



*State of New Jersey*

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September 8, 2010

**ELECTRONICALLY FILED**

Honorable Joel A. Pisano, U.S.D.J.  
Clarkson S. Fisher Building & U.S. Courthouse  
402 E. State Street, Room 341  
Trenton, New Jersey 08608

Re: State of New Jersey Department of Environmental Protection, et al v.  
United States Army Corps of Engineers, et al.  
Case No. 3:09-cv-5591-JAP-TGB

Dear Judge Pisano:

By way of this correspondence, New Jersey would like to advise Your Honor of a Notice of Events (Notice) electronically filed in the Delaware district court action, Civil Action No. 09-0821 (SLR), by the Army Corps of Engineers (ACOE) on September 7, 2010. According to the Notice and accompanying Declaration of Anthony DePasquale (Declaration), the ACOE needed “to dredge and dispose of approximately 1 million cubic yards of additional material not anticipated in the Reach C contract.” (Decl. ¶ 3). As a result, and without notice, the ACOE determined to use Cell #1 of the Killcohook Confined Disposal Facility (CDF) to dispose of the dredged material. Cell #1 is located in New Jersey, and on August 30 and 31, return water from Cell #1 was discharged into New Jersey waters. The ACOE’s action was taken notwithstanding the representations ACOE had made to the Delaware court that all dredge materials from Reach C were to be placed in Cells #2 and 3 of the Killcohook CDF that are located in Delaware and that convey return water to Delaware waters only. As a result of the unauthorized storage of dredge spoils in Cell #1, New Jersey waters have been directly affected.

A copy of the Notice and supplementing documents are attached for Your Honor’s convenience. New Jersey is currently evaluating the specific implications of this Notice on the instant action, as well as on the Delaware action. New Jersey will be following up with a formal response to the Notice shortly and will provide this Court with a courtesy copy.

Your continued attention to and consideration of this matter are greatly appreciated.



Respectfully,

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY

By: s/ Eileen P. Kelly  
Eileen P. Kelly  
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Attachments

c: Honorable Sue L. Robinson, U.S.D.J.  
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