



## **Delaware River Deepening – The Committee of 100’s Position January 2010**

### **Purpose**

The Committee of 100 Environment and Energy Committee prepared this report to present facts associated with a proposed deepening of the Delaware River Main Channel by the U.S. Army Corps of Engineers (ACOE). In November and December 2009, The Committee of 100’s Environment and Energy Committee interviewed representative proponents and opponents of the proposed deepening project, researched and reviewed technical reports, correspondence and news articles, and summarized our findings, conclusions and recommendations. The committee was unable to directly interview representatives of the State of Delaware or the ACOE because of the current deepening related lawsuit brought by the Delaware & New Jersey Attorneys General against the ACOE.

### **Background**

The Delaware River Main Shipping Channel is a 102.5-mile long, man-made ditch in the river bottom that runs from the Delaware Bay north to Philadelphia, PA/Camden, NJ. The channel was originally dredged (natural river depth was 18 feet) in the 1890s to improve navigation safety. Congress authorized it to be deepened in 1924 and again in 1945, to accommodate larger classes of ships. The current channel depth is 40 to 45 feet and the channel width ranges from 450 to 1,000 feet.

The Port of Wilmington, founded in 1923, is located at the confluence of the Delaware and Christina Rivers, 65 miles from the Atlantic Ocean. The Port is a major Mid-Atlantic import/export gateway for a wide variety of maritime cargoes and trade. It is the 4th largest port in the US and the largest freshwater port in the world, handling over 400 vessels per year with an annual import/export cargo tonnage of over 4 million tons. The Port of Wilmington: 1) has the largest dock-side cold storage facility in North America; 2) is the #1 port in North America for imports of fresh fruit, produce and juice concentrate; and 3) is the world's largest port handling bananas. The Port of Wilmington is the only major port in the world that is restricted by a 40 foot channel. Regionally, New York City, Baltimore, and Norfolk each have 45 to 50 foot channels. Access channels for ports in Savannah & Charleston are 42 to 45 feet deep.

### **The Deepening Project**

ACOE and the Philadelphia Regional Port Authority (PRPA), with the support of commercial shipping companies and maritime organizations in Pennsylvania, Delaware and New Jersey, proposed deepening the Delaware River Shipping Channel from 40 to 45 feet. The project was first authorized by Congress in 1991 to keep the nation’s ports economically competitive.

Importantly, the proposed channel deepening will accommodate new, larger classes of cargo ships driven by global shipping trends, in particular the enlarging of the Panama Canal and the likelihood of a heretofore unavailable navigation route through the Arctic Ocean.

The Delaware River deepening project is estimated to cost \$300 million and will be funded 2/3 by the Federal Government and 1/3 by the local sponsor, PRPA. The local cost share for the project will be funded based on the following allocation: \$68M from PRPA, \$15M from PA, \$15M from NJ and \$2M from DE.

Currently the River’s Shipping Channel is dredged annually, removing 3-1/2 to 4 million cubic yards of sediment to maintain its currently authorized depth of 40 feet. The dredged material, consisting of mud and sand, is deposited on lands in Delaware, New Jersey and Pennsylvania.



## Pros & Cons of Deepening of the Delaware River Shipping Channel

To complete the proposed deepening project, 16 million cubic yards of sand, silt and rock will be removed. More specifically, 33 river miles are already 45 or more feet deep, and much of the remaining 69 miles of channel will be dredged less than an additional 5 feet in depth. Less than 15 miles of channel will have to be deepened the total 5 feet. Blasting to remove rock outcroppings in the river bed will occur in the vicinity of Marcus Hook, PA. In addition to deepening, eleven bends in the river channel will be widened to various extents to accommodate longer ships and to improve navigational safety.

### **Economic Impact**

The Delaware River Regional Port Complex annually contributes \$4 billion to our regional economy, including \$1.4 billion to wages, and approximately \$150 - \$170 million to state & local taxes. In Delaware, following the closing of Chrysler, GM, Valero and other major employers, the shipping channel deepening project is viewed by many as a critical opportunity for maintaining and restoring blue collar jobs. Dole and Chiquita, which are the largest shipping customers at the Port of Wilmington and whose operations support 2,200 direct jobs (77% held by Delawareans), have both gone on record to indicate that larger ships and a deeper channel to access the Port are necessary for their continued viability in Wilmington.

### **Environmental Impact**

Over the past 10 years, the ACOE performed detailed economic and environmental investigations and cost benefit analyses for the deepening project. Necessary permits for the deepening in Pennsylvania have been issued. A New Jersey Federal Coastal Zone Consistency Determination was initially issued in 1997, but was revoked in 2002 based on the 5-year time lapse and additional economic and environmental information that had been subsequently received for the project.

ACOE applied for Delaware wetlands and subaqueous lands permits in January 2001. After an extensive review, Delaware's DNREC held a public hearing in December 2001 conducted by an independent Hearing Officer, Timothy Bureau, who was selected because of his knowledge of dredging matters. Following the hearing, DNREC provided a period of time for public comment and ACOE responses, which were provided to Mr. Bureau for his review. The Hearing Officer's December 2003 Report (157 pages) listed 55 problems with the application. Since 2003, the scale of the deepening project changed and the ACOE revised their cost/benefit analysis in 2004. Delaware took no further action on the application for many years, and the ACOE did not pursue it either.

In December 17, 2008, ACOE opened a 2-week public comment period on a Supplemental Environmental Impact Statement (updating the 1997 EIS). DNREC's then Secretary John Hughes advised ACOE that DNREC could not comment in this short timeframe, but would review the information in the context of a new Delaware subaqueous lands and wetlands permit application and supplemental federal consistency certification. He provided the ACOE with information required for the Environmental Assessment and for Delaware's permit requirements.

On June 30, 2009, ACOE posted a bid solicitation for the Delaware River Deepening Project. In July 2009, current DNREC Secretary Collin O'Mara denied the ACOE's 2001 permit application, citing significant changes to the scale of the project, the outdated nature of the record, and the potential procedural flaws in making such an important decision based upon the existing record. Secretary O'Mara and Governor Markell encouraged the ACOE to re-submit the permit applications and pledged to review them quickly.

In October 2009, the ACOE proposed to start deepening the channel in January 2010 without permits, citing Federal rights of navigational servitude to promote interstate commerce. The ACOE decision to move ahead without State permits was challenged in Federal Court in November 2009 by both Delaware and New Jersey. A stay to prohibit the beginning of dredging has been granted pending a court ruling.



## Pros & Cons of Deepening of the Delaware River Shipping Channel

No matter what decision is rendered, it is clear that economic benefits dominate the deepening proponents' discussions and that both the validity of economic benefits and environmental costs dominate the opponents' discussions. As the Environment and Energy Committee, we probed more deeply into the outstanding environmental issues and have attempted to summarize them in Table 1 below. Accompanying Table 2 provides a more detailed summary and comparison of the pro and con arguments associated with the deepening project.

**Table 1 – Status of Delaware Environmental Issues**

<b>Key Delaware Environmental Issues (2003 &amp; 2008)</b>	<b>Current Status</b>
1. The ACOE agree to have the DRPA (now PRPA) as co-applicant	Resolved. Partnership Agreement signed June 23, 2008
2. Provide an adequate National Environmental Policy Act (NEPA) roadmap	The 2008 Environmental Assessment updated the 1997 EIS, but a number of issues still remain to be addressed
3. Agree to perform deepening and widening work outside of "biological window" time frames to protect habitats and species	Unresolved. ACOE conceptually agrees, but wants flexibility to continue dredging when necessary to prevent cost overruns. Need to work out differences.
4. Resolve future responsibility issues	Unresolved. In addition to Damage Prevention Plan, need a Mitigation/Contingency Plan for fish, wildlife and wetlands losses resulting from the project.
5. Water Quality violations and impacts from economic loading	More information is needed.
6. Blasting, removal & placement of rock	More information on blasting process, duration, materials management, and reuse and/or disposal is needed.
7. Air quality conformity associated with increase in ship traffic	More information is needed.
8. Updated salinity model	Needed.
9. More detailed sediment disposal plan, including calculations of sediments from deepening private channels in response to 45' main channel. Potential secondary and cumulative impact on the lateral access channels including siltation and sediment quality concerns	More information is needed. May not be ACOE's direct responsibility to compile private channel information; however, dredge spoil sites are in short supply, and need to be planned in advance.
10. Sediment budget analysis to demonstrate whether sediment left in the river system will be sufficient to maintain adjacent tidal marshes	Needed.
11. Provide updated economic analysis	In progress. GAO review due in April 2010.

### **Conclusion**

After review of the available information, The Committee of 100 Environment & Energy Committee's opinion is that the deepening project has important economic benefits to the State of Delaware and the region but should not move forward in Delaware until the outstanding environmental issues are resolved, and Delaware permits are granted. Further, a finite timeframe in which to resolve these issues (no longer than 12 months), should be set by the Federal Judge in which to resolve these issues.