



September 21, 2011

The Honorable John McHugh  
Secretary of the Army  
1400 Defense Pentagon  
Washington, DC 20301-1400

Dear Secretary McHugh:

The importance of the Delaware River Main Channel (45-foot) Deepening Project to the State of Delaware is significant and we write this letter to ask for your help in securing federal funding to help resolve this long-standing issue. While this project has a rather long and somewhat tortured history, some background is important for context.

By the beginning of the Markell Administration in January of 2009, this project had been in the development and approval phase for well over ten years and a permit application from the Army Corps of Engineers was still pending before the Delaware Department of Natural Resources and Environmental Control (DNREC). As DNREC reviewed the issue in the spring of 2009, the Delaware Department of Justice advised that procedural problems in the multi-year permit process rendered the process fundamentally flawed. As a result, DNREC concluded the proper course was to deny the permit but invite the Army Corps to resubmit its application with current data.

When it invited the Army Corps to re-apply, DNREC also provided assurances that the permit application would be handled in a professional and timely manner. The permit decision required a balance between the much needed job creation opportunities and the desire to protect the critical environmental attributes of the Delaware River. Importantly, a healthy and vibrant Delaware River is an important source of tourism and recreation for Delaware. It was our view that the science should govern and that the State of Delaware was best positioned to properly strike this balance. We were hopeful that the environmental issues could be addressed, while allowing the project to go forward.

Unfortunately, instead of filing a permit application with current information, the Army Corps sought to proceed unilaterally with the Deepening Project, despite not having the Delaware permits necessary to do so. Our Attorney General properly sought federal court protection against this intrusion, but the federal district court allowed the Army Corps to move forward unilaterally. This litigious process, initiated by the Army Corps, has resulted in delays and uncertainty that could have been avoided by a fairly expedited permitting process. Notwithstanding our ongoing concerns about our state's right to make official decisions regarding waters within our borders, the dredging of the river has commenced as the project finally entered the implementation stage after more than a decade of planning and development. Indeed, the Project is now underway and the deepening of Reach C has been completed.


Going forward, the Diamond State Port Corporation has reviewed this project and has concluded the project is critically important to the current and future growth of the Port of Wilmington. As the improvements to the Panama Canal are completed, the need for deeper water will increase if the ports along the Delaware River are to expand the quantity of commodities and products they ship. In fact, according to the Port of Wilmington, it has been approached by major shipping lines interested in developing a container terminal adjacent to the Port's existing footprint, an investment that we are told could approach \$500 million and create hundreds of jobs. Other ports in this region will also benefit, and the viability of these ports translates into thousands of good jobs for our citizens in the region. However, we have been advised that the financial commitments and investments of this magnitude are likely contingent upon the completion of the Delaware River Deepening Project.


To continue the Deepening Project, \$15 million in federal funds must be added to the Army Corps of Engineers' recently released Work Plan. We ask for your support in identifying and committing these funds. Given the federal investments to date and the fact the dredging has begun, it makes little sense to halt this project now. Additionally, the environmental studies done during the dredging of Reach C are encouraging. The water quality report published by the Army Corps in cooperation with DNREC found that the Reach C deepening resulted in a net benefit to the water quality in the river, taking more toxins out of the water than were in background samples before the dredging. We ask that you ensure the Army Corp continues to work cooperatively with DNREC to complete the project in a manner that minimizes the risks to this sensitive environmental area that have been identified to date, as well as monitor for new environmental impacts that may arise as the project proceeds.

In closing, we fully recognize the difficulty of trying to curtail spending with the many competing demands on the federal budget. At the same time, we think it is prudent when it comes to infrastructure investments that we finish what we started if it can be done in an environmentally appropriate manner, especially when doing so will leverage private sector dollars into significant job creation. We respectfully request strong consideration toward funding this important job creation project to fruition.


Thank you for your consideration of our request

Sincerely,

  
Jack A. Markell  
Governor

  
Thomas R. Carper  
U.S. Senator

  
Chris Coons  
U.S. Senator

  
John Carney  
Member of Congress

cc: The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)