



Duluth Seaway Port Authority

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July 29, 2008

Mary Jean Fenske
MCPA
Industrial Division SP-5
520 Lafayette Road North
St. Paul, MN 55155

Re: Public Notice of Intent To Issue State Disposal System (SDS) Permit MNG300000,
Ballast Water Discharge General Permit

Dear Ms. Fenske:

The Duluth Seaway Port Authority does not believe there is any remaining need for the State of Minnesota to issue a ballast water discharge permit. Your efforts to prepare a permit were based on the 2005 federal court decision that vacated the EPA's exemption of vessel discharges under the Clean Water Act. The state assumed that this meant that a state NPDES permit would be required to be issued by September 30, 2008, and the process to prepare for such a permit process was commenced. However, the EPA has notified the State of Minnesota that any such permits will be issued by the EPA, not the states. It appears that the reason the State of Minnesota has acted to issue a permit has evaporated. By switching the state's permit writing process to an SDS type permit in reaction to the federal notification regarding federal NPDES action, MPCA has taken a path toward over-regulation.

Since there will be a federal permit for vessel discharges that includes ballast water, there is no reason for the State of Minnesota to act in issuing their own permit. In fact, such action will be considered detrimental to shipping and to the competitiveness of the State of Minnesota, and is certain to result in cargo shifts and a decrease in tonnage.

The proposed EPA permit extends to **include state promulgated standards**. The MPCA should withdraw their proposal for vessel ballast water discharge permits and carefully consider whether any additional state regulations are needed to protect the waters of the state. Such rules would then become enforceable under the EPA vessel discharge permit.

Sincerely,

Adolph Ojard
Executive Director

AO/bmc

