19801.

First of all, I'd like to thank the Department of Natural Resources and Environmental Control for the opportunity to speak tonight. And in advance, I'm sure that some of what I'm going to say is redundant to what has already been testified to, and I apologize for that.

The Delaware State Chamber of Commerce is in support of the Delaware Department of Natural Resources and Environmental Control issuing permits to the United States Corps of Engineers for the State of Delaware portion of

the Delaware River main stem and channel deepening project.

It is the opinion of the State Chamber that a timely completion of this project is critical to maintain and enhance the competitive position of the Port of Wilmington as among other North and South Atlantic ports, all which currently enjoy shipping channels in the range from 42 to 50 feet.

The project is in the central part of a growing and prosperous economy that will create jobs. The dredging of the Delaware River channel is a critical economic development project that will bring millions of dollars to the Delaware economy and will supply employment to hundreds of our citizens, an effort that is particularly important during these challenging times.

The Port of Wilmington is an important economic engine for the State of Delaware and the Delaware Valley region. According to a 2006 John Martin & Associates study, the Port contributes approximately $500 million to the local economy, sustains 6000 jobs

in the region, generates over $212 million in total business revenues, and pays a minimum of $22 million a year in State and local taxes.

With the newest cargo vessels growing in size, it is vital that the river be dredged to a depth of 45 feet to protect the current economic integrity of the Port of Wilmington. This will also allow the Port of Wilmington to expand into the Delaware River by constructing new ship berths to supplement the existing berths on the Christiana River.

This is particularly important because of recent improvements to the Panama Canal that will allow East Coast ports to compete for expanded trans-Pacific trade. This type of scenario is already in play in a number of ports along the East Coast.

We are fully aware of the debate about the economic impact of the Delaware River deepening project, but it should be noted that over the past 20 years, several scientific studies have been conducted regarding the project. These studies, completed in accordance with the national environmental policy

regulations, as well as other Federal and State environmental regulations, indicate that the project can be completed in an environmentally sound manner.

Given the current state of our economy, there are very few opportunities for massive blue collar economic development projects such as that which can occur at the Port of Wilmington. For this reason, the Delaware State Chamber of Commerce believes that a deepening of the Delaware River channel to a depth of 45 feet will significantly benefit the Delaware economy without harming the environment.

We urge the Delaware Department of Natural Resources and Environmental Control to approve all necessary permits, allowing this important project to move ahead as quickly as possible.

Thank you.

MR. BUREAU: Thank you, Mr. Heffron. Pat Todd. On deck, Dan -- Dan Sykes? Am I close?

MS. SYKES: Not speaking tonight. Perhaps I put a check in the wrong column.

MR. BUREAU: I'm sorry. You did check no. I'm sorry, sir. Yes. Next up would be Robert Conte. Go ahead, Pat.

MS. TODD: My name is Pat Todd, T-o-d-d. I live in Wilmington, Delaware. I am speaking for the League of Women Voters of Delaware.

The League of Women Voters of Delaware has actively followed the saga of the Army Corps of Engineers' attempts to deepen the Delaware River since 1998. The League has spoken at hearings, written letters to the Delaware and New Jersey Governors, State environmental agency heads, and Delaware's Congressional delegation, protesting attempts to deepen the river. The League joined the coalition of environmental organizations, fishermen, civic, and tax groups opposing this project.

Since the beginning, the League has had serious concerns about the economic viability of the river dredging project. While this is not the subject of the permit, a justifiable reason to not grant the permit is that it is irresponsible for the Delaware government to

burden its citizens or other states' tax paying citizens in funding a project that does not substantiate new employment.

It is our concern that overall, there could be a decrease in jobs. It has been shown over and over again, in the General Accounting Office, Federal General Accounting Office, and independent studies done in the past, that the Corps cannot meet its own criteria of $1 spent produces a return of $1.40 to the surrounding community.

MR. BUREAU: Excuse me. I'm going to interrupt you. The microphone, I think, went off, so we're going to check it. I apologize, but we'll check that, and hopefully we're not going to call you on your ten minutes, either.

MS. TODD: I'm not going to talk that long. Thank you.

MR. BUREAU: Thanks.

MS. TODD: I'd like to repeat the last sentence.

MR. BUREAU: Please.

MS. TODD: It has been shown over and over again in the General Accounting Office

and independent studies done in the past that the Corps cannot meet its own criteria of $1 spent produces a return of $1.40 to the surrounding community.

The Corps continues to over -- it's gone off again.

MR. BUREAU: It did. It just went off again.

MS. HERR: Why don't you move up to this podium.

MR. BUREAU: Sorry about that.

MS. TODD: That's all right. The Corps continues to overestimate benefits and underestimate costs. For this reason alone, this project should be terminated now.

Our second point: The League participated in the hearings in 2003. It is interesting that the hearing officer chastised the Corps at that time for not providing enough authentic information to the environmental questions that have been raised by DNREC and the public. He therefore concluded that the permit should not be granted.

Upon reading the exchanges of

letters and responses between DNREC and the Corps this year, it seems DNREC asks many questions, but the Corps returns few answers, or answers that they gave us back in 2003.

While there are references to some telephone calls, the public is left in the dark as to the answer to these questions. We see this as a repeat of the 2003 hearings, and a good reason not to grant a permit to deepen the river.

Thank you. And also, I would like to thank the hearing officer. The League appreciates having the record left open for another 60 days. This will allow us to add to our testimony if the Corps adds new material.

Thank you.

MR. BUREAU: Thank you, Ms. Todd. Robert Conte.

MR. CONTE: Present.

MR. BUREAU: Present. Good. And next up we'll have Ronald A. Farrell.

MR. CONTE: Robert Conte, C-o-n-t-e. 406 Maple Avenue, Wilmington, 19809. I got two ways of looking at this: One is from the environmental point of view, and in that search,

I came up with some numbers.

The project -- excuse me. Stephen Rochette from the U.S. Corps answered one question, and that was about the quality of the spoils that have been dredged so far in the northern part of the river, as opposed to what the Corps sampled at least three times prior to the 19 -- or excuse me, 2001 hearing.

And he reported back that, "I spoke with the project manager, and he said the material we've dredged so far is in line with projections." Which means there hasn't been anything really exciting pulled up out of the bottom that's off of what they sampled nine years ago.

Now, in line with that thinking, the lightering operation in the bay handles about 100 million barrels of oil a year. That's a staggering number. But we always think in terms of gallons, not barrels. A barrel of oil is 42 gallons.

So, in a year, they handle approximately 4.2 billion gallons of oil into the lightering barges to go up river. Now that is a

really staggering number. And in an area the size of the Delaware Bay, which is approximately 400 square miles, that's a lot of oil.

Put it in the context of what's going on in the Gulf of Mexico right now. The Gulf of Mexico is approximately 1 million square miles, compared to 400 square miles in the Delaware Bay. That's 2000 times more surface area than what we have in Delaware Bay. Yet, what they're having down there, that catastrophe is reaching shores hundreds of miles from where it originated.

So, I'm really concerned about the lightering operation in the bay, and what would happen if we had a significant spill there, because that's literally a tempest in a teapot. It's a very closed environment as opposed to the Gulf of Mexico. It could ruin beaches on both sides of the bay for 60, 70 miles out into the ocean, and the Delaware beaches, which are huge parts of our economy for the State.

So, I think that's a consideration, if you're thinking about bigger ships, bigger ships would allow for less lightering, fewer

chances of spills.

So, a little background. For about 300 years, the commercial power in Europe was the City of Venice. It was uniquely situated at the head of the Adriatic Sea, and had easy access to the trade routes of southern and central Europe, and more importantly, it was a sea power whose fleets traded throughout the Mediterranean region.

The riches of the Orient came to the ports of the eastern Mediterranean along the Silk Road of Central Asia, and from the Arab sea traders of the Indian Ocean. These goods were carried by ships to Venice.

In the 1500s, Europeans developed ocean routes to Africa, the Far East and the New World. But ocean travel over great distances was neither safe nor economical for ships used in the trade in the Mediterranean Sea. So, commercial interests built bigger ships for safety and economy of size.

Venice was still well situated for nautical trade, but the entrance to Venice was through a lagoon ringed by barrier islands. By

the 17th century, the lagoon entrance wasn't deep enough for the larger ocean-going ships, and there wasn't anything the Venetians could do about it.

The trade of the larger ships went to the deeper ports of Marseilles, Cadiz, Antwerp, London, Hamburg, et cetera. And Venice became frozen in time. A magnificent museum to a glorious past.

It is said that those who don't learn from history are condemned to relive it. Today's ships, especially tankers, are bigger than anyone could have imagined only 60 years ago. Because oil and other cargo are carried around the globe, economy of size will cause them to get even bigger.

The most important part of our region's infrastructure is the main channel of the Delaware River. If they cannot allow bigger ships to pass upriver to our ports, then the big ships would go elsewhere with their cargoes.

9 of the 10 largest metropolitan areas in the United States are port cities. The exception is Phoenix. If we allow our region to

lose competitive viability for ocean commerce, we will suffer dire economic and social consequences.

Accordingly, from the lightering point of view and from the deeper channel to be competitive, I completely support the Army Corps of Engineer's efforts to dredge the river to 45 feet. Thank you.

MR. BUREAU: Thank you, Mr. Conte. Ronald Farrell. And up next will be John Reece.

MR. FARRELL: My name is Ron Farrell. I'm a longshoreman at the Port of Wilmington.

MR. BUREAU: Excuse me. Could you spell that last name for us?

MR. FARRELL: F, as in Frank, a-r-r-e-l-l. I'm a longshoreman at the Port of Wilmington, Delaware. I work out of ILA local 1694. I'm here to speak in support of the deepening project on behalf of the ILA in general, and ILA 1694 and my other sister locals in particular.

First off, thank you for this opportunity to allow me to speak. This is --

this has been quite an experience. This is the first time I've ever attended one of these, and I think in the future I'll be attending more.

MR. BUREAU: Good.

MR. FARRELL: You're really doing a service to the community. I'm puzzled. I've heard a lot of testimony from a lot of different sources, and I see that the argument, or arguments are framed in many different ways.

And one of the arguments that troubles me is -- how can I say? Viewing the issue in terms of either -- oops. In terms of either/or. Either the environmentalists are against labor, because all of our interests are different. And rather than -- rather than seeing the common interest that we share, we don't have to be opposed. We don't have to be on the same side. We don't have to be on the opposite side of the fence.

For example, I consider myself an environmentalist. I am also a member of the labor community. Now, as an environmentalist, I have friends who hunt, who fish. The members in my local care about clean air, clean water. We

care about all of these things.

And when the representative from the Riverkeepers were here, spoke last night, you know, I -- I felt her intensity, all right? And I wish she were here tonight, so that I could tell her that I stand shoulder to shoulder with her. I am -- I'm just as fervent about maintaining the quality and the integrity of the environment as she is, and her organization, and other organizations.

However, saying that, I also care about jobs. I also care about the economy. I also care about people keeping their homes, buying homes. Not losing their homes to foreclosure. I care about the community. I care about how viable and sustainable the communities are.

It's -- it's difficult to care about environmental issues when you don't have a job. When your home is foreclosed upon, when you can't provide your children with the future that you would like them to have, and you can't give your family and your children the things that you feel you should provide for them.

I care about the species that Maya spoke about, but if you have a family, or if you have families that are part of a community where the parents aren't working, and the parents can no longer collect unemployment benefits, you're giving them a tough choice, you know? These are bread and butter issues, just basic stuff.

The deepening channel project is about jobs. It's about creating jobs. Not only creating jobs, but maintaining the existing jobs that we currently have. If this project is not followed through with, if the permit is not -- is not granted, there's a very real possibility that the jobs that currently exist at the Port of Wilmington will -- will no longer be there.

The reality is that the competition that the Port of Wilmington faces, one of the issues is the Port of Baltimore, right? Right 40, 50 miles away. Now, they are already dredging to 50 feet.

The two largest customers at the Port of Wilmington, Dole and Chiquita, are going to larger vessels. If the larger vessels -- if the Port of Wilmington cannot accommodate those

larger vessels, eventually, Dole and Chiquita will leave. They will go to other facilities that can accommodate those vessels.

It's -- it's very simple. 90 -- I'd say about 95 percent of the workers at the Port of Wilmington live in -- they live in Wilmington and New Castle County. They spend their money in those local economies.

It's a reciprocal effect. They're -- there's truckers who work at the Port. There's other vendors who rely on the workers from the Port of Wilmington. They're little mom and pop stores that sell sandwiches. There's Lowe's, there's Home Depot, there's the supermarkets. There's all of the businesses, all of this money that is generated at the Port percolates throughout the economy. It affects us all.

I don't have the figures in front of me, but the jobs are so significant that it adds to the tax base, okay? So, in the process of creating more jobs, we expand that tax base.

As you all know, the country is -- the country's in some pretty tough economic

times. There's a stubborn and entrenched recession. State legislatures, municipalities, communities, are having to deal with some serious -- serious issues, and they have to make painful decisions based on -- based on people losing their jobs. Based on folks losing their homes. Based on homes being foreclosed upon.

What we're saying to you is that if this permit is granted, then there's a very real possibility that we can keep the jobs we already have, and create more jobs.

One thing that struck me is that when jobs are lost, when a plant closes, it affects all segments of the community. I take example with Valero. I read in the newspaper that when those jobs were lost, the effects of that rippled throughout that economy, that small local community.

What are they going to do about the libraries? What are they going to do about the after school programs? What about the businesses that provided services to the members of that community, based on the workers who worked at the plant?

If the Port of Wilmington cannot expand, if -- if this project is not granted, and if larger ships are not allowed to sail up and down the channel, again, the industry experts say that the ships will go somewhere else. The trend is for larger ships.

And what I heard tonight, and what I heard yesterday, was that -- it's like people are being made to feel afraid. The only thing -- well, what I heard tonight was that -- was that oil, the oil, the oil tankers, the Gulf of Mexico.

I'm just as outraged over what's happening down in the Gulf. I'm just as outraged over the -- the effect that it's having on people's lives.

However, when we're talking about the Delaware River, we're not only talking about oil. We're not only talking about those type of tankers. We're talking about fruit ships, we're talking about car ships, we're talking about lumber, we're talking about steel, we're talking about salt ships, we're talking about a wide variety of cargoes that need to have easy access

to the Port of Wilmington.

So, we have those customers now. If this isn't done, there's a very real possibility that we'll lose those customers.

The Port of Wilmington has a unique opportunity -- and I'm almost finished, if my time is up.

MR. BUREAU: Okay.

MS. HERR: Yes.

MR. FARRELL: Okay. We have a unique opportunity. We have two -- well, let me backtrack. The Port of Wilmington is a world class facility. Because of the two largest customers, Dole and Chiquita, and -- and the Chileans who bring fruit there, it's put the Port of Wilmington on the map.

We have, in the Port of Wilmington, what everyone wants. All of the facilities want what we have. We have -- we have a customer that calls in the Port of Wilmington every week, two of those customers. 52 times a year. That's times two. That's 104.

Most facilities cannot -- well, most facilities don't have that bragging right. We

have that. Okay? So, in order to keep -- again, I can't stress it enough. In order to keep what we have, and in order to create the possibility of getting more cargo, and as a consequence, creating more jobs, and giving more opportunities to individuals who are currently out of work, this -- this permit must be granted.

The -- the science, the -- the Corps of Engineers has told us through exhaustive studies that this will have a minimal deleterious impact on the environment. It's not going to harm the environment.

In the process, in so doing this, we can give people the opportunity to go to work. This is the issue that this country is facing. People are out of work. People need jobs. People can't collect unemployment. So, this is what this is about. It's about jobs. It's about jobs.

Again, thank you very much for this opportunity.

MR. BUREAU: Thank you, Mr. Farrell. I appreciate that. John Reece. And up next, mark Kleinschmidt.

MR. REECE: My name is John Reese, it's R-e-e-c-e. I'm a resident of Newark, Delaware, and I work for a small Wilmington-based company called Port Contractors.

What I'd like to do is I'd like to read into the record a statement prepared by our president, Mike Evanco.

Shipping companies and customers are continuously looking for ways to cut costs. One of the easiest ways is to increase the amount of material transported per vessel voyage, which in turn will result in increased vessel draft.

If the Delaware River dredging isn't completed, these vessels will be unable to call on our local ports, and this cargo will be lost to other East Coast terminals.

Our maritime company, Port Contractors, has approximately 100 employees, with 50 of them based in Wilmington, Delaware. In 2009, we handled over 1 million tons of bulk material that flowed through the Port of Wilmington.

Additionally, Port Contractors was responsible for the import of 270 windmill

turbine blades for producing clean energy, as well as the exporter of over 1500 cows to other nations.

While our employees stay busy directly handling these cargoes, there is a significant number of indirect employment that occurs with these vessels, from longshoremen, trucking companies, heavy equipment suppliers, street sweepers, fuel suppliers, electricians, plumbers, and eating establishments.

The completion of this dredging will help ensure that we are doing the right thing to protect and keep these well-paying jobs in our State's economy.

Delaware's current unemployment rate is at 8.8 percent, a short distance from its all-time high of 9.3. In the past several years, we have seen a loss of manufacturing and jobs in Delaware City, at the Valero refinery, Medicam, Oxicam, Georgia Golf, and American Mirrex. We've seen the DuPont Company and our banking industry reduce their head counts, and we've seen the complete loss of our auto industry, with the closings of the Chrysler and GM plants.

As a state, we cannot afford this continuous shedding of jobs. This dredging project is an opportunity for the State to take a proactive approach in securing the infrastructure needed for future maritime growth, and show Delaware's commitment to expanding our State's economy.

In conclusion, I request that DNREC approve these permits that are necessary for the completion of the deepening of the Delaware River. It is the right decision that will both enable Delaware to remain competitive in the maritime industry, and keep good, well-paying jobs in Delaware, where they belong.

Thank you for the opportunity.

MR. BUREAU: Thank you, Mr. Reese. Mark Kleinschmidt. And up next, Mary Jacobson.

MR. KLEINSCHMIDT: Good evening. My name is mark Kleinschmidt, last name is spelled K-l-e-i-n-s-c-h-m-i-d-t. I represent -- I am the president of the New Castle County Chamber of Commerce. We are located at 12 Penn's Way, New Castle, Delaware 19720.

The New Castle County Chamber of

Commerce is an organization comprised of about 1500 member businesses, both large and small organizations. The Chamber firmly supports the deepening of the main channel in the Delaware River. We think it is a great asset for commerce in our community, and in our region.

We went on record ask thing Governor and Secretary O'Mara to push forward with this approval in September of 2009, and we are appreciative of the public hearing opportunity here to get this issue more out in the public and get as much information as we can.

We also believe at the Chamber that we've had a long-standing opportunity to debate and research this project, and I think we've clearly come to the point that we do need to decide.

We've heard a lot of statistics tonight. I don't want to, you know, go over a lot of them, but clearly the Port of Wilmington is an important economic engine in the state of Delaware, creating anywhere -- about 5000 jobs, generating about $500 million in local economic activity, and putting $25 million into the State

and local government coffers.

We are in a tight recession, a tough recessionary period. The Great Recession, as it's been called. Governments are stressed for money. They need to find a way to bring our economy back.

One of the things they've looked at is perhaps we can increase spending, we need to increase taxes. Bottom line is this: The Chamber's view is we're not going to tax our way out of this recession, we're not going to cut spending to cut our way out of it. We're going to grow our way out of it.

The way we do that is by creating jobs. So we need to have a good inventory, a good handle on what our economic engines are. And as I said, the Port of Wilmington and the shipping industry and all the activity that it generates are significant, and we need to support that and keep it as a vital, vibrant part of our economy as we move forward.

It was previously stated, the loss of manufacturing jobs in our state is significant. In fact, rare -- a manufacturing

job in the United States is a rare entity. So, when we have the opportunity to have manufacturing jobs, we need to keep them here and vital as we can.

We did lose our auto industry, briefly. However, there's some good news on the horizon, Fisker Automotive has purchased the GM plant, and they are going to manufacture a hybrid electric car there. Something that's going to use less fossil fuel.

Interesting, why did they come here? The Port of Wilmington. They plan to export a large number of vehicles to the world. At some point in time, the export ships are going to need a larger draft, and we need to be in a position to grow that industry.

And keep in mind, we are a community that has a lot of experience in building vehicles. Fisker could be the start of the electric car industry in this region. The Port of Wilmington could be a major part of the port of departure to send these throughout the world. So we need to be cognizant of that.

And again, the State has already

backed that play with a significant investment in Fisker's coming to Delaware. And also the Federal government has put in probably close to $550 million, and Fisker, I believe, will succeed.

The other opportunity on the horizon is the deepening of the Panama Canal. As more ships are coming from that growing economy in the Far East, they're going to make their way through the Panama Canal, and they are going to look for port of call to bring their product.

And Wilmington needs to be in play. Wilmington's slogan, "we're in the middle of it all." And we need to capitalize on that. It does create good jobs, and we need to get that port and keep that port moving forward in a positive way.

And again, it's not just the Port of Wilmington. It's the ports all along the river. We are in a vibrant region here, and a big part of our region is our industry along the river.

The Chamber is cognizant of the environmental concerns, and we believe they are valid, and we need to move forward in an

environmentally conscious way.

We also believe that the science and the studies that have been completed show that the dredging of the river can be done in an environmentally safe way.

So, with that, not to go over a lot of other data that's already been submitted into the record, the New Castle County Chamber of Commerce does support the deepening, and we appreciate the opportunity to be here tonight to share our thoughts with you all.

Thank you.

MR. BUREAU: Thank you, Mr. Kleinschmidt. Mary Jacobson. We're going to try the podium again down here.

MS. HERR: I think it's working now.

MR. BUREAU: And next would be Darrell Baker.

MS. JACOBSON: Good evening. My name is Mary Jacobson. I am the executive director of the Mid-Atlantic Environmental Law Center.

MR. BUREAU: Mary, excuse me.

MS. HERR: Can you push the mike up.

MR. BUREAU: And spell your last name for the reporter.

MS. JACOBSON: J-a-c-o-b-s-o-n. The Center has been long involved with the proposed deepening of the main channel of the Delaware River from 40 to 45 feet. We have represented environmental groups in litigation involving the deepening in both State and Federal Courts, and have submitted comments to DNREC concerning the 2001 deepening permit application, so we are very familiar with the deepening project, and also with the application process.

Initially the Center would like to say that we strongly support Delaware's position that the Army Corps must comply with all of Delaware's permit requirements. I know that has been a contentious issue, and we definitely support Delaware's position.

However, based on assertions made by the State's Attorney during the Federal hearing before Judge Robinson, and statements in DNREC's public notice, and also comments during this hearing, the Center is concerned that a thorough, thoughtful, and legally sufficient permit review

may be sacrificed in order to provide an expedited and predetermined permit approval.

During the Federal hearing, DNREC represented that it would complete its permit review within a year. This representation partially justified Judge Robinson's decision to grant DNREC a motion to enjoin the Corps from deepening any portion other than reach C.

Although the Center appreciates DNREC's commitment to provide an efficient, timely, and transparent review, such a review must also comply with all legal standards. Of particular concern is the statement in the public notice that provides that the Corps of Engineers has provided some, but not all, of the information requested by DNREC.

Pursuant to section 2.0 of the subaqueous lands regulations, "No application shall be considered complete or acted upon until the application is deemed complete by the Department."

Section 3.2 provides that "The Department may request such additional information as will enable it to consider the

application properly. Any requested information not provided to the Department within a reasonable time may be grounds to declare the permit incomplete."

It is axiomatic that review of the application, including review by the public, cannot be completed until the permit application is complete. In fact, the Delaware Code provides that upon receipt of an application in proper form, the Secretary shall advertise in the daily newspaper. The Delaware Code also provides that after advertisement, a public hearing may be held.

To begin the public comment period and schedule a public hearing prior to submission of all permit application material is both curious and legally questionable. Providing the public a limited amount of time to digest the application, while allowing the Corps to continuously submit the application, violates the notions of due process.

While DNREC agreed to complete its review process within a year, this time cannot begin until a complete application, including the

additional requested information, is received. Pursuant to Delaware law, a public hearing should then be held on the complete application.

Although the record will remain open until, I think you said, September 13th, it is the Center's position that at a minimum, the record should be kept open for at least 30 days after the submission of all application materials.

It appears as though DNREC is in a race against time to complete its review in an efficient and timely manner. Unfortunately, this may result in violation of the public's right to a meaningful review, and the ability to provide meaningful comments on the application.

DNREC's commitment to provide an efficient and timely review may also result in the acceptance of an incomplete permit application, and issuance of a permit that is not in full compliance with all legal requirements.

With that said, we have reviewed the information that is available in the record to determine what permit deficiencies still remain. And some of this is redundant from what DNREC has

already posted, and we are putting it on record to support DNREC's position. And other ones have not been yet recognized by DNREC.

We will be submitting -- these are very cursory comments, because I'm not going to include all the citations and bore everybody, but we will submit more complete written submissions in the near future.

MR. BUREAU: We would appreciate that. Thank you.

MS. JACOBSON: The first permit deficiency, we recognize that the Corps has not submitted a valid consistency determination in accordance with the Federal Coastal Zone Management Act.

We contend, as Secretary O'Mara has stated, also, that the Federal consistency certification that was issued in 1997 was issued based upon expired statistics and plans that have substantially changed since 1997. Therefore a new consistency determination or a supplemental consistency determination is required in accordance with Federal law.

It's important to note that in 1996,

when the Corps first requested a consistency determination, the Delaware Coastal Management Program deferred to final consistency concurrence and listed several issues that needed to be addressed before the determination could be made.

The issues included a need for a final design and detailed plan regarding Kelly Island, beneficial use, and a complete final summary for analysis of PCPs in the sediment samples. And then there were various other issues, including what impact the dredging would have upon declining population of sturgeon in the Delaware River.

After the supplemental information was received, the Federal consistency certification was issued in 1997. And that was based on a supplemental environmental impact statement that was also issued in 1997.

Since the determination was made, several substantial changes have occurred with the deepening project. In fact, the new environmental assessment that was issued in 2009 listed several changes.

DNREC, as well as the Army Corps,

can see there have been substantial changes, and there has been a new design proposal. Several concerns already raised by DNREC include the lack of a final design plan for Kelly Island, beach and berm design problems, wetland design concerns, long-term maintenance responsibility and cost concerns, incomplete and inadequate sediment data, sea level rise concerns, among others.

The Corps has listed several major changes to the Kelly Island site that were not considered during the 1997 assessment, including the Kelly Island shoreline has retreated between 150 and 400 feet. And I think we saw maps of that last night. The southern end of the project has been completely eroded. Geotube protection has been the proposed protection, is no longer part of the plan.

And thus, information supplied in 1997 regarding beneficial use has drastically changed, and warrants a new consistency assessment.

Similar to the Kelly Island changes, the PCP analysis and statistical information has

also significantly changed since 1997. In 2008, DNREC completed the main channel deepening reach C final report detailing the amount of PCPs.

Of the 51 core samples taken, 51 samples had detected PCPs, and many of the samples exhibited unusually large percentage of highly chlorinated PCP. These are issues that have not been addressed in the prior consistency assessment.

Thus, two of the main issues raised by DCMP in their initial evaluation of the consistency determination have significantly changed, and a need for supplemental consistency compliance determination is required.

Much along the lines of what we just discussed, it is our contention that a new supplemental environmental impact statement is also required, as there have been substantial changes to the deepening project. The Delaware Riverkeeper was up here last night showing you the '92 assessment and the '97, and the updated 2009 environmental assessment.

Now, it's important to note under the Federal Code, environmental assessments are

meant to provide sufficient evidence and analysis for determining whether to prepare an environmental impact study or a finding of no significant impact. Rarely do you see EAs submitted in order to show changes, or to what it appears the purpose is, to supplement a supplemental environmental impact statement.

The deepening will have significant effect on the human environment for which an environmental impact statement is required. And again, we'll get more into that in our written comments.

Other issues that the permit needs to address, that according to my review of the permit I have not seen yet, are the groundwater monitoring plan has not been formally submitted, approved, or implemented for Ready Point CDF, the confined disposal facility.

It appears as though the Corps has failed to comply with established procedure for requesting changes to environmental windows pertaining to horseshoe crabs, sandbar sharks and winter flounder. This was an issue with the 2001 application, and it appears to remain an issue.

The Corps has not demonstrated with concurrence from the various agencies that the waiver would not significantly impact the species.

A scope analysis to protect fish during blasting outside the windows remains to be developed, and must gain concurrence from the National Marine Fisheries and also DNREC. The issue of blasting on former gas storage caverns has not been fully addressed, and the Corps' not fully addressed concerns of essential fish habitat, especially regarding Kelly island and Broadkill.

Indirect impacts, such as impact on prey species, cumulative impacts such as impacts from increased maintenance dredging, increased size of vessels, vessel traffic, and port facility expansion, are not evaluated in the EFH assessment.

The evaluation, instead, focuses more on individual species and their habitat. And the permit should be denied, or at least not considered, until a full assessment is completed addressing these issues.

Other environmental concerns that we have identified are --

MR. BUREAU: Are we getting close, Mary?

MS. JACOBSON: We are getting close.

MR. BUREAU: Okay. Thank you.

MS. JACOBSON: I will wrap it up. DNREC must ensure that biological productive areas are not disturbed. Our position is that deepening will impact many of Delaware's most significant productive biological areas. Spoils from the dredge will adversely affect beaches that are horseshoe crab spawning areas.

The channel's also a biologically sensitive area to the population of Atlantic and short-nosed sturgeon, and the Corps has not conducted enough scientific studies to determine what impact the project will have.

Dredging will also -- or deepening will also disturb the subaqueous lands where blue crabs spend the winter. And I know in 2003, the report recommendation found that the area is a biological sensitivity area for blue crabs, but the impacts did not rise to the level of

significance required by the statute.

However, in the newly-submitted EA, the 2009 EA, the Corps stated the blue crab supports the most valuable fishery in Delaware. If a large portion of the overwintering female blue crab population uses the navigation channel, then dredging operations could adversely impact the winter crab dredge fishery and blue crab recruitments in the following year.

So new information continues to come in, and we certainly hope that a new environmental impact study would be required to analyze and assess this information.

The second issue, or the next environmental issue is the water quality standards. I know we talked about the resuspension of PCPs, but the bigger issue is, I know there's pending water quality standards that have been proposed. I'm not sure when the new standards will become effective, if they be effective with this application or not.

So, I just would ask DNREC to look into that, and to determine what standards we're looking at.

Finally, the economic factors. Suffice it to say there are a lot of figures flying around. Last night I heard for the first time that the deepening was going to create 16,000 jobs.

And I guess the point I'd like to make is the 2001 permit, the economic information was contracted out to a Rhode Island firm for independent economic analysis. And I haven't heard talk of whether that is again in the plans, to have this application and the information in the application again contracted out to an independent analysis firm for economic analysis. But we strongly urge DNREC to do that, especially since the latest GAO report confirmed that there were -- continued to be deficiencies, and the GAO recently concluded that decision-makers do not have sufficient updated information to judge the extent to which market and industry changes would affect the project's net benefit.

That is as far as I'd like to go this evening with you. Thank you for your time.

I would like to provide two comments, to take off my executive director hat

and just put on my resident of Delaware hat, if I may.

MR. BUREAU: You may.

MS. JACOBSON: I've heard -- going through the process and going through the papers, I've read a lot, and I consider myself fairly informed. I'm not an economic expert, but a lot of the figures I've seen or heard discussed, to me, don't make a lot of sense, and they seem to be shifting sands.

But I was a business major in college, and generally what I know and what I have learned is that when industry says they're doing things for efficiency, generally it means a loss of jobs. It doesn't mean increasing labor. It means reducing costs, and labor is typically a huge chunk of costs. So, if we look behind the curtain, I just wonder what the truth will reveal.

And I also hear that this is going to be great for the country, it's going to be great for the East Coast, because we're going to increase the size of these vessels coming from, oddly enough, the Far East.

Now I know it's not part of the economic analysis, but I've never read anywhere that bringing more goods from the Far East is good for this country. And I have never heard anybody take the position -- there's certainly not any manufacturing or manufacturing unions that come to these meetings, but I wonder, if they were involved, what statements would be made on the record about increasing the amount of goods that are coming here, cutting through the deeper Panama Canal, from the Far East, and bringing cheaper goods from the Far East, how that benefits our economy.

They're just personal comments, things I'd like to throw out there, because I haven't heard anybody say yet.

Thank you for your time.

MR. BUREAU: Thank you, Mary. And the Environmental Law Center will be submitting further, more extensive comments?

MS. JACOBSON: Yes.

MR. BUREAU: Thank you. Darrell Baker, or Baka?

MS. HERR: Baker.

MR. BUREAU: Baker? Oh, well, Mr. Baker. You spoke last night? I'm sorry.

MR. BAKER: Yes. I just wanted to speak -- good evening, Ms. Herr, Mr. Bureau. Just in simple rebuttal for some of the things that have been said. Again my name is Darrell Baker. I'm an attorney. I represent Murphy Marine, which is a large stevedoring company at the Port of Wilmington.

Let me divide this into two sections: One, as a native Delawarean myself from downstate, lower, slower, as we would call it here, Seaford, let me just say that I'm a little embarrassed as a Delawarean of the obstructionism that the State has practiced here for all these years. They could have simply told the Army or the Corps no, and here's our reasons.

But instead, this process has gone on for virtually two decades. And the arguments brought up again and again by, you know, very good citizens, I assume, are -- are little more, if I may say, as a lawyer, than obstructionist. I mean there's always another study, there's always another test. It's new data, it's new

this, it's new that.

I mean think about this for a minute. This is like Missouri telling the United States government it can't build I-70, or upgrade it across Missouri.

Let's bring it down to what it is. The Delaware River, fortunately or unfortunately, connects a number of states. And it is a critical interstate waterway to the United States of America. It's probably the largest river, if I'm not mistaken, in the Eastern United States, when you combine it with the bay.

So, I mean it's -- you know, why don't we just trash the interstate system while we're at it? If one state can just say no.

The part of this, if you look at the statutes and you read the rules, and this is sort of going back to Judge Robinson's opinion, is that Delaware has sat on its hands for a number of years. It didn't actively participate in this process, if you will. That's why she was so frustrated with us.

I don't want to, you know, I don't want to drink bad water or eat bad fish or eat

bad crabs. Nobody in here does. The union people don't want to, the people that live here don't want to. We're not -- let's not be silly.

Now, that all said, let's go back to the economics, if you will. We'd like to submit this evening, there's some data on the Panama Canal, and the new Panama Canal, which documents the size of the new locks, and also, the size and draft of the new locks.

MR. BUREAU: Thank you.

MR. BAKER: And it substantiates further that the ships currently going through the Panama Canal can only hold 5000 containers, for the discussion, and that at least, you know, they'll be able to hold up to 13,000, 12 to 13,000, perhaps even more.

We will supplement the record with more information, with a lengthy thing from the Panamanian government, frankly, as well as from the shipping industry and the ship builders.

In terms of last night, I was not authorized to mention this, but Murphy Marine has been in discussions, as well as other companies, has been in discussions with the Port of

Wilmington about proposing an expansion. A large expansion, to the tune of at least $300 million. That would include renovations, new warehouses to add to our refrigerated warehouses that are there, new dock systems that would go out onto the river for containers, and not oil.

As we mentioned last night, we have no interest in oil. We want cars, as Mr. Kleinschmidt brought up earlier, from Fisker, or for that matter, importation of cars from Europe, perhaps, or anywhere else. Maybe even Asia now, because those large ships will now be able to go through the Panama Canal and come all the way around to the Eastern United States, as opposed to shipping it across by rail.

It is much cheaper. And I don't think anybody needs to be a Rhodes Scholar to figure out that it's cheaper to ship things by ship. I think that was absolutely pointed out by Mr. Paylor last night, who is with the ILA.

With that $300 million that we propose we would upgrade, as I said, warehouses, docks, the infrastructure there, which would include roads, railroads, and other things in

that facility. It would be specifically built for containers. It's a very specialized business.

Basically, cargoes come in twofold if you will. One is bulk, like large coal ships or oil, or things like that. And others come such as cars or containers.

Our proposal, and that of others, has been for a new container port. That would create thousands of jobs. Just as a point of reference, and we'll try to find the actual documentation from the State of Delaware, when they added one container crane, it quintupled the tonnage from the previous year. And that was done in the late '80s.

By doing this -- well, it also doubled the jobs. We believe with this kind of facility that we'll be able to accommodate these vessels that we've just spoken about that would be able to go through the Panama Canal, will double to triple the amount of employees directly at the Port itself.

This does not include, once again, the truck drivers, or the people that service

different companies at the Port.

So, these are the types of things that we're talking about. And you know, I mean we could all study this until the 22nd century. The time is now. And look at the data that has already -- I mean you, as the hearing officer, Mr. Bureau, are blessed, if you will, with the availability of whatever the Corps has dug up so far. We would suggest to you that you use it, to either substantiate what their claims were or prove them wrong.

I would assume by now, in trying -- and we would also suggest this: That again, that DNREC work in conjunction with the Corps, so that this is done safely. You know, we would even suggest that they have DNREC people put on the ships, or scientists, so that they can test whatever comes up as it comes up, in whatever scientific amounts they deem to be necessary. Millions of gallons, millions of pounds, whatever the scientists deem it to be.

This is the kind of comity that we are suggesting to you that you sort of Solomon-esquely put this together, so that this

can be done safely and it can be done with oversight. This is an opportunity here. It should be viewed as an opportunity for all of us to try to work together.

And as you've heard from actually one of our competitors, they're doing windmills. I don't know how much greener you can get. And Fisker is electric cars. Think about that. It's like I said last night. Oil is the 20th century. We're dealing with the 21st, and what's going to happen in the future.

And until they start beaming stuff like Star Trek, they're still going to have to carry stuff by ship and containers. And that's what we want to do, because that produces the most amount of money and the most amount of jobs, ironically.

Thank you.

MR. BUREAU: Thank you, Mr. Baker. Okay. I believe we've got everybody that indicated they wanted to make a comment. Now, did I miss anybody who would like to make a comment this evening?

Is there anybody who indicated no

that has changed their mind and would like to make a comment this evening? Is there anyone who would like a final opportunity to make an additional comment?

MR. CONTE: Here.

MR. BUREAU: A very short additional comment if you would, sir. Please go ahead and state your name for the record.

And really, the purpose of providing the opportunity for an additional comment is not intended to provoke a back and forth debate of the issues that different people have voiced. I'm interested in hearing any new perspective or new information that you might have on this subject. Go ahead, sir.

MR. CONTE: Robert Conte. Two short things. I've noticed, I was at the hearings back in '91, which were quite contentious, and have been involved in this thing ever since.

I noticed something particular to people who call themselves environmentalists, and they repeatedly have voiced their "concerns" about dangerous chemicals that might be in the muck to be dredged.

We're now finding that the dredged muck is as the Corps predicted it would be, based on their core sample analysis from nine years ago.

The telling question is why have the environmentalists not voiced their concerns about the very real dangers of oil spills in the Delaware Bay due to lightering? That's never come up, as far as I know. It's always been what comes out of the bottom is going to be dangerous.

Well, I think the answer to that question is that the only way to reduce the dangers of lightering is to deepen the channel. What a conundrum that poses for people who label themselves as environmentalists. You can't have it both ways.

MR. BUREAU: Okay.

MR. CONTE: That's number one. Number two, when you talk about economic benefits of dredging the channel to 45 feet, that can be viewed in a positive light and a negative light.

The positive way of looking at that is the channel deepen willing create construction jobs in the actual deepening, port jobs as a

result, trucking, warehousing, rail transportation, and support jobs that feed out into the community.

The negative way of looking at this, the negative effects will be what happens if you don't deepen the channel? And the man from the Port talked about that. If you don't deepen the channel, what is going to be the economic loss of jobs, warehousing, trucking, support, so on and so forth?

So, when the evaluation is made by the hearing officer, is it in the negative? Is it in the positive? Or is it a combination of both? I think that way of looking at it is very critical. Not what you're going to gain by dredging the channel to 45 feet, but what are you going to lose if you don't dredge the channel to 45 feet.

MR. BUREAU: I understand.

MR. CONTE: Both of those are economic cost analysis.

I'm done.

MR. BUREAU: Very good. Thank you. Mr. Farrell, did you want to make an additional

comment? I would like to keep these short and pointed if you would, please.

MR. FARRELL: I spoke briefly, and everyone has talked about the benefits and the unique opportunity that we have. The Governor, our Governor, Jack Markell, and Alan Levin have -- have -- have done what few states who are suffering job losses have done. They are attracting businesses to the State. There's a momentum that is -- that is currently in progress.

We should do everything that we can to keep this momentum going. We don't want to take away from that. So that this -- the deepening of this channel will add to the momentum that currently exists. It will add to the number of jobs that are created. When this is done, it will make the state increasingly more attractive for new businesses to come.

That's all I wanted to say. Thanks.

MR. BUREAU: Thank you, Mr. Farrell. Mr. Moyer, did you have an additional comment you would like to make? Is there anyone else? Okay.

MR. MOYER: I don't know,

Mr. Bureau, if you feel this is in the form of rebuttal, but if you do as I start, let me know and I'll submit it in writing.

MR. BUREAU: Very good.

MR. MOYER: Part of my testimony last night, I included in my testimony a listing of all the accidents that have occurred on the Delaware River as a result of vessels laden with oil navigating up that dangerous channel, from 1973 until present.

My testimony tonight was to basically emphasize that now that they're going to be larger vessels, with -- without the bend widenings that are necessary to accommodate the larger vessels, the chance of another catastrophic oil spill from a vessel laden with oil going up the Delaware River has increased a number of fold.

I was unable to find any evidence, in my thorough research in my dealing with this project as Laura Herr's predecessor for 30 years, to indicate that there were similar amounts of oil spills resulting from lightering.

Now, if that information exists, I

hope somebody will make that available to me so I can change my opinion.

Number two, this notion that has been in the press and voiced at this hearing, that for some reason DNREC has sat on its hands on this project for all these years is simply false.

The reason that it's taken so long to get to this point is that DNREC, and myself as being in charge of this project before, has not been able to get the Corps to comply with the requirements that are necessary to be met in order to get an application in the form necessary on which the Department can make a decision on.

That's all I had.

MR. BUREAU: Thank you, Mr. Moyer. Ma'am? State your name for the record?

MS. HEATON: My name is Debbie Heaton, H-e-a-t-o-n, and I'm with the Delaware Chapter of the Sierra Club. We're not prepared tonight to make any statement. We've had travel and other things happening, and are planning to submit comments during the period that you've extended.

Although I will say I'm a little concerned about being able to keep up with any of the new material that will be posted to the website, I do appreciate the use of a little new -- when you post it up, so it points out to people as you go up there that there is new information coming up.

I heard Mary Jacobson indicate it would be good to keep it open for an extra window of time past or beyond the last submission by the Army Corps, and I would like to just second her idea. And thank you for this opportunity. We'll send the comments, and per the instructions that were handed out.

MR. BUREAU: Very good. Thank you. And I -- I guess I'd like to make a comment on that, and I tried to touch on that in my initial remarks, in that it's going to be up to me to decide, based on the timing and the critical nature of whatever Corps submission there may be, whether or not to extend the comment period or grant an additional comment period, based on, I said, the timing and content of the Corps' submittal.

If a critical submittal occurs subsequent to the September 13th deadline, and I decide an additional comment period is warranted, I'm just advising you that that comment period is likely to be rather brief.

And so, again, I urge you to provide your e-mail address to DNREC, because that will be the fastest way the agency can contact you, provide you the document in question, and alert you as to any new timeline for comment.

I've decided to do this because the Secretary has committed to a transparent process, and maintains that the public needs to be involved, and we need to provide as much of an opportunity as we can for the public to be involved, and to comment. And I intend to do that.

With that, we will close the record for this evening. I would like to thank everyone for their attendance, for their time and effort in coming. And on behalf of DNREC and myself, have a good evening. Thank you.

(Hearing concluded at 7:40 p.m.)

I N D E X

	PAGE
SPEAKER: William Moyer	14
SPEAKER: Rich Heffron	17
SPEAKER: Pat Todd	21
SPEAKER: Robert Conte	24
SPEAKER: Ronald Farrell	29
SPEAKER: John Reece	38
SPEAKER: Mark Kleinschmidt	40
SPEAKER: Mary Jacobson	45
SPEAKER: Darrell Baker	61
SPEAKER: Robert Conte	68
SPEAKER: Ronald Farrell	71
SPEAKER: William Moyer	72
SPEAKER: Debbie Heaton	74
CERTIFICATE OF REPORTER	77

REPORTER'S CERTIFICATE

I, JULIANNE LaBADIA, Registered Diplomate Reporter and Notary Public, do hereby certify that the foregoing record, pages 1 through 76 inclusive, is a true and accurate transcript of my stenographic notes taken on July 14, 2010, in the above-captioned matter.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 21th day of July, 2010, at Wilmington.

_____

Julianne LaBadia, RDR, CRR