



February 19, 2009

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Re: Comments on Draft Damage Assessment and Restoration Plan and Environmental Assessment – January 2009

Dear Linda:

We want to thank you and your Trustee colleagues for all of the work, time and research developing the detailed DARPP and for your recent trip to Philadelphia on February 13th to discuss the NRDA process and the restoration selection process through OPA and NEPA that are on the table for mitigating the damage the Athos I oil spill caused to the Delaware River. We also appreciate being invited to submit potential restoration projects for restoration selection back in January 2006 and we would welcome continued involvement and assistance as you refine and finalize the final restoration plan.

We offer up overall comments as well as detailed comments on the DARPP on both the injury assessment and the restoration selection for the Delaware River watershed.

Overall, we acknowledge the work and high bar of the selection process for restoration projects to be considered based on OPA regulations. Some of the projects we support based on the preliminary details provided for each project, such as the Darby Creek dam removal projects, Lardner's Point and some components of projects where tidal wetland restoration and a reconnection to tidal influence in marshes is being proposed and where long-term benefits beyond the five years will likely be achieved. We are disappointed that there are not more projects in the injury area – specifically along tidal NJ tributaries (such as the Little or Big Timber Creeks or Woodbury Creek, and Mantua Creeks) where oiling was evident. We understand that acquisition of open land and floodplains is expensive in this densely populated area which could be one reason why so many projects are located down in the bay region on already protected lands but we want to emphasize the point that with wind and tides during the spill, these New Jersey tributaries have a direct nexus to the spill impacts. We also want to recognize that

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though small, restoring tidal freshwater wetlands nearer the impact zone, may create larger water quality benefits – particularly since these areas would help filter out pollution from adjacent industrial sites. As indicated by the Delaware Estuary Program these freshwater wetlands also provide diverse habitats for wild rice and sturgeon. The only freshwater wetland project included on the proposed list of nine projects is Lardner’s Point. We also want to reiterate the importance of better stormwater controls, naturalization of failing basins, and reconnection with floodplains in the impacted area north of many of the projects as other potential projects that could benefit the directly impacted region.

In the way of recreation projects, we suggest efforts to investigate passive recreation projects on NJ or PA tributaries that were impacted near the spill zone. Canoe or kayak trails or appropriately scaled canoe launches on these NJ tributaries in this densely populated region could bring communities closer to the River and provide benefits for wildlife watchers and non-motorized canoe and kayak enthusiasts. An observation deck and information kiosk for birders near Big Timber Creek or Oldmans Creek, places where birders recreate, could be other simple projects to help compensate recreational use and educate populations about the importance of these areas for wildlife. We would be happy to help explore some of these options and Mike Haberland, NJDEP Manager for WMA 18 (609-633-7714, Mike.Haberland@dep.state.nj.us) can also help to identify projects in this area or the Schuylkill Greenway Association and similar groups might have relatively low cost projects to reconsider. We believe this kind of recreation is much better suited to enhancing recreation in the reaches impacted by the oil spill and does so in a way that enhances the River and region for a larger number of individuals in a way that is more beneficial to River communities.

The criteria used to test restoration projects are useful tools that create a good methodology for screening. However, the twelve month time frame criteria to implementation does not seem reasonable being that these projects were first solicited back in January 2006. With proper coordination and oversight and involvement in this restoration process, preliminary projects that were suggested in 2006 could have been planned for and developed within the timeframe of the NRDA process. With the DARPP being drafted January 2009, there is at a minimum a three-year window for planning selected projects. Perhaps this coordination did happen with some projects on a case-by-case basis but again, with the 12-month timeframe being one of the Tier 1 screening criteria, many good projects may have been disqualified prematurely when in fact, they likely could have reached the NRDA timeframe for implementation if selected.

Projects we do not support in the scope of the NRDA for Athos I include the Augustine jetty project and the Stowe boat ramp “improvements”. We feel strongly that neither of these projects should be considered.

We have concerns with the Mad Horse Creek Wildlife Management Area project - which appears to be over \$18 million in cost. We would like more information to be released on this project and subject to public review and comment before it is included in the final DARPP.

We see the value in oyster bed establishment but we do not support this project due to its short-term gains and think the funding could be better spent elsewhere. We also agree with leading bird organizations like American Bird Conservancy that identifying a project as the oyster reef restoration as a benefit to gulls, shorebirds or wading birds will set an improper precedent for future oil spill restoration considerations. If the trustees successfully argue and justify a subtidal oyster reef restoration project as a benefit to these birds, this faulty logic will adversely influence future restoration decisions.

Projects we support involve components of the tidal wetland restoration projects being proposed where hydrology will be restored and wetlands and grasslands created, Lardner’s Point where fill will be removed to allow tidal inundation and reconnection to the River (particularly since it recreates a wetland area and floodplain), as well as the Darby Creek dam removal projects which will open up fish passage

to this impacted tributary. If these projects continue to the final stage, we encourage a process where we are able to review plans for each of these projects as details are developed. Again, though we would like to note that these already preserved saltwater projects down in the Bay are worthwhile projects to bring back the natural hydrology and fish nurseries to those regions, they are not as directly tied to tidal freshwater projects near the impact zone.

For projects being selected away from the spill region, we encourage the reconsideration of two projects specifically that were part of the initial list of projects. The *Kelly Island Shorebird and Horseshoe Crab Project*, and the *Prime Hook NWR (Horseshoe Crab/Avian Restoration)* projects both would enhance services to gulls, other shorebirds, wading birds, and Red Knots. We urge the Trustees to reconsider both of these projects as more suitable alternatives than projects like the oyster bed projects which will not provide services for wading birds, gulls, or shorebirds. Recommended changes to the Mad Horse Creek Management Area project could also free up funds for these other projects that would acquire new protected acreage for threatened and endangered species that are key to our Delaware Bay region.

As a grass-roots environmental organization that works throughout the Delaware River Watershed and that has its own monitoring and restoration programs, we suggest that for projects moving forward, efforts be made to encourage and use volunteer manpower where appropriate to maximize the number and amounts of restorations that can be completed for the Delaware River and to involve the community in these projects so they are encouraged to ensure these projects continue after the five year lifespan. Forming local stewards in support of the projects should be an important part of the restoration. In general, turning to nonprofit organizations for expertise, organizing and implementation, and the inclusion of volunteer labor will stretch the benefits and value of every NRDA dollar spent as opposed to using those funds to pay for profit entities for expertise and implementation. This should be an important element in present and future project selection.

Detailed Comments Below By Section

Page ix - Executive Summary – It is outlined that there were only six tributaries that were exposed to very light to moderate oiling by the Athos I spill. What were the names of these six tributaries that were considered impacted and did this indeed include the entire scope of the spill impacts? Were these tributary surveys conducted only by aerial fly-overs or was there ground-truthing done by trustee staff on incoming tides to document oiling up the tributary streams? If ground-truthing was conducted, at what timeframe and for how long and how often was each tributary surveyed?

During the spill response, Delaware Riverkeeper Network (DRN) mobilized about 100 volunteer monitors to perform on-the-ground visual assessments and photo monitoring using standardized datasheets throughout the extended tributary regions and main stem by visiting public access areas along tributary streams. Volunteers focused on periphery areas to 1) stay clear of the immediate impact zone and clean up operations and 2) to document oiling in regions that may not have had as many staff and personnel present on these periphery regions of the tributaries. As part of that monitoring effort, in April 2005, New Jersey Water Watch (a monitoring effort coordinated by NJDEP) and DRN summarized our visual assessment reports into a draft report entitled, “Delaware River Watershed Oil Spill Monitoring Report Provided to Trustees Involved in the Athos I NRDA – April 15, 2005”. We provided this report to New Jersey DEP. Reviewing our volunteer reports, we documented degrees of oiling to 12 tributary streams of NJ and one tributary stream to Pennsylvania (please note we did not have complete coverage on all tributary streams). The streams where we documented impacts from oiling included Little Timber Creek, Big Timber Creek, Salem Creek, Fenwick Creek, Repaupo Creek, Woodbury Creek, Raccoon Creek, Oldman’s Creek, Mantua Creek, Cooper River, Alloway Creek, Pennsauken Creek and Crum Creek (PA side). We are concerned that the six tributaries discussed in the “Final Pre-assessment Data Report M/T Athos I, Delaware River, June 2006” does not include the scope of all of the tributaries that in fact were injured by the spill, based on our own visual assessments and the

extent of oiling listed in the Pre-Assessment Report which stated, “Over the following weeks and months, oil from the ruptured tanker spread downriver exposing natural resources over 115 river miles of the Delaware River (280 miles of shoreline), as well as its tributaries, from the Tacony-Palmyra Bridge to south of the Smyrna River in Delaware”.

Page 1 – It should be noted in the overview that though the Athos I vessel hit several objects on the bottom of the shipping channel, the owners and the operators of the Athos I made decisions which contributed to the occurrence of this catastrophe. They chose to come up the River in a single hulled tanker and they chose to come up the river lower on the tide than their predecessors. Had they made more prudent choices this catastrophe and the horrific damage it inflicted on our environment and communities could have been avoided.

January 20, 2006, the United States Coast Guard released its report on the Athos I oil spill -- report titled “Investigation into the Striking of Submerged Objects by the Tank Vessel Athos I in the Delaware River on November 26, 2004 with a Major Discharge of Oil.” Most notably to this point, the report found:

If the T/V Athos I had a double-bottom in place, the marine casualty would probably still have occurred, but it is very probable that the cargo tanks would not have been penetrated, thus avoiding a major oil spill. Evidence indicates the anchor penetrated the bottom of hull on the T/V Athos I a maximum of 18”. The minimum void space in double bottom as required under OPA 90 for a vessel of this design would have been 6’.”

”During the past year, 38 vessels had drafts greater than 35’ [Athos I’s draft was 36.5’]. Investigators then compared the time of arrival with regards to the tidal stage (1 ½ hrs past slack tide with a flood current) for the T/V Athos I to the other 38 vessels and found that all other 38 vessels had arrived at a later tidal stage.”

We believe that these contributing factors, decisions made by the owners and operators of the Athos I and documenting in the Coast Guard report, should be part of the DARPP.

Page 4, second paragraph - Along with the discussion regarding recovery of the oiled debris and the oily liquid recovered, it should be stated the amount of estimated oil that remained in the Delaware River environment after clean up. If more than 263,000 gallons of oil were released from the Athos I and 221,910 gallons of oil and oily liquid had been recovered along with 17,761 tons of oiled solids (clean up material and oil), that could mean as an estimate that 41,090 gallons of oil still remained in the environment. We recognize this is not an accurate science but the full scope should be indicated and at least estimated in this section to get at the degree of oiling that remained behind in the River.

Page 21 – Horseshoe Crab and Whelk Surveys – We commend the trustees for their efforts to evaluate the potential oiling impacts to the horseshoe crab populations of the Bay – horseshoe crabs are an important species for the Bay and must be protected. It does not specify but we encourage that any dredging of horseshoe crabs be done with a scallop dredge rather than a tooth-bar dredge to limit injury to the crabs and whelk surveyed. We also commend the Trustees for notifying USGS and the University of Delaware that while undertaking their own studies to look for oiling impacts on the crabs during the spawning surveys conducted in May and June 2005 by Delaware and New Jersey.

1.3 Summary of Injury Assessment – there is a dollar amount assigned to the recreational resources affected by the spill in this section (\$1,313,239); should there not be a dollar amount established for the injury to the natural environment in this section as well as NRDA assigned values to bird species and habitat lost?

We understand that natural recovery was chosen for primary restoration when a point was reached where cleaning and scrubbing of rocks was no longer appropriate or could do more damage than good. What efforts in the clean up arena are being developed or are new that would allow for faster recovery of these areas using new technologies that are not as harmful as power-washing? How are these new technologies being incorporated and required in the clean up process for future spills?

Page 6 and Table 1 -- 1.4 Summary of Alternatives Analysis and Identification of Preferred Restoration Activities

-- We recognize that this list of nine restoration alternatives is draft. Some of the projects we feel, have long-term environmental impacts of their own and are so far from the injured area that they should not be part of this restoration plan at all and we will address this below. Looking at cost estimates for projects, we encourage the Trustees to efficiently use resources for each project in the hopes that efficient projects can lead to more projects being conducted as part of the Athos I settlement. Again, turning to nonprofit organizations for expertise, organizing and implementation, and the inclusion of volunteer labor will stretch the benefits and value of every NRDA dollar spent as opposed to using those funds for pay for profit entities for expertise and implementation. DRN has a restoration program that has done extensive restorations over the past 17 years so we base our comments and concerns on this experience. By focusing on the most cost-effective projects which include nonprofit and volunteer partners, the money could be spread further and the River could benefit from other projects to account for more restoration. Finally, the nexus to injury with many of the projects being located down in the Bay is weak. As expressed above, we wonder if there were no alternative projects nearer the impact zone.

Tributary impacts are only accounted for with the Darby Creek Project. We support this project and the dam removals being proposed but feel that other tributary work is warranted and important as part of the settlement. Particularly since we know tributaries on the New Jersey side were impacted by the spill based on the wind and tides. Based on impacts, Big Timber, Little Timber, Mantua Creek, and Woodbury Creek are all tributaries where projects should have been investigated for example. We do not see any projects on these tributaries being considered on Table 16.

Who had major issues and comments regarding background contamination of the region and kept saying, was there really injury with these background contamination levels?

Page 22 – For oiled intertidal mudflats and marsh habitats, how does the NRDA process account for these impacted habitats and the birds that inevitably came back to feed in these areas in the spring months when pollution from Athos I was still present and the marsh and mudflats were not completely recovered? We understand that these habitats are weighted heavier than for example, riprap habitat or seawall areas. How are the birds who feed on these habitats accounted for?

Page 23 – Wildlife Response and Rescue Operations – Three turtles were found dead. What species of turtles were they?

Page 25 Table 4 – This table lists the most common bird species observed to be oiled during the ground surveys, accounting for 94% of the observed oiled birds. This list should include the other 6% of bird species that were observed oiled to be more comprehensive.

Page 26 - Aerial Bird Surveys – In December, the DARPP reports more birds moving into the oiled areas in late December as it became colder. How are these other species of birds that arrived and were counted in aerial bird surveys represented and made whole from the Athos I oil impacts that remained on these feeding habitats for months after the spill? These species included black ducks, buffleheads, ruddy ducks, green-winged teals, pintails, snow geese, greater white-fronted geese, mergansers, and canvasbacks.

Page 27 - With the colder temperatures in the winter months, and the fact that oiling causes hypothermia and death of birds as they lose their water-proofing ability of their feathers, how do the models and calculations account for the point that more birds likely froze to death because of the time of year than if the spill had happened in the summer months where they may have had better environmental conditions to preen without the risk of freezing?

Page 27 – 4.3 Injury Assessment Strategy – we understand the injury assessment strategy is conducted in full cooperation with the RP, with the goal of reaching consensus among all parties. With these negotiated values, we are concerned the Delaware River is not being made whole by the impact of the spill. There is no opportunity for the public to be involved with the injury assessment strategy. It is critical that representatives for NGOs, the River and the public be given an equal opportunity to participate in these kinds of discussions and negotiations. There is no way for us to know at this point how the wholly integrated participation of the RP swayed the findings and outcomes of this recommendation – but we would request a review of the discussions and how decisions were changed or modified based on RP and RP expert input. Delaware Riverkeeper Network made clear throughout the years that it was an informed entity with information, expertise, experience and perspective that should have been included as intimately throughout this process – we would ask that from this point forward and in future NRDA actions along the Delaware River and its tributary streams that Delaware Riverkeeper Network be given equal access to the process. In addition representatives from NJ Audubon, DE Audubon and others would be valuable inclusions in the process.

Page 37, Table 12 – Why is reproductive failure for kingfishers and shorebirds listed as zero. If these species were directly injured, how could there not be lost reproductivity?

Blue herons are common wading birds and frequent hunters in the habitat regions oiled. The estimated bird injury for all wading birds on Table 12 indicates only 27 wading birds were impacted by the spill. Because of their frequency, this number seems very low and conservative and may not account for the true impact to this species that are year-round residents to the area.

Page 28 – It is noted that as part of the restoration effort, the Trustees will conduct comprehensive monitoring efforts to evaluate the effectiveness of the restoration projects. What evaluations does this entail? Is that cost covered by the RP? Is there opportunity here to involve an external party such as Delaware Riverkeeper Network?

Page 29 – What are the names of the six tributaries that were injured in the spill? Note our comment above where Delaware Riverkeeper Network monitoring efforts documented impacts to 13 NJ tributaries and 1 PA tributary (and note that our monitoring efforts were not conducted on all tributaries in the impacted zones and surrounding areas so there were likely other impacts where we did not monitor.)

Table 6 Page 29 – For tributaries impacted, why are there no acreages for the lower intertidal and tidal flat reaches of these tributaries? These tributaries fluctuate with the tides and are not static shorelines as indicated in Table 6. Furthermore, at low tide, some of these tributaries provide mud flats where birds may forage. Is the process eliminating important habitat and not accounting for all types of tributary habitat impacted by the spill?

Table 6 Page 29 – With the importance of intertidal mudflats, we recommend including this term specifically in table 6 to better understand where this specific habitat is accounted for within the sand/mud substrate category. Considering the importance of these intertidal mudflats for foraging of birds, were there any efforts to identify tidal mud flat projects where for example, debris and rubble may limit the foraging capacity of birds that could be added as a restoration project to restore the mudflat?

Page 31 – Sand/Mud substrates – considering that the last full site visit was conducted in September 2005 (less than a year after the spill), to speed up the process to allow for restoration to be implemented in a timely manner, the negotiation process between the Trustees and the RP during the injury assessment appears to be the major stumbling block in the process. During this negotiation phase, as an RP negotiates and studies the impacts to reduce its liability, what factors are in place to ensure the RP does not unfairly hold up this process? Where is the public involved with this part of the process?

Table 8 - Being that the Athos I oil was heavy in nature and tended to linger in the environment, is a recovery time of three years for intertidal mud areas a fair recovery rate? Is it accurate to expect that mud areas with the degree of oiling varying and ranging from very light to light to moderate to heavy oiling, all would fully recover at the same rate of three years? Mud substrate is “sticky in nature” and petroleum products may adhere to these sediments more so than it would for other substrate types.

Coarse substrate habitat (i.e. rip rap), marsh habitat, and seawalls were estimated to be at full recovery at various years following the spill depending on the intensity of the oiling and not at full recovery until 4 and 5 years for heavily oiled coarse substrate and marsh areas – this seems like a fair approach to rank the recoveries based on the different degrees of oiling.

Tributaries that were ranked as very light to light to moderate oiling were also listed as rapidly recovering fully after only one year. Would not the tributaries also recover at varying rates depending on the degree of oiling and often the muddy nature of the banks that were impacted by oiling? Considering the importance of the mudflats and the tributaries, these DSAY calculations may undervalue these habitats and the recovery times of them.

If it takes 5 years for heavily oiled rip rap/course sediment to recover? How is it accurate that it takes only four years for heavily oiled marshes to recover and only three years for mud and sand substrates to recover? Rip-rap is valued less than marsh and mud/sand substrate which could be an indication that the DSAY calculation may have been unfairly negotiated with a longer recover time for rip rap than these other habitats.

In what habitat type is gravel substrate accounted for?

Page 34 – Tributaries – Six tributaries were impacted in New Jersey. Please list the tributaries injured in this section. Delaware Riverkeeper Network did witness semi-submerged oiling that was far greater than rainbow sheens. The report recognizes the low flushing and dilution rates of these tidal tributaries – yet estimates are made that these habitats are fully recovered within only one year after the spill – this does not seem possible. The lumping of all tributary habitats into one category also seems less protective than if the different habitats for these tributaries had been broken out into different habitat types. What was the rationale of lumping the tributary habitats together? Again, Delaware Riverkeeper Network monitoring indicated at least 14 tributaries impacted by the spill compared to the report’s six.

Page 37 – Areas like Woodbury Creek appeared to have high levels of PAH in the sediment.

Page 39 – The RP claimed that based on PAH distributions, samples collected 10 months after the spill had less than 10% Athos oil in them (although one sample is estimated to have 15-20% Athos oil contributing to its PAH profile). How many samples did the RP sample using this fingerprinting method and what were the locations of these samples that were analyzed by the RP? Were the locations of the samples in the heavily impacted regions? There were 162 sediment samples collected, what percentage were analyzed by the RP using the fingerprinting method?

Chapter 5.0 Restoration Planning Process and Analysis

Page 44 – We support and acknowledge the Trustees for not double counting project benefits for the migratory birds projects and spill related habitat losses.

Page 44, Footnote – Delaware Riverkeeper should be changed to Delaware Riverkeeper Network

Page 45 – We thank the Trustees for being invited to propose specific restoration projects for the DARPP. Delaware Riverkeeper Network has a seasoned restoration program that has worked throughout the Delaware Watershed for over seventeen years. Delaware Riverkeeper Network's Restoration Program consists of staff with strong background in various aspects of stream and riparian ecology. Their knowledge and experience lies in areas such as riparian buffer establishment and maintenance, establishing native plants, controlling invasive plants, wetland creation and enhancement, restoration and enhancement of aquatic habitat, geology, hydrology, and fluvial geomorphology. Over 90 projects have been completed by DRN over the past ten years alone with a variety of partnerships. These have included riparian buffer restoration, dam removal, stormwater retention retrofits, natural channel design techniques, wetlands restoration planning and more.

Page 70 – Two Oyster Reef Projects — This project would augment an existing successful program. The project is also located downstream in the Bay. Though this project may warrant positive water quality benefits, we do not feel it is appropriate or tied to the benthic life impacted by the spill. We also are concerned that after five years, the oyster reef would be allowed to be harvested by fisherman and that salinity up in the Bay will likely cause 100% mortality – meaning any long-term benefits would be lost. Enforcement on the harvest moratorium may be hard to enforce for the life of the five-year project as well. Other habitat projects warrant better tidal connectivity and marsh restoration which have permanent longer-term effects on water quality. We see the value in oyster bed establishment but we do not support this project due to its short-term gains and think the funding could be better spent elsewhere.

In addition, the deepening project proposed for the Delaware River is a very real threat to the present and future oyster populations of the Delaware Estuary/Bay and so investing in their further restoration while that major threat is a possibility we do not believe is the best investment of the limited dollars we have for undoing the harm inflicted by the Athos I.

Page 78 – Lardner's Point – we generally support this 0.9 acre of intertidal marsh and wet meadow restoration project that will reconnect the River with this now industrial location. We are concerned though with the sentence on page 77 that says “importing of fill material” will be part of this project. We understand these plans are still conceptual but would want the opportunity to review plans as they develop further if this project is selected. All attempts should be made to naturalize this area as much as possible, leaving the recreation piece to a minimum passive type since this project is supposed to deal with aquatic injury rather than recreation injury. We, at all times, encourage the use of native plants as documented on page 81. With such a small restoration, efforts should be made to choose native plants that have a very high wildlife value to create the biggest benefit for local wildlife populations and pollinators. This project should be a refuge for wildlife much more than a recreation location for people. The diagram shows what looks to be a deck or dock, we do not support including this as part of the project.

Page 110 -- Blackbird Reserve – The creation of wetland habitats with this project we do support. However, we are concerned with the creation of “agricultural food plots” of corn and soybean being part of this project. We are also concerned with the pastures being planted with “cool season grasses”—a main staple to many of our manicured human impacted regions already, which provide habitat for Canada goose populations already. We understand migratory Canada geese are a benefactor of this habitat type but we question such active agricultural land being part of a restoration project. Why not warm season grass pastures that are not disturbed yearly by agricultural practices and that would also help other bird species that are struggling for survival? Perhaps these warm season grass habitats could

provide nesting for songbirds during part of the year and in winter months, the grasses could be cut in some regions to allow for migratory Canada geese habitat. This type of more passive restoration would benefit more bird species throughout the year and would also, if managed correctly, assist as food plots for migrating geese in the winter months.

Mad Horse Creek Restoration Project – As indicated above, we have concerns with the overall pricetag of this existing management area and the project proposed. The marsh restoration component costing about \$188,000 per acre to restore 38 acres. And another \$11,333,175 for grassland, wet meadow, and additional marsh restoration at the Management Area (Table 1, page 7). Components of this project are valuable but without more detail on the project plans, the cost efficiency is in question. We want to recognize tidal connections are important to establish nurseries for young fish and restore the hydrology to the region (we support this tidal restoration concept) but the long-term viability of trying to control and manage *Phragmites* for the long-term which dominates this region needs to be weighed with long-term ecological benefits and results. We support warm-season grassland creation for birds and nesting habitat. As expressed above for the Blackbird reserve, we believe there is a better habitat than active agriculture to include in this project –for the same reasons noted above. Generally, salt marsh restoration and wet meadow creation and grassland (in the form of warm season grasses) are all desirable components of this project but we need more detail. We would like more information to be released on this project and subject to public review and comment before it is included in the final DARPP.

Page 108 – We understand the rationale for selecting projects that are on already eased or government owned properties because of cost. But we also know as the watershed becomes more and more developed, purchasing unprotected land to increase the number of preserved acres is very desirable and reconnecting the River to its floodplain provides benefits to downstream communities and water quality. It appears that all of these projects are on already preserved lands. Were there no properties identified by land trusts that might actually increase the amount of acreage available for migrating bird species and other injured habitats? With the economy and lowering of property values in the current economic recession, is this not a good time to acquire land at a lower cost?

Page 125 – Stow Creek Boat Ramp – DRN does not support this project as it appears it would exacerbate an existing problem of too much boat traffic and disturbance near a long-term bald eagle nest. See the excerpt below from American Littoral Society’s report, entitled, “Open Space and Recreational Development Opportunities Tour” Cumberland County, December 9th, 2008

Stow Creek State Park, Stow Creek Twp, Cumberland County

*Green Acres is interested in completing a number of strategic expansions to Stow Creek State Park and currently has one active project, which requires partial funding support to complete. The 15-acre tract along Canton Road (623) in Stow Creek Township includes upland river frontage along a highly scenic tidal section of Stow Creek, which adjoins the bridge. In consultation with local officials, the Society and State Park Service staff, Green Acres believes this site affords an opportunity for **relocation of an existing boat launch**, which currently resides at the end of Stow Creek Landing Road. The current boat ramp is problematic because the tides’ strength at this location threatens boater safety, while heavy traffic poses an ongoing disturbance to a long-established bald eagle nest nearby at the Gum Tree Corner Wildlife Management Area. Green Acres is willing to subdivide off the improved portion of the tract for re-sale as a continued private residence.*

It would appear that keeping this boat launch less developed will be better for surrounding wildlife. It also encourages in this sensitive region and habitat more passive and less intrusive recreation from quiet non-motorized canoers and kayakers who bird watch – who often find a more pleasant and natural experience if motorized boaters are limited in number. From what we can discern from the report, the

current ramp is fine as it is for canoers and kayakers to safely launch and land at this location as is. The Stow Boat Ramp improvement should not be funded through the Athos I DARPP.

Page 127 – Augustine Boat Ramp – This project should not make the next round of restoration projects for the DARPP. We understand this is a project to compensate for recreational use but it is not within the impact zone and we would hope there are other recreational opportunities further upstream near the impact zone that would benefit from passive recreation, wildlife viewing, and canoeing and kayaking. If this is in fact a boat ramp used for “homeland security purposes related to the Salem Nuclear Power Plant”, we feel that funds from another source (and a much larger source of government funding) should be allocated for this project rather than the limited NRDA funds from the Athos I. We also highly discourage the placement of another jetty based on the environmental impacts the placement of a jetty could cause to sediment and wave transport downstream and in fact we would actively oppose such a proposal. The harm to recreation as a result of the Athos I was in the form of a degraded experience due to oiling and environmental harm. Therefore, the most appropriate projects for enhancing recreation would focus on enhancing the natural aesthetics and health of the Delaware River by protecting and restoring natural riverside habitats, floodplains, and aquatic ecosystems. The \$808,152 Augustine Boat Ramp project should not be funded as part of the Athos I DARPP and money should be used for another more appropriate project or projects elsewhere with emphasis on the protection and restoration of natural habitats along the River and in its floodplain.

Page 131 – Tincum Island Trail – There are many trails located throughout the Refuge and though we are unsure of the existing refuge trail map and how it compares to the plan on Page 131, might a better project involve a low-impact canoe trail (and guide map) through the tidal wetlands of the refuge? This could involve simply placed arrows through the marsh to direct kayakers through the acres of wetlands safely and with little impact to the surrounding plants.

Improvement efforts along the existing land trail could work to eliminate travel in sensitive habitats with some improvements to the existing trail but not an overall widening of the entire trail. Interpretive signs could also be used to direct people out of sensitive habitats by explaining the habitat and its value. We should also keep in mind this refuge is preserved for wildlife so having areas that are not frequented by people with an official trail may be to the benefit of the refuge – and again, so much of the refuge is already criss-crossed with multiple trails.

If invasive plants are a concern for this project, money should be allocated to ensure monitoring and maintenance of the project in the long-term so native plants are protected. Deer browse is extremely heavy in this region and should be considered when choosing native plants to limit herbivory with tree shelters or other protective devices.

This region and the Darby Creek that flows into the freshwater marsh of John Heinz is also plagued with abundant trash from upstream. We recommend enhancing the canoeing experience by installing a floating trash collector device that can be used to corral and contain trash before it enters into the marsh habitat where bottles often become lodged in vegetation and hard to reach. The device passively collects the floating trash and on a regular basis, staff or volunteers can easily empty the device without leaving the shore. This type of device is also used to educate the public.

Finally, the placement and maintenance of various bird boxes enhances the wildlife experience for those visiting the park and provides habitat for native birds.

In general, we believe it is more appropriate and beneficial to the River and all of the communities who benefit from and enjoy it to emphasize passive wildlife watching and canoeing and kayaking over motorized boating, waterfowl hunting, commercial and recreational fishing which are available to a much more limited subset of the population. Passive recreation, canoeing, kayaking, wildlife and bird

watching are highly valued and valuable recreational pastimes which are underserved by the estuary region, particularly those areas most hard hit by the Athos I oil spill and therefore should be given the highest priority in the project selection process.

We hope you find these comments useful and helpful as we move to the next phase of restoration selection and we encourage the Trustees to reconsider other projects and eliminate several proposed projects in the draft DARPP. We look forward to being involved as we move forward in this process. If you have any questions or want to talk more about any of our concerns, don't hesitate to contact me at 215-369-1188 ext 102.

Sincerely,

Maya K. van Rossum
the Delaware Riverkeeper

Faith Zerbe
Water Quality Assessment and Monitoring
Delaware Riverkeeper Network