Lake Carriers' Association

The Greatest Ships on the Great Lakes

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Via E-Mail: maryjean.fenske@pca.state.mn.us
(Original Mailed)

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

Dear Ms. Fenske:

MINNESOTA VESSEL DISCHARGE GENERAL PERMIT
CURRENT WORKING DRAFT LANGUAGE

Lake Carriers' Association represents 16 American corporations that operate 63 U.S.-Flag vessels on the Great Lakes. These vessels carry the raw materials that drive our country's economy: iron ore for the steel industry, limestone for the construction industry, coal for power generation, ... In 2007, our members moved more than 104 million tons of dry-bulk cargo. These written comments supplement our oral comments provided at the public meetings held in St. Paul and Duluth earlier this month.

We have reviewed the draft vessel discharge permit and regret to say that the Minnesota Pollution Control Agency has not achieved its goal of addressing ship-mediated introduction and spread of aquatic invasive species **"while supporting a viable shipping industry in Minnesota and throughout the Great Lakes."** Failure to correct this shortcoming will have dire consequences for the State's economy and the Nation's as well. The proposed regulations fail to take a risk based approach by treating all commercial vessels the same (yet, fail to treat recreational vessels with the same level of scrutiny). They further fail the people of Minnesota by not balancing the economic benefits with the potential risks posed by the various types of vessels and their trade routes.

We must note that some requirements are already voluntarily employed by our members. Our members have implemented Best Management Practices (BMPs), such as taking as little ballast as possible, using impellers rather than gravity to take on ballast (this will macerate any fish that might enter the ballast system), ... However, many other requirements of the draft permit are either unsupportable, given the current level of knowledge, or simply beyond the current level of technology, beyond the scope of ballast water treatment, or a combination of all of the above.

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Take, for example, the prohibition of a "discharge of non-suspended sediment from ballast water tanks…" (Part 1, Permit Coverage, No. 7). We are unaware of any studies that scientifically tie an invasive to sediment discharged from a "Laker." This requirement also does not recognize that sediment in our members' ballast tanks was drawn from Great Lakes ports and waterways. It does not represent a foreign substance or matter. Where's the scientific proof of risk? The cost of manually removing the sediment and transferring it to a land-based storage or treatment facility would make waterborne commerce economically unjustifiable. The extravagant cost provides no environmental benefit and does not reduce the risk of spreading invasive species. This requirement is neither scientifically based nor risk based, and goes beyond the scope of ballast water regulation for vessels sailing exclusively within the Great Lakes.

Our members do try to minimize the amount of sediment in their ballast tanks. The additional weight sediment adds to the vessel reduces carrying capacity. Our members are paid to carry cargo, not mud. Therefore, they do "demud" their tanks at various intervals. But again, an outright ban on the discharge of even small amounts of sediment is unjustifiable.

Part II – Surface Discharge Stations Limitations and Monitoring Requirements would require our members to outfit their vessels with systems that meet the International Maritime Organization (IMO) D-2 standards. As we stated in our letter of April 17, 2009, concerning removing Minnesota's exemption from requiring National Pollutant Discharge Elimination System permits (NPDES), while various systems are being developed, what might work on an ocean-going vessel engaged in lengthy voyages and long port calls will fail on U.S.-Flag Lakers. The voyage from Duluth, Minnesota, to a steel mill in Detroit, Michigan, is a scant 62 hours if the vessel encounters no delays. A trip across the Atlantic Ocean and into the Great Lakes takes weeks. A Laker loading iron ore in Duluth, Two Harbors, or Silver Bay will be full in 10 hours or less. The load and discharge rates for ocean-going vessels are measured in days, not hours. A Laker can have as much as 15 million gallons of ballast onboard.

To discharge such a volume in 10 hours or less requires as many as 18 ballast systems running at rates as high as 80,000 gallons a minute. An ocean-going vessel might have 3 million gallons of ballast and a pump-out rate that corresponds to its lengthy port time.

Applying these requirements and others to Lakers underscores the greatest weakness of the whole effort: the failure to distinguish between vessels that operate exclusively on the Great Lakes and those that enter from the oceans. It is the latter, the ocean-going vessels, that are the source of non-indigenous species. It is appropriate to require ballast treatment systems on these vessels. However, it is neither appropriate nor feasible to apply these same requirements to Lakers. Our members' vessels never leave the Lakes, so have never introduced an exotic.

It is of course true that the ballast in our members' vessels is a potential vector for spreading invasives. (So are recreational vessels, sport fishing, the natural movement of fish, fauna, flora and water, ….) It is for that reason that the Association has developed various BMPs. Nonetheless, the Lakes are interconnected, and an invasive that takes root in one Lake can and will eventually migrate throughout the system regardless of how many treatment systems are required on Lakers and other commercial vessels. We have to recognize that there is only one

achievable goal – stopping future introductions. What is here is here to stay. We would also like to point out that the technology does not exist to provide the data required in the discharge reporting requirements. We can and do report the discharge of ballast water to the U.S. Coast Guard via the National Ballast Water Information Center, thus we question the need for additional reporting to Minnesota via a different format and frequency. It is impossible, however, to know how many viable organisms of various sizes are discharged, the daily average, ... What testing, monitoring, and measuring protocols exist are designed for the laboratory and not shipboard application. Even the IMO did not contemplate the reporting information, format, and frequency demanded by MPCA.

There is an economic side to this. It is estimated that installing ballast treatment systems could cost as much as $18 million for our members' largest vessels (and again that assumes a system that is viable on Lakers is developed). Our members have informed us the current freight rate structure cannot support such an investment. Some of the smaller vessels simply may not be able to generate enough revenue to even allow for consideration of installing treatment systems.

In our April 17, 2008, letter we spoke at length about the economic impacts on Minnesota and the nation if this process moves forward. To reiterate, the proposal as written risks:

- The mines of the Mesabi Range constitute a $1.6 billion-per-year industry and provide more than 20,000 jobs for Minnesotans.
- The annual wages and benefits from those jobs approach $350 million.
- Taxes top $100 million.
- The U.S.-Flag Great Lakes fleet represents an investment of more than $6 billion by American corporations that employ more than 2,500 professional mariners.
- The U.S. steel industry provides an economic benefit of $350 billion per year.

All that said, we urge Minnesota Pollution Control Agency to withdraw this proposal in light of the House of Representatives passing ballast water legislation that is 100 times tougher than existing international standards. H.R. 2830 was passed by a resounding majority (395-7) on April 24, 2008. The ballast title was authored by Minnesota Congressman James L. Oberstar. No one can doubt that he has the State's best interests in mind. This provides the strong Federal program demanded by industry, environmental organizations, and many State Governments.

Also, every member of the Great Lakes delegation in the House voted for H.R. 2830. This bill, and its Senate companion S.1578, impose the highest standards known to Man, and as Federal legislation, apply those requirements consistently throughout all U.S. waters. As we have stated before, one of our greatest concerns is a patchwork of State laws that set differing standards and so create a compliance nightmare.

Lake Carriers' Association's first efforts to combat non-indigenous species date back 15 years to our 1993 Plan to try to contain the ruffe to western Lake Superior. We do not mean to be boastful, but we were addressing this issue long before many others. Our track record is irrefutable evidence of our strong commitment to the Environment. That's why we were among the strongest backers of H.R. 2830. Once the Senate passes its bill, our nation can move forward with effective rules and regulations governing ballast and finally close the door to non-indigenous species.

Until then, we urge MPCA to recognize the following:

- Our members already report ballast water transported.
- It is NOT possible to know the organism contents of millions of gallons of ballast water.
- Our members cannot limit the amount of ballast water discharged. It all has to come out when cargo is loaded.
- Treatment systems developed for ocean-going vessels to date do not have the capacity to treat the volumes and pumping rates of Lakers.
- There is no practical way to avoid the discharge of sediment when ballast water is pumped out during cargo loading operations
- Although VHS has not been confirmed in Lake Superior, the State of Wisconsin and National Park Service believe it is already present
- No science supports that Great Lakes ships have spread non-indigenous species to Lake Superior.

Thank you for the opportunity to comment. Lake Carriers' Association will continue to work with Minnesota Pollution Control, and hope that we can avoid the many problems created by the regulations as currently drafted.

Sincerely,

James H. I. Weakley
President

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cc: Members – LCA Board of Directors
Members – LCA Fleet Engineers Committee
Members – LCA Navigation Committee