

November 29, 2009

Delaware River: Dredging battle pits jobs vs.

river Environmentalists say project won't help ports *By JEFF*

MONTGOMERY The News Journal

Nearly 28 years after Congress authorized the <http://www.usace.army.mil/>>**Army Corps of Engineers** to deepen the Delaware River's main shipping channel, the only thing about the project that has deepened is the controversy.

The latest showdown over the \$300 million plan to increase the depth of the shipping channel from 40 to 45 feet is scheduled for Dec. 8 in federal court, when Delaware and New Jersey will try to block the corps from carrying out its threat to start dredging without permits from either state.

As the court face-off approaches, business and labor leaders have stepped up efforts to link the dredging project to economic growth and jobs. Philadelphia has always led the fight, but supporters say the <http://www.portofwilmington.com/>>**Port of Wilmington** also would benefit.

Both cities want to position themselves for a piece of the action when the Panama Canal opens to a new class of mega-ships in 2014. The Port of Wilmington also would need traffic from a deeper channel to justify an expansion from its main Christina River location to new docks along the Delaware.

"I will tell you that the best thing we could do is go out on the Delaware, in addition to the Christina," said <http://dedo.delaware.gov/>>**Delaware Economic Development Office** Director Alan Levin. "I'm a strong advocate of that. The only way we could ever do that is if the channel was at 45 feet."

Environmental groups counter that the dredging plan is risky and unlikely to attract even a small fleet of new shippers -- not nearly enough of a return to jeopardize important fisheries and slowly rebounding ecosystems that support their own industries and ecotourism.

Regulatory and intergovernmental disagreements have multiplied, with debates swirling around everything from state-versus-federal powers to the amount of silt to be dredged from the river.

Corps officials have declined to comment on the pending lawsuit.

Some experts say the odds are heavily against a shipping boom for ports along the Delaware, even if the channel is deepened.

"At 40 feet, the Delaware is a little shallow, but I think it would be a waste of money if they're deepening it for the really big ships that will be coming through the Panama Canal after 2014," said Jean-Paul Rodrigue, an associate professor and researcher at Hofstra University who has written extensively on ports and global trade and transportation. "I think it's safe to say that growth will be lower than what people expect."

Others say competitive pressures have forced many Atlantic and Gulf Coast ports into a race for deeper water to lure a new generation of megaships.

"We're sitting on a gold mine right now, and trying to get the three states to understand and coordinate their policies has been a tough task," said James H. Paylor Jr., an International Longshoremen's Association vice president. "Nobody has been able to challenge the job generation that comes along with the volumes we're talking about, and the fact that some of the ship lines are looking favorably at us."

Dennis Rochford, who directs the <http://www.maritimedelriv.com/> > **Maritime Exchange for the Delaware River and Bay**, said ports in Philadelphia, Wilmington and elsewhere already are preparing for the finish of the Panama Canal expansion project.

"We would be the only major port facility limited to 40 feet of water in a marketplace where all our major competitors have 42, 45, 50 or more," said. "In my view of the world, that's the reason for us to move forward on this project with dispatch."

Environmental advocates say the Delaware River is a unique source of water, fisheries and fragile natural habitats for everything from tiny juvenile eels to horseshoe crabs and giant sturgeon.

David Conrad, a senior water resources specialist for the <http://www.nwf.org/> > **National Wildlife Federation**, said big ports from Savannah, Ga., to New York are grappling with expansions, but Philadelphia -- the world's largest freshwater port -- raises special issues.

"There are physical differences between ports that are on the coast and ports that are far inland, and some people just don't seem to recognize that reality," Conrad said. "The assumption that you can deepen rivers to whatever depth you want and continue to benefit from the natural services that rivers provide is ludicrous."

Without permits

Although the channel deepening has been a simmering issue for years, things came to a head earlier in October when the corps announced it would start work soon, ignoring Delaware's rejection of a key underwater construction permit and other permits Delaware and New Jersey require.

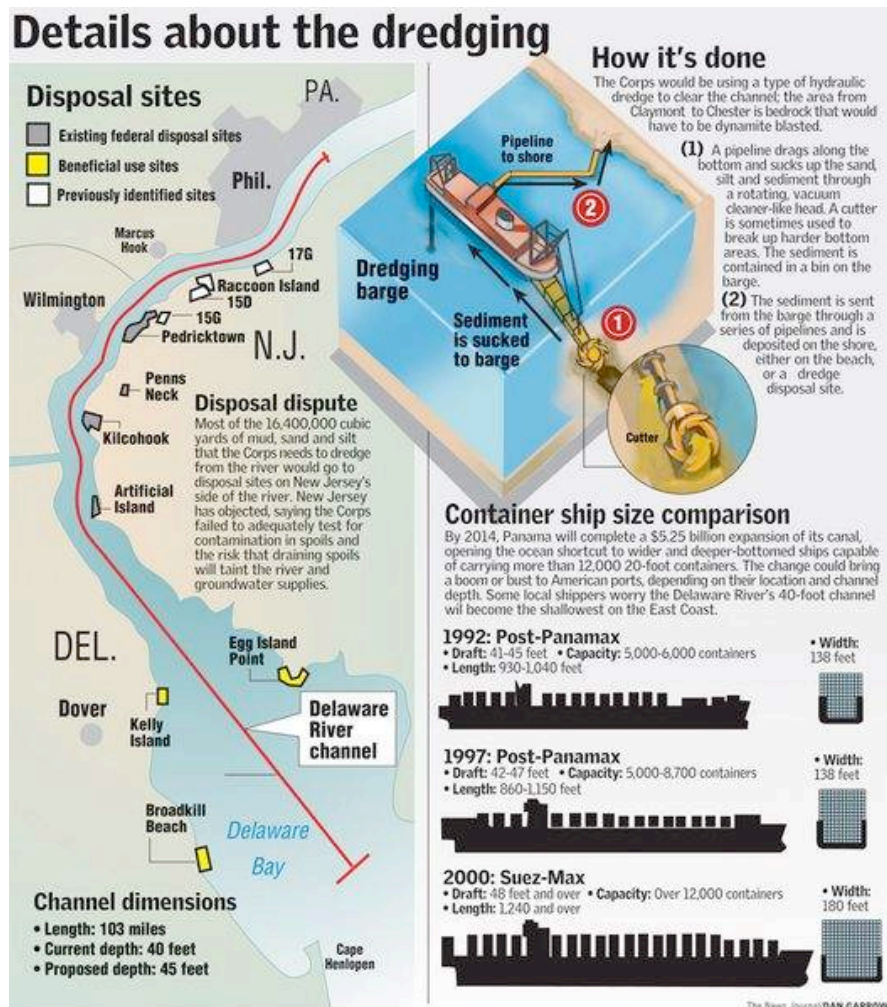
Both states sued to stop the project, arguing in separate federal courts that the corps' plan relied on outdated studies, skipped tests and

overlooked changes along the river since the release of an environmental impact statement in 1997.

The <http://www.philaport.com>>Philadelphia Regional Port Authority quickly objected to Delaware's lawsuit, saying the state was simply trying to block the project after dragging out a permit review for 8 years. The business group asked to become an official part of the suit, claiming it stands to lose \$30 million already invested or spent on the preparations.

"Without the project, operators of larger vessels will likely spurn Delaware River ports in favor of competing ports, such as Newark, N.J., and Baltimore, Md." PRPA Executive Director James T. McDermott said in a court filing.

New Jersey voters chose a new Republican governor earlier this month, but Republican Gov.-elect Chris Christie showed no early interest in changing the course set when Democratic Gov. Jon Corzine's administration sued the corps.



The News Journal/DAN GARROW

"It would be fair to say that he wants to listen to all sides and have as much information as possible before coming to a final decision," Christie spokeswoman Maria Comella said. "But at this point in time, he does have serious concerns about the deepening."

Five environmental groups filed their own lawsuit in New Jersey's federal court district last week, and also asked to join Delaware's case. They warned that a corps override of state permit rules would set a damaging nationwide precedent.

Also in dispute are the financial costs and benefits.

'Arrogant' agency

Opponents charged that the corps had become a "rogue" agency, refusing for decades to fully evaluate contaminants in millions of cubic yards of dredge spoils, and failing to complete other basic reviews.

"There's no project in the country that's this devastating and this arrogant," said Jeff Tittel, who directs the <http://www.sierraclub.org/>">**Sierra Club New Jersey Chapter**.

The corps has pointed out that it has made repeated changes and concessions in response to criticisms.

While Pennsylvania at one point agreed to take most of the dredge spoils, the corps has since pulled back, saying that most will go to confined disposal areas in New Jersey or along New Jersey's side of the river. A portion of the sandy dredging spoils from the bay would be used to stabilize and enlarge Broadkill Beach in Delaware and a portion of Kelly Island east of Little Creek, a horseshoe crab breeding area.

"This is one of the worst-planned projects we have seen across the nation," Conrad said. "The record is so vague and unclear as to what the corps intends to do that one of the demands we're making is a supplemental EIS would be absolutely necessary."

New Jersey also said the corps has failed to provide an adequate environmental assessment or up-to-date environmental impact statement, noting that its last impact study was submitted in 1997.

The <http://www.doi.gov/>">**U.S. Department of the Interior**, the <http://www.fws.gov/>">**U.S. Fish and Wildlife Service** and the <http://www.epa.gov/>">**Environmental Protection Agency** raised separate objections and challenges to the corps plan, citing shortcomings on evaluations

of air quality impacts and effects on horseshoe crabs, oysters, eels, fisheries, essential fish habitat, groundwater contamination, salinity levels in the Delaware, among others.

"If they can just break and violate federal laws here on the Delaware, they can do it anywhere in the country," Tittel said. "This puts the Clean Water Act right in the cross-hairs of the Army Corps of Engineers."

Backers of the deepening insist the corps answered all environmental questions long ago, with only the region's status as a maritime center at risk.

"I've worked at the Port of Wilmington for 30 years, and I think its past time for us to get on with the project," said William Ash, a regional container inspector for the <http://www.ilaunion.org/>>International Longshoremen's Association.

Bigger ships coming

Behind the concern is the expansion of the Panama Canal, allowing the largest class of container ships to move directly to the East Coast from Asia, bypassing West Coast ports and the expense of rail or truck shipments across the country.

After 2014, ships with double the capacity, with bottoms 50 feet or more below the surface, will be able to get through the canal. Along the Atlantic and Gulf Coast, port officials have fretted that the bigger ships will reduce total traffic, cutting some out of the action.

Wilmington port director Gene Bailey said that both Dole and Chiquita sent his office letters supporting the channel deepening. Dole indicated it would be moving to newer and larger ships, he said, and Chiquita has an interest in Wilmington's expansion, a project that would require docks on the Delaware.

Dole's most modern ships draw less than 34 feet of water and can easily reach Wilmington's Christina docks, which average from 35 to 38 feet.

Philadelphia has been working for years to develop a 120-acre, state-of-the-art container port on former Navy land south of the Packer Avenue terminals, but needs at least 45 feet of water to attract shippers, Ash said.

"There's going to be a lot of people who do get left out," said Chris Wallace, editor of the Journal of Commerce. "Those who don't have the harbor depth and draft.

"It's the ports, it's the harbors and it's all about economies of scale. If shippers and carriers can operate much larger ships for cheaper prices, they're going to do it."

DEDO's Levin said Delaware regulators should be preparing now so they can monitor the deepening if the corps wins its case, or provide a swift evaluation if the state prevails and requires another permit review.

But depth may not be the overriding factor in Delaware's future success.

"There will always be a need for smaller ports. The cargo always wants to go to the closest possible location" to recipients, Hofstra's Rodrique said. "You're only going to need a few really deepwater ports. It is possible that the big carriers will decide to service the entire planet along the equator, using ports in the Caribbean to transfer shipments" to smaller vessels.

In that case, projects like Philadelphia's may find it hard to attract sponsors. Pennsylvania suspended bidding for the container port earlier this year, after reporting that bids received in May reflected the downturn in shipping markets.

"It's going to be on hold for a long time," Rodrique said. "Three or four years ago, it would have been almost a no-losing proposition. Now everything is uncertain. These companies are going to become excessively reluctant to invest money for years to come, and the conditions are going to become more stringent."

Maya K. van Rossum, who directs the <http://www.delawariverkeeper.org/>>Delaware Riverkeeper Network, was more blunt.

"They're chasing ships that are never going to come here anyway, and they know this," van Rossum said. "Philadelphia is too far off the ocean to be a viable contender for those ships."