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July 23, 2008

Ms. Mary Jean Fenske  
Minnesota Pollution Control Agency  
Industrial Division, SP-5  
520 Lafayette Road North  
St. Paul, MN 55155-4194

**RE: State Disposal System Permit MNG300000  
Ballast Water Discharge General Permit**

Dear Ms. Fenske:

Polska Zegluga Morska<sup>1</sup> ("POLSTEAM") appreciates the opportunity to provide this comment letter through its counsel Carter Ledyard & Milburn LLP on the draft Ballast Water Discharge General Permit, Permit No. MNG300000 (the "Draft Permit"), which was released for public comment on June 30, 2008 by the Minnesota Pollution Control Agency ("MPCA"). POLSTEAM is one of the four major ocean-going shipping companies that transits through the Saint Lawrence Seaway into the Great Lakes, including Lake Superior. POLSTEAM is pleased that MPCA included POLSTEAM and the other ocean-going shipping companies as part of its stakeholder process and that the Draft Permit reflects comments made in April 2008 regarding an earlier draft of the permit.

In particular, POLSTEAM supports the revised conditions in the Draft Permit that require ballast water treatment technology to be installed on new vessels by 2012 and existing vessels by 2016 and that any proposed treatment technology be filed with MPCA 180 days before installation of such technology. POLSTEAM fully intends to meet the International Maritime Organization ("IMO") standards and any other standards adopted by the United States Congress or the United States Coast Guard. The dates provided in the Draft Permit reflect the time period that is necessary for treatment technology to be developed that meets IMO standards (or a more stringent U.S. standard). Likewise, POLSTEAM supports the revised conditions in the Draft Permit that allow the use of U.S. Coast Guard ballast water reporting forms and the vessel's official log for recordkeeping purposes. POLSTEAM appreciates MPCA's review of comments made by the shipping companies on the preliminary draft permit, which are reflected in the Draft Permit.

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<sup>1</sup> Also known as the Polish Steamship Company, as translated.

POLSTEAM has a few remaining comments on the Draft Permit as discussed below.

1. As a foreign-flagged shipping company that is involved in transiting cargo throughout the world, POLSTEAM remains concerned with the need to have individual state permits every time it calls at a port in the United States. POLSTEAM believes that one federal permit that covers discharges incidental to the normal operation of vessels, including discharges of ballast water, should be required of foreign vessels that call at multiple ports in the United States.

POLSTEAM recognizes that the U.S. Environmental Protection Agency was quite late in releasing a draft National Pollutant Discharge Elimination System ("NPDES") permit, thus forcing Minnesota to develop its own ballast water permit program. However, EPA has now released its draft NPDES permit, which comment period ends roughly the same time as MPCA's comment period. The ballast water requirements are essentially the same for MPCA's Draft Permit as compared to EPA's draft NPDES general vessel permit for the ocean-going shipping vessels. The ballast water and sediment management plan will follow U.S. Coast Guard and Saint Lawrence Seaway requirements, including salt water flushing of vessels declaring no ballast on board 200 miles out at sea. While MPCA has introduced the IMO standards and timeframes in its Draft Permit, EPA has committed to reopen its NPDES permit in the future to include either the IMO standards or any newly developed U.S. Coast Guard requirements and approved technologies. POLSTEAM understands that a Minnesota state court has ordered MPCA to issue a ballast water discharge permit by October 1, 2008; however, MPCA could seek a clarification from the judge in that proceeding that would allow EPA's NPDES permit to meet the requirements of that court order.

2. Assuming that MPCA decides to finalize its Ballast Water Discharge General Permit, POLSTEAM has the following comments on the Draft Permit:

A. Page 2 of 19, Draft Permit Condition 5: The permit requires that vessels subject to the general permit receive a Notice of Coverage ("NOC") prior to entering Minnesota waters. The MPCA "General Permit Overview" provides that MPCA intends to review applications and ballast water/sediment management plans in October through November 2008. For a vessel that intends to call at a Minnesota port in October, will MPCA staff grant priority review for that vessel's application? In other words, how will MPCA ensure that there is no impact to commerce during the first month after the general permit takes effect but before the NOCs are issued? EPA, for instance, proposes to provide a six-month period in which all vessels are automatically covered under its NPDES vessel discharge permit, and then requires notices of coverage to be completed over a six- to ninth-month period after the permit takes effect (which is expected to be by October 1, 2008). Because MPCA will have fewer applications to review, MPCA should consider providing a two- to three-month period in which vessels' ballasting in Minnesota waters are automatically covered under the general permit until MPCA is able to issue all NOCs. This would ensure that there is no impact to commerce during the fall 2008 shipping season.

B. Page 4 of 19, Draft Permit Condition 11: Because all ballast water and sediment management plans on board a vessel are subject to review by the U.S. Coast Guard and Transport Canada, such existing plans should automatically be acceptable to MPCA.

C. Page 5 of 19, Draft Permit Condition 13: The permit requires that vessels file with MPCA a ballast water treatment technology plan for MPCA's review and approval. Because all such equipment to be installed on a vessel must be approved by the U.S. Coast Guard, IMO and the vessel's Classification Society, POLSTEAM suggests that any ballast water treatment technology approved by IMO and the U.S. Coast Guard should automatically be accepted by MPCA. Because of the stringent certification procedures being undertaken by IMO, including requiring verification of all such technology both on shore and on vessels, it is not clear why MPCA staff would not just choose to rely on IMO/Coast Guard approved technology. POLSTEAM suggests that a sentence be added to this condition that states any technology approved by IMO or the U.S. Coast Guard will automatically be approved by MPCA.

D. Page 6 of 19, Draft Permit Condition 18: Because the Master of a vessel is the Owner's representative, the log book should be signed and dated by the Master. Therefore, in condition 18.b., POLSTEAM suggests that the phrase "or the vessel's Master" be added at the end of the sentence.

E. Page 6 of 19, Draft Permit Condition 19: Because IMO requires a vessel's official log book to be maintained on board for two years, this condition should be changed to "two years" to be consistent with international requirements.

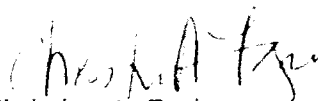
F. Page 7 of 19, Draft Permit Condition 21: As currently drafted, the Draft Permit requires the filing of Discharge Monitoring Reports (DMRs) annually by January 21 of each calendar year. This condition is not clear as to whether DMRs must be filed after the first year of issuance of the general permit or only after ballast water treatment technology is installed on a vessel. The "General Permit Overview" states that DMRs must be filed annually following implementation of treatment technology. Accordingly, POLSTEAM suggests that Condition 21 be revised to clarify that DMRs are first due after ballast water treatment technology is installed on a vessel.

3. MPCA has proposed to prohibit the discharge of ballast water from vessels declaring ballast water on board (see page 3 of 19, Draft Permit Condition 10) because of concern that salt water could have a negative impact to Lake Superior. However, MPCA has not provided any support to suggest that vessels with ballast tanks fully loaded with salt water have had any impact to aquatic ecosystems anywhere. It is extremely rare for vessels to come into the Great Lakes with full ballast tanks of salt water, but, nonetheless, it does occur from time to time. Given the lack of evidence that such discharge of salt water from ballast tanks has any impact to the aquatic ecosystem of Lake Superior and

the infrequent nature of such ballasting such that any perceived harm would be negligible, the general permit should cover vessels fully loaded with ballast water and such prohibition should be deleted when issuing the final permit.

Thank you for the opportunity to comment on the Draft Permit.

Sincerely,



Christine A. Fazio

cc: Jan Rutkiewicz, President, POLSTEAM USA Inc.  
Donald J. Kennedy, Esq.