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From: Stuart H. Theis [mailto:theismarine@adelphia.net]

Sent: Thursday, February 21, 2008 9:34 PM

To: Fenske, MaryJean

Subject: Re: Great Lakes Shipping Ballast Water Control in Minnesota

Dear Ms. Fenske:

I am the Executive Director of the United States Great Lakes Shipping Association which represents vessel agents throughout the Great Lakes. As such, our agent members deal with salt water/non US flag vessel owners and operators which operate in the Great Lakes and periodically into Minnesota ports. We are well aware of the efforts of the Minnesota Pollution Control Agency in dealing with the development of possible new rules regarding state permitting and other possible proposed regulation of vessels which may be discharging ballast water in Minnesota waters. Indeed, we are aware of efforts in every Great Lakes state to establish similar regulations which are in various stages of development.

This communication will serve to acknowledge receipt of the February 15, 2008, notice of meetings planned to be held in St. Paul and Duluth on March 3 and 4, respectfully, to receive comments from potentially affected parties and others regarding the Minnesota Pollution Control Agency's intended development of new rules regarding Minnesota's permitting and proposed regulation of vessels referred to above.

Unfortunately, I will be unable to attend either of those meetings and indeed, will be unavailable for a period of time which will go into the second week in March. While I will be unable to attend the planned meetings, I trust you will accept written comments following the meeting dates which I respectfully request can be included in the record as you and your team consider your approach to this assignment.

Assuming this only slightly delayed response is acceptable, I would be prepared to provide commentary no later than March 14, 2008.

On the other hand, should that request be deemed unacceptable, permit me to make a couple of quick comments which I hope you can consider and which, frankly, will constitute the thrust of any further more formal comments as follows:

1) The vessel industry in general supports the notion of finding a way of eliminating AIS.

Unlike the usual negative tension between industrial and environmental interests, it would appear that everyone on this issue is, in good faith, seeking to reach a solution. The problem, as many have observed, has been an unfortunate paralysis at the Federal level in setting the standards, giving rise to understandable local frustration which has now also been affected by court decisions and resulting mandates.

2) Separate State ballast water regulation of commercial vessels trading in the Lakes creates a regulatory nightmare with potential major negative local consequences.

There is no doubt that should Minnesota and possibly every other State adopt their own version of ballast water regulation as may now be emerging, vessel owners and operators will face a terribly confusing, costly and frustrating set of circumstances. A possible result could be such a tremendous negative effect as to drive Lake commerce away entirely or as a minimum increase the cost of transportation unnecessarily. That is exactly what some have stated as their objective, but we choose to believe that in the State of Minnesota, such extreme positions will be rejected.

3) There is currently very viable legislation pending in Congress which will avoid what some have called the possible "balkanization" of ballast water regulation in the US.

Minnesota's own Jim Oberstar has proposed legislation which could become the foundation of a uniform federal standard. There is a companion bill in the Senate. Efforts to support and pass this legislation would be a much more valuable contribution to the cause rather than what is going to be spent on separate state regulation development.

4) State Agencies appear to agree that development of separate regulations are undesirable need go no further than your February 15 letter wherein your state "The MPCA supports ongoing Federal efforts to further control vessel discharges in a manner that assures compliance with water quality standards. Federal approach to regulating vessel discharges would provide a consistent framework for regulatory programs." The words speak for themselves as to what is the rational approach to this issue but for other mandates which exist and are exemplary of why citizens become cynical about government and the outcomes of lawsuits.

5) The United States Coast Guard, which has the Federal mandate with regard to ballast water management is currently very close to publishing proposals regarding this matter. As a minimum, Minnesota should wait and/or do all it can to encourage USCG and if necessary work with in developing standards which would apply in all States.

With all that said, our organization respectfully requests that MPCA will consider the foregoing comments and will provide the opportunity to comment further as appropriate.

Thank you very much.

Stuart H. Theis
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