

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STATE OF DELAWARE DEPARTMENT	:	
OF NATURAL RESOURCES AND	:	
ENVIRONMENTAL CONTROL	:	
	:	
Plaintiff,	:	C A No. 09-cv-821-SLR
	:	
v.	:	
	:	
UNITED STATES ARMY CORPS OF	:	
ENGINEERS, <i>et al.</i> .	:	
	:	
Defendants.	:	

**U.S. ARMY CORPS OF ENGINEERS’ NOTICE OF EVENTS AT THE
KILLCOHOOK CONFINED DISPOSAL FACILITY**

Federal Defendants United States Army Corps of Engineers, *et al.*, (collectively “the Corps”) submit this notice to apprise the Court and the parties of a temporary change in the location of the discharge of return waters from the Killcohook Consolidated Disposal Facility (“CDF”).

Since March 2010, the Corps has been engaged in dredging Reach C of the Delaware River pursuant to the Delaware River Main Stem and Channel Deepening Project (“Deepening Project”). Dredged material from Reach C has been placed in the Killcohook CDF.

As the Corps informed the Court in late 2009, the contract for work in Reach C called for all dredged material from Reach C to be deposited in Cells #2 and #3 of the Killcohook CDF. Both Cells #2 and #3 are located in the State of Delaware, and return waters from the disposal of dredged material at these cells are conveyed by sluices to parts of the Delaware River that are located in the State of Delaware. All dredged material was placed in Cells #2 and #3 until August 13, 2010.

For the reasons described in the attached Declaration of Anthony Depasquale, unforeseen circumstances and operational constraints resulted in the disposal of some dredged material from Reach C into Killcohook Cell #1, which is located in the State of New Jersey.

Depasquale Declaration ¶ 5. Return water from Cell #1 can be conveyed by a sluice that discharges to waters of the State of Delaware, or by another sluice that discharges to waters of the State of New Jersey. Before disposing of dredged materials in Cell #1, the Corps constructed a dike inside the Cell to prevent return water from being discharged to waters of New Jersey. *Id.*, ¶ 4. However, on August 28, 2010, the dike broke, and efforts to repair it were unsuccessful. Cell #1 return water reached the sluice on August 30, 2010, and was discharged to New Jersey waters. *Id.*, ¶ 7. On August 31, the Corps directed the dredging contractor to stop all use of Cell #1 as a disposal site for Reach C dredged material, and all discharge of return water from Cell #1 to waters of New Jersey have been stopped. *Id.*

Discharges of return water from Cell # 1 are unlikely to have adversely affected water quality in the Delaware River. *Id.*, ¶ 8. Past sampling of return water from Reach C dredged materials have shown no elevated levels of contaminants of concern. *Id.*

Because the discharge at issue has stopped and is not likely to have caused any adverse effect on water quality, the Corps requests no action from the Court at this time. Nevertheless, the Corps did want to advise the Court and the parties of the occurrence and the actions the Corps has taken.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2010, the CORPS OF ENGINEERS' NOTICE OF EVENTS AT THE KILLCOHOOK CONFINED DISPOSAL FACILITY was filed with the United States District Court for the District of New Jersey's electronic filing system, to which the following attorneys are registered to be noticed:

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