

Congress of the United States

Washington, DC 20515

September 7, 2011

Mr. Jacob Lew
Director
Office of Management and Budget
725 17th Street
Washington, D.C. 20503

Honorable Jo-Ellen Darcy
Assistant Secretary of the Army
Civil Works
108 Army Pentagon
Washington, D.C. 20310

Dear Director Lew and Assistant Secretary Darcy;

We write to you today regarding a matter of great importance to our constituents, the deepening of the Delaware River main channel to 45 feet. We are again requesting that the Office of Management and Budget and/or the Corps of Engineers restore Congressionally appropriated funds for this project as part of the Corps of Engineers FY2012 budget or work plan.

It is our understanding that deepening the Delaware River will increase cargo to the Port of Philadelphia by 2.4 million tons, create at minimum 1,300 long term jobs and thousands of short term construction jobs. This project has a real opportunity to address Philadelphia's high unemployment - 9.8%, higher than Pennsylvania as a whole and the national average. There is real potential that this project will create a ripple effect of economic growth throughout the region.

This project was authorized by Congress in 1992 on the basis of the Corps' own recommendation that it is environmentally sound, economically justified, and technically feasible. In recognition that the project is critical to sustaining the economic vitality of ports and cities along the Delaware River - as well as supporting the economic strength of the nation - Congress has appropriated \$77.4 million to advance it since FY99 (FY10-\$4.844m, FY09-\$3.28m, FY08-\$2.34m, FY06-\$2.25m, FY05-\$1.65m, FY04-\$9m, FY03-\$2m, FY02-\$10m, FY01-\$30m, FY00-\$10m, FY99-\$1.5m). These funds were appropriated by Congress with a complete awareness of the project's Benefit to Cost (BCR) ratio and the criteria used to develop the budgets over this time frame. Clearly Congress intended to fund the construction of the project.

Of this amount, it is our understanding that \$22 million was spent, while approximately \$53 million was reprogrammed for other projects - with the understanding the funding would be repaid once the project commenced. In response to our previous requests the project's BCR and/or your inability to reprogram without informing the Congress, have been cited as the reason for not restoring its previously appropriated funds. We maintain that this project is a

worthwhile investment, and – regardless of the economic justification criteria established for preparation of and inclusion into the Corp’s annual budget request – Congress unequivocally intended that it be granted the full \$46 million it is owed.

The Corps needs to set aside its reliance upon its BCR and look at the net benefits this project will generate, the jobs we previously mentioned and the level of commitment of the Commonwealth of Pennsylvania in its provision of accelerated project construction funding for the project. The Corps BCR does not take into account the creation of wetlands at Kelly Island through the use of dredge material nor for the potential of major significant traffic increases through the expected 2014 completion of the expansion of the Panama Canal, which was not a certainty the last time the BCR was calculated.

Additionally, to continue to withhold vital funding appropriated by Congress based upon a BCR criterion that does not appear to be consistently applied does not seem appropriate. The Corps budget has included projects with a lower ratio within the last two years. In FY 2009 the Corps funded the J. Bennett Johnston Waterway in Louisiana, which had a BCR of .6, and in FY 2010 the Corps funded the Columbia River Project in Oregon and Washington that had a BCR ratio of 1.5. Clearly there are exceptions to the Corps standards. The most recent revisions to the BCR in response to the March 2010 GAO review, dated June 2011 show that the deepening project comes in at 1.6.

Furthermore, to cite a project’s absence from the President’s budget as a reason for not funding the project is also a moot point as we have been advised that 76 of the 162 projects in FY2011 work plan were not in the President’s budget.

We recognize that much of the advancement of this project is a direct result of Asst. Sec. Darcy’s leadership and we greatly appreciate those actions. Nonetheless, the time has come for specific answers regarding the Corps intentions to follow through with the project and restore the funding appropriated by Congress.

To that end, we would like to know the following:

- A) What specific steps is the Corps undertaking in its current and future budget processes to restore the missing \$46m to the Delaware River Deepening project;
- B) Which projects benefited from the use of appropriated funds for the Delaware Deepening and how much funding did Congress appropriate for those projects;

- C) What specific criteria are used to determine what projects are included in the annual work plan;
- D) What entities within the executive branch determine the Corps budget and which projects are advanced; and
- E) What other projects nationally, have had funding reprogrammed and were those funds restored or not?

We have great concern that the Corps has not complied with Congress' intent with regards to this funding, signed into law, both as a matter of principal and as it relates to our constituents. To date, the Commonwealth of Pennsylvania has literally carried the water on this project, and it is time the Corps follows through with the funding it was provided by Congress.

Sincerely,

Bob de Brady

Chaka Fattah

Maria Fawcett

Patrick White

Theresa J. Schunty