

The Riverkeeper

Meet the Delaware's Guardian Angel.

by Samantha Drake

Published: May 19, 2010



By: Thomas Pitilli

Maya van Rossum was a second-grader at Ithan Elementary School in Villanova when she waged her first environmental battle.

Birds kept crashing into the art room windows with a disquieting thud, yet no one bothered to collect their remains, much less figure out how to keep them from flying into the windows in the first place. Van Rossum remembers how upset she — then a headstrong blue-eyed girl with short blond hair who preferred trousers over dresses — became trying to persuade school authorities to give her a shovel so she could bury the birds herself. She was distressed, she says, because no one seemed to care.

Those who know van Rossum might guess how the story ended. Her persistence paid off: She got the shovel, and the birds got a proper burial. Eventually, she says, "people wised up," and the school put a visible barrier on the windows to deter the birds.

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Van Rossum has fought for environmental causes ever since. Anyone who's followed the controversy surrounding the U.S. Army Corps of Engineers' plan to deepen the Delaware River's shipping channel knows her name. As the Delaware Riverkeeper, van Rossum is the face of the opposition. She is the head of the Delaware Riverkeeper Network (DRN), a nonprofit environmental organization that seeks to protect the 330-mile-long river and its 13,539-square-mile watershed, which includes 260 direct tributaries in four states. The longest undammed river east of the Mississippi, the Delaware starts in New York and flows through Pennsylvania, New Jersey and Delaware to the Atlantic Ocean.

"My perspective is that I really am speaking for the river," says van Rossum. The Delaware, she figures, is an irreplaceable resource for

Philadelphia — and now its vitality is threatened. The Corps' dredging project — the first phase, called "Reach C," began in early March, and will be completed by summer — would deepen the river by 5 feet to allow for larger ships to pass and, in theory, create more jobs.

Dredging, or the underwater excavation of sediment from the bottom of rivers, has massive environmental implications. It can stir up sediment and any toxic contaminants — e.g., pesticides, lead, copper, zinc, cadmium — buried at the bottom of the river. The DRN argues that the deepening project will threaten fish and shellfish habitats and erode marshlands that are home to a variety of species and protect communities from storms; the dredging could also contaminate New Jersey and Philadelphia's drinking water and imperil commercial, recreational and ecotourism jobs, according to the DRN.

The Corps intends to dredge the river's 102.5-mile channel to deepen it from 40 feet to 45 feet between Philadelphia and the mouth of the Delaware Bay. Recent Corps estimates indicate the five-year project will cost more than \$300 million, funded by the federal government and the Philadelphia Regional Port Authority (PRPA).

The project's opponents want Congress to deauthorize the dredging project. They cite a recent report by the U.S. Government Accountability Office (GAO) that found the Corps' reassessment of market and industry conditions once again lacking (see *A Million Stories*, April 8). That GAO report suggests that many of the economic benefits that dredging supporters expect may not materialize.

And at the center of this ever-ratcheting debate is van Rossum, an outgoing, outdoorsy 44-year-old lawyer and mother of six who says she enjoys patrolling the river "to inform the work I do, but also because it's beautiful."

But where some see a tireless, if folksy, standard-bearer, fighting to protect the river despite the political pressure exerted by many of the region's job-desperate leaders, others see a relentless gadfly, an impediment to necessary progress.

"People say a lot of things about me," van Rossum says. "I know the reality and I know the reality isn't about me."



By: Jessica Kourkounis

GUARDIAN ANGEL OR GADFLY? Maya van Rossum, head of the Delaware Riverkeeper Network, says her job is to speak for the river. Opponents see her as an impediment to progress.

Van Rossum, a petite woman who frequently uses her hands to emphasize her points, grew up in Villanova after her family moved to the United States from India, where her father was a professor. A La Salle University graduate, van Rossum earned a law degree from Pace University in New York while working with the Hudson Riverkeeper. (She also received a Master of Laws degree in corporate finance from Widener University.) She didn't go to law school just to become a lawyer, she says; she went to law school to become an advocate for the environment.

The DRN, the nonprofit she heads, is a founding member of the national Waterkeeper Alliance, which was launched in 1999 to monitor and protect rivers, streams and coastlines in the United States and around the world by uncovering polluters, advocating for stricter enforcement of environmental laws and educating the public. Van Rossum joined the DRN in 1992, in the early days of the now two-decades-old Delaware River deepening dispute, first as a staff attorney for the organization's law clinic and later as its executive director. When the Riverkeeper position opened up in 1996, the DRN's board of directors asked her to take over.

"Being the Delaware Riverkeeper is different than being an executive director or CEO," she says. Her goal is not to merely run an organization, but to represent the river.

The DRN and its staff of 14 are headquartered in Bristol, Pa., just a few blocks from the Delaware River. Van Rossum is one of the organization's two attorneys; they use outside attorneys when needed, some on a pro bono basis, and rely upon law students from Temple University and the University of Pennsylvania.

"We really try to choose our cases so we get the maximum impact for the river and the region," van Rossum says.

In 2007, DuPont and the U.S. Army dropped plans to treat VX nerve agent waste and dump it in the Delaware River after public outcry and a DRN lawsuit. The DRN also successfully challenged federal regulations for cooling water intake structures at facilities that operate in the Delaware estuary and kill billions of fish per year. Last year, the DRN negotiated a settlement over permits issued to the Sugarhouse Casino project, in which the Pennsylvania Department of Environmental Protection promised to keep Northern Liberties residents in the loop on sewage plans as the project continued.

Both accessible and highly quotable, van Rossum is the go-to person for anyone who wants the environmentalists' side of a given debate. Yet she gives the impression that she neither seeks nor avoids the spotlight; it is simply a means to an end. "Our goal is to put ourselves out of business," van Rossum says.

But she knows that won't be happening anytime soon.

Despite the challenges and setbacks, the Corps' plans to deepen the main shipping channel in the Delaware River have inexorably crept forward over the past two decades. It began in 1983, when Congress ordered the Army Corps' Philadelphia district to study the feasibility of deepening the river. The Corps found that deepening the river was an economic necessity that posed little environmental risk. Nearly a decade later, in 1992, Congress authorized the project. But, despite the support of politicians like Gov. Ed Rendell, the deepening was slow to gain momentum, hampered by lawsuits, protests and the slow-moving machinations associated with projects of this magnitude.

A decisive moment came on Oct. 13, 2009, when the Corps announced it would commence dredging by the end of the year, despite the fact that, just a few months earlier, the Delaware Department of Natural Resources and Environmental Control had denied the agency a permit. A week later, Delaware sued the Corps in the U.S. District Court, arguing that the agency's decision to proceed without a permit violated several federal laws, including the Clean Water Act. (The DRN is one of five environmental groups that joined the fray.)

On Jan. 27, however, U.S. District Court Judge Sue L. Robinson gave the Corps the green light to begin deepening "Reach C," a 13-mile stretch from south of Wilmington to south of the Chesapeake & Delaware Canal. The DRN countered by asking the U.S. Court of Appeals for the Third Circuit in Philadelphia to stay the Reach C ruling pending an appeal. The Third Circuit turned down the DRN; the Corps commenced the deepening on March 1.

"The Army Corps has not operated in the best interest of the public," van Rossum says. She argues that the Corps needs to update its decade-old environmental impact data, obtain applicable permits and take a reality check on its rosy economic projections. If the Corps finishes the deepening, it will set a precedent that allows the agency to flaunt environmental rules that get in its way, she says.

"If the Army Corps is allowed to get away with it here, it will get away with it anywhere," van Rossum says, adding, "This case is of huge national importance," in which the court will decide "whether or not the Army Corps is held to its obligations to follow federal and state law."

Perhaps what stands out most about the deepening struggle is the lack of a possibility for compromise. Neither side seems to doubt that it is doing the right thing for the region — and that it will win.

The relationship between the DRN and the Corps is not always antagonistic; they work together frequently, in fact, because part of the Corps' job is to enforce permits. For example, the Corps and the DRN teamed up to stop a man in Morrisville, Pa., from illegally filling in wetlands on his property.

But the deepening project has, in van Rossum's view, been marred by secrecy and power plays. Among van Rossum's list of grievances, she alleges that: The Corps issued a notice of public comment on the project over the 2008 Christmas holidays to discourage input (the DRN still managed to submit 36 pages of comments); hid the fact that it was going to forge ahead with the deepening without obtaining the permit; and regularly turned a blind eye to the spread of misinformation.



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Corps spokesman Ed Voigt disagrees: "No matter how much study you do and no matter how much information you provide, there's always someone who could say 'do more,'" he says.

Van Rossum is "an alarmist," says PRPA director of public affairs Bill McLaughlin. "No one bothers to challenge her because she seems to be a nice lady protecting the environment."

The Delaware River deepening is under attack "by someone who doesn't know what she's talking about," says McLaughlin. Meanwhile, the litigation is wasting money. Van Rossum "enjoys the attention this project brings to her organization," he contends.

The Philadelphia Regional Port Authority has big money at stake. The Corps estimates the five-year venture will cost more than \$300 million, which will be funded by the federal government and the PRPA. The PRPA will contribute at least \$67 million, and says it stands to lose more than \$30 million if the project is suspended.

The war of the Delaware deepening project is being fought over facts and figures: Who is complying with the law? Who is quoting accurate numbers? The courts are dealing with the former, but the latter is the subject of intense debate: How many jobs will the project create? How much revenue will be generated? Who is right?

The combined ports of the Delaware River in Pennsylvania, New Jersey and Delaware support an estimated 75,000 "direct, indirect and induced jobs," says McLaughlin. Direct jobs include those employed by the ports, the shipping trade and customs. Indirect jobs include insurance companies, banks and admiralty lawyers, with induced jobs further stemming from the indirect jobs, he explains. The PRPA employs 98 people.

Some 445 ships dock each year in Philadelphia, bringing everything from bananas to military traffic. Philadelphia has been a port city for 300 years, and for much of that time the ports and the shippers that used them were left to their own devices. The city began overseeing the waterfront activities in the early 20th century. In 1990, the state purchased all publicly owned ports from the city and created the PRPA to manage and maintain them. The Philadelphia port handles between 3.1 million and 3.8 million tons of international cargo per year.

The increased shipping as a result of the deeper river channel will create more than 8,000 new jobs, the PRPA says — and not deepening the river channel would be a serious economic blow because Philadelphia could no longer compete with other ports.

"If we don't deepen the river, the ships will stop coming," argued PRPA chairman John H. Estey in a Feb. 18 debate with van Rossum on WHYY's "Radio Times." Other harbors, including Boston, Baltimore, New York and Savannah, have deepened or will be deepening their shipping channels to accommodate larger ships. "We are going to be at a significant economic disadvantage to other East Coast ports," Estey said.

Van Rossum counters that there is no evidence the promised PRPA jobs will materialize. She and fellow environmental activists believe that the project could actually put existing jobs at risk. For example, the deepening will diminish the need for lightering, in which cargo is transferred from a larger ship to smaller ships in order to navigate the river channel. The deepening will also have a detrimental impact on the oyster harvesting industry because the dredging will harm the oyster population, she says.

The PRPA points out that the deepening project has been in the works for two decades, and all of the applicable agencies have signed off on its environmental safety, McLaughlin says. "I'm not a scientist, and I'm not so sure Mrs. van Rossum is, either."

Proponents are careful not to cast themselves as enemies of the environment. But concerns about the dredging's impact on the environment must be weighed against the need for jobs, says Patrick J. Eiding, president of the Philadelphia Council AFL-CIO, which endorses the deepening project.

"I'm very conscious of the environment, but there has to be a balance."





By: Jessica Kourkounis

Van Rossum and her family haven't taken a vacation in four years that hasn't been cut short by a new development in the deepening project. The report issued by the GAO on April 2 was no exception — the family headed back from their cabin early so van Rossum could respond.

Are the report's findings a vindication of sorts for van Rossum?

That's not the right word, she says. "It's what we were expecting. I really feel there was no other way for the GAO than to document that the Corps was misrepresenting the project."

The report concluded that significant market and industry changes have taken place in the six years since the Corps last analyzed the project's benefits: "Decision makers do not have sufficient updated information to judge the extent to which market and industry changes would affect the project's net benefits."

The Corps' Voigt sees the report differently. He tells *City Paper* in an e-mail: "The GAO is not saying the project's benefits fall below its costs. They are saying it's uncertain, they explain the uncertainties, and they think we should factor those in and see if — and how — net benefits are affected. And we will. The price of oil, steel, fruit and other commodities changes, but the need for a viable port is constant."

The Corps will continue the deepening "absent court intervention and subject to congressional funding," he says.

The GAO wants the U.S. Department of Defense to direct the Corps to reassess the impact market and industry changes may have on the project's benefits. But, as van Rossum points out, this would be the third time the GAO has asked the Corps to address its mistakes. "For the Army Corps to go back and do it right this time is not the right path," she says. "It's going to give the Army Corps another chance to make it worse."

Instead, Congress should deauthorize the deepening project, van Rossum argues. Otherwise, the Corps is just going to "monkey with the numbers yet again."

Aside from the deepening dispute, the DRN is working on a variety of initiatives, including efforts to prevent shale gas drilling and development in the Delaware River watershed.

Does she think the public appreciates the DRN's work? "It depends on the issue and the community," she says.

Van Rossum brings up one of her favorite compliments from an opponent. When the DRN challenged horseshoe crab harvesting in the Delaware River, crabbers were none too happy about it. After one encounter, van Rossum heard a crabber say to another, "That Maya van Rossum — I really don't like what she's doing, but she always speaks the truth."

The DRN won that battle, and New Jersey imposed a moratorium on horseshoe crab harvesting until the population rebounds. (The DRN recently lost another lawsuit that would have forced Delaware to enact similar regulations.)

"I get disappointed that I have to keep fighting," van Rossum says. But, she adds, she doesn't see her work as fighting per se — but rather as protecting, saving and helping. "You can get tired if you're not inspired," she adds, laughing at the rhyme.

"There's always going to be people who like what you have to say and those who don't," she says. "It's very important when you do this kind

of work over time and you have an emotional response to something, that you sit down and think it through."

When that happens, she stops, takes a deep breath and asks herself, "What's right for the river?"

editorial@citypaper.net

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