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DRY CARGO RESIDUE DISCHARGES IN THE GREAT LAKES
PUBLIC MEETING
JULY 15, 2008

Reported by:
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1 P R O C E E D I N G S

2 MR. BERG: Good afternoon and welcome
3 to the dry cargo public meeting -- public comment
4 meeting. I'm Vince Berg, the regulatory development
5 manager for this project. I'll be facilitating
6 today. This is a time that we would ask all of you,
7 if you have cell phones, please turn them off or put
8 them on vibrate for the courtesy of -- we're not
9 showing a movie or anything, but just a courtesy, if
10 anything else.

11 The purpose of this meeting is to
12 provide the public another avenue to submit comments
13 on the proposed regulations for the dry cargo
14 residue discharged in the Great Lakes.

15 Under the Administration Procedure
16 Act, before an HQ agency issues new regulations it
17 must provide the public the opportunity to submit
18 written comments for consideration by the agency.
19 The agency can also hold public meetings to collect
20 these comments.

21 The past -- in the past -- this past
22 May the Coast Guard published in the Federal
23 Register a Notice of Proposed Rulemaking or what we
24 call an NPRM, of which you will hear today, and the
25 new regulations for the Great Lakes concerning the

1 discharge of dry cargo residue, which we call DCR.

2 We are here today to provide
3 additional background on the rulemaking process,
4 briefly present the content of the proposed rule and
5 present the highlights of the Draft Environmental
6 Impact Statement, or DEIS, as we call it.

7 We are seeking your input on the NPRM
8 and on the supporting DEIS and we look forward to
9 receiving your comments.

10 As a reminder, the comment period
11 ends July 22, 2008. Comments you provide us -- you
12 can provide us either orally or written. And they
13 will be placed in the public docket on
14 www.regulations.gov. In your handout you'll see
15 there's a comment form. And for that comment form
16 there's also instructions how to go into the docket.

17 If you have questions pertaining to
18 the content of the proposed rule or DEIS we
19 encourage you to provide that information in the
20 form of a comment. Comments can be provided
21 verbally at the microphone in the middle of the
22 room, which will be also recorded by the
23 stenographer, or in writing in the forms provided in
24 the back of the room or in your packet.

25 You can leave those written

1 statements with us or you can mail them in.

2 For your privacy or if you don't feel
3 comfortable stating your comment at the microphone,
4 the stenographer, court reporter, she will remain
5 after if you want to give a personal comment to her.

6 This is a reminder these comments
7 will be put in the public docket for public viewing.

8 We have several presenters that will
9 discuss background of the DCR, the NEPA process and
10 findings, and the Coast Guard proposals. After
11 these presentations we will open the floor to public
12 comment.

13 A little bit of housekeeping, please
14 make sure everyone is signed in in the back of the
15 room. And if you want to have a comment, please
16 sign in saying you want to make a comment.

17 The fire extinguisher -- fire exits,
18 if something happens, please use the exits. Don't
19 use the elevators. And the restrooms are out the
20 back to the right out the back door.

21 At this time I'd like to start off by
22 introducing Lieutenant Heather St. Pierre.
23 Lieutenant St. Pierre is in the Coast Guard
24 Environmental Standards Division. She's here to
25 speak today about the background of dry cargo

1 residue.

2 MS. ST. PIERRE: Good afternoon,
3 everyone. Thank you for coming here. I know we're
4 a little bit sparse today, but maybe the weather is
5 so nice. But thank you all for coming today. I
6 appreciate it.

7 What I'd like to do is, before we go
8 along and present some of the contents and the
9 results that we have, I want to give just a very
10 short background on dry cargo residues.

11 First off, what are dry cargo
12 residues? They're essentially residual cargo from
13 loading and unloading processes on board a vessel
14 that fall on board the deck and are not swept up
15 into the cargo holds. The vast majority of these
16 residues on the Great Lakes are limestone, coal and
17 iron ore or taconite. And typically what has
18 happened is these residues, once the vessel gets
19 underway, pulls away from the facility, is that
20 they're swept overboard, for safety reasons, for
21 efficiency, and for financial reasons.

22 Now, the current regulations what we
23 have now. In the 1987 the United States wished to
24 adopt MARPOL or the International Convention for the
25 Prevention of Pollution from Ships, which modified

1 the Act to Prevent Pollution from Ships, which is
2 our domestic implementing legislation. And in order
3 to do that they have applied additional restrictions
4 now to the waterways. And that is seen in
5 33 CFR 151.66 which specifically prohibits the
6 discharge of garbage in the navigable waters in the
7 United States. And for our case, cargo residues --
8 in this case dry cargo residues -- are defined and
9 meet the definition of garbage in 33 CFR 151.

10 So what happened? In 1993, in
11 consultation with affected federal and state
12 organizations, they looked at the specific issue
13 with the regulation that was in place and then with
14 the current practices of the dry cargo sweepings.
15 And what they did is they came up with the Interim
16 Enforcement Policy which was originated by the Coast
17 Guard's Ninth District. And this, starting in 1993,
18 had allowed the discharge of dry cargo residues in
19 specified areas of the Great Lakes. And
20 essentially, what it did, is it permitted, at set
21 distances from shore, certain discharges. And what
22 it did is apply to nontoxic and nonhazardous cargo
23 residues only. It applies to U.S. vessels all over
24 the Great Lakes and it applies to vessels of any
25 nation in the U.S. waters of the Great Lakes.

1 In 1998 Congress granted the Coast
2 Guard interim authority to enforce the Ninth Coast
3 Guard District Interim Enforcement Policy. So then
4 we adopted that. They renewed that authority again
5 in 2000 and then again in 2004. And when they
6 renewed this authority they required the Coast Guard
7 to complete an environmental assessment of this
8 Interim Enforcement Policy which we began in 2004.
9 And they also granted us permanent authority, which
10 we are using right now for this rulemaking. And
11 that's notwithstanding any other law, the commandant
12 of the Coast Guard may promulgate regulations
13 governing the discharge of dry cargo residue on the
14 Great Lakes. And this is the authority that we're
15 using now.

16 Also the Conference Report in support
17 of this 2004 legislation stated that it expected
18 that the Interim Enforcement Policy would be made
19 permanent or be replaced with regulations that would
20 strike a balance between maritime commerce and
21 environmental protection. And so that is a goal and
22 something that we are looking at at this point.

23 So under the authority that we have
24 regarding developing a rulemaking and that we can
25 regulate these discharges we undertook a rulemaking

1 and opened a docket. And also we began our process
2 under the National Environmental Policy Act, which I
3 will turn over to Susan Hathaway.

4 MR. BERG: Thank you, Heather. Next
5 I'd like to introduce Susan Hathaway. Ms. Hathaway
6 is from the Office of Engineering Logistics
7 Environmental Management. She's here to speak today
8 about the National Environmental Policy Act process
9 also known as NEPA.

10 MS. HATHAWAY: Thank you very much.
11 Thanks for being here today. I'm Susan Hathaway. I
12 am a national environmental policy specialist at our
13 headquarters.

14 It's important to begin this meeting
15 with a brief overview of the National Environmental
16 Policy Act, which from here forward I will call
17 NEPA, and to discuss the Environmental Impact
18 Statement which is the document that we're using to
19 comply with NEPA.

20 Basically NEPA is one of the main
21 reasons we're here at this meeting today. In 1969
22 Congress passed the Act, requiring that federal
23 agencies consider environmental issues and
24 environmental consequences of their proposed actions
25 prior to taking any action.

1 This is done during the planning
2 stages of our proposed action. The main goal is
3 implementing procedures until Federal agencies
4 evaluate the potential impact prior to taking
5 action, inform the public of our actions and its
6 impacts, and to encourage and facilitate public
7 involvement throughout our decision-making
8 processes.

9 I would like to note that EPA has
10 assisted us in the scope of our analysis and the
11 preparation of the EIS as a cooperating agency under
12 NEPA.

13 So our EIS is a public document that
14 describes rulemaking, alternatives to that
15 rulemaking, and the environmental impact of the
16 proposed rule and alternatives to that rule.

17 One of those alternatives is called
18 the No Action Alternative, that is to say, if the
19 Coast Guard took no action and allowed the current
20 Interim Enforcement Policy to expire this fall.

21 The EIS evaluates and compares the
22 impacts of the alternatives with dry cargo residue,
23 compares them with one another and compares them to
24 that No Action alternative.

25 To adequately understand the

1 potential environmental impact of an action all
2 relevant data and input must be collected and
3 analyzed during the EIS process.

4 That collection of information
5 started quite some time ago. In March of 2006 we
6 announced our intent to prepare an EIS and publish
7 that in the Federal Register. We opened up a public
8 scoping period of up to 45 days where we allowed the
9 public to give us comments and their input. That
10 process aided in our collection of information and
11 helped us zero in on the issues that you, the
12 public, and we, the Coast Guard and EPA felt were
13 important to address in this document.

14 We also held a public scoping meeting
15 in Cleveland in July of 2006. The comments that we
16 received during that period are now addressed in
17 this Draft EIS.

18 In addition to this scoping meeting
19 we also sought input and information from two expert
20 committees that convened to share knowledge and
21 references on the existing conditions of the lakes,
22 to review methods and the results of Coast
23 Guard-sponsored dry cargo scientific investigations,
24 and to provide some advice and data interpretation
25 from those investigations.

1 All of that information is now in the
2 Draft EIS, and this meeting today represents your
3 opportunity to comment on those alternatives and the
4 impacts that we found amongst those alternatives.

5 So that's going to last for 60 days.
6 It started on May 23 and will close July 22, which
7 is next week. Okay? So if you'd like to comment
8 outside of today's meeting, make sure that you have
9 your comments in by next week.

10 We will compile those comments and
11 make sure you've addressed the issues -- make sure
12 we've addressed the issues you brought forward, and
13 we will prepare a Final Environmental Impact
14 Statement. At that time there will be another
15 opportunity for public review.

16 If you're not on our mailing list,
17 Nicole is out front and she'd be happy to add you to
18 the mailing list if you'd like to receive those
19 future documents.

20 We welcome and look forward to your
21 comments today and thank you for coming. If you
22 think of a comment later or if you're not
23 comfortable speaking in front of everyone, that's
24 totally fine. We have a comment paper inside your
25 package. You can submit that to Nicole. You can go

1 to the docket and submit comments or you can orally
2 give those comments today.

3 If you have any questions about NEPA,
4 I'll be back there later today. And thank you.

5 MR. BERG: Thank you, Susan. Next
6 I'd like to introduce Mr. Greg Kirkbride.
7 Mr. Kirkbride is from the Office of the Standard
8 Evaluation and Development. He's here to speak
9 today about DCR and the Draft Environmental Impact
10 Statement.

11 MR. KIRKBRIDE: Good afternoon and
12 welcome.

13 As Susan said, the NEPA process is
14 driving the manner in which we do this rule, so this
15 is our application of that to the DCR rulemaking
16 through the Draft Environmental Impact Statement.

17 The Coast Guard is going to use the
18 DEIS to make an informed decision about dry cargo
19 residue and understand the environmental and
20 socioeconomic impacts in that decision-making
21 process. We talked about the regulation and what it
22 applies to earlier. We do want to provide
23 regulations that are clear and concise and they meet
24 the definitions and expectations. And we also have
25 a statutory requirement from Congress to conduct an

1 environmental assessment, meaning, to look at the
2 impacts of this rulemaking.

3 Some of the background: We do have
4 the mandate to have a balance between commerce and
5 the environmental effects of our rulemaking. We
6 have to continually look at that. And one of the
7 ways we've done that is a very comprehensive
8 information gathering and analysis process. Did I
9 mention that EPA is a cooperating agency? And
10 Sherry Kamke is actually here today and has been
11 with the team for most of the time that the DCR
12 process has been going on.

13 We used sampling and we use mapping.
14 We actually used an EPA vessel to conduct a very
15 thorough sonar survey and we followed that up with
16 experiments and analysis of sediments. We used
17 analytical methods, laboratory analysis of
18 biological agents, experiments, and also did
19 extensive literature searches to find out what has
20 already been evaluated about DCR and we found we had
21 to go some steps further than that. And we did have
22 a scientific review team throughout our process and
23 had people from the academic world to evaluate what
24 we were doing.

25 The major step in the NEPA process is

1 to come up with alternatives for meeting what we
2 have as what we're going to call a Statement of
3 Need. And those alternatives have to fit in with
4 our decision tool, as the EIS is part of the way we
5 look at evaluating what happens in this rulemaking.
6 One of the alternatives we've come up with were a
7 No Action alternative. We mentioned that. That
8 would revert to no discharge in this case, coming
9 under the Act to Prevent Pollution from Ships.

10 Our proposed action is to take the
11 Interim Enforcement Policy, which has been
12 described, as a regulation and combine that with
13 mandatory record-keeping and reporting. And the
14 main reason for that is to gather additional
15 information.

16 The next alternative is the proposed
17 action with modified exclusion areas. We have
18 evaluated the exclusion areas as they exist in the
19 current enforcement policy and we see areas where
20 they could be changed.

21 We also came up with the proposed
22 action with shipboard control measures. And those
23 measures would be toward reducing or preventing DCR
24 that would be swept.

25 And also looking at the shoreside as

1 the fifth alternative, the same thing, for control
2 measures.

3 We take these alternatives and look
4 at the affected environment. And the areas that we
5 looked at were the sediments, the water quality,
6 biological resources, protected and sensitive areas,
7 and socioeconomics.

8 So we're talking pretty much the
9 water column all the way to the bottom, as far as
10 what we're evaluating.

11 Sediments: Once in the sediments,
12 the DCR particles that are swept have the potential
13 to alter the makeup of those sediments, and that
14 could affect the biological components and processes
15 associated with those biological components.

16 We also have to examine the
17 composition of those sediments, whether there are
18 metals and how they are deposited on the bottom.

19 The water quality: Since DCR is
20 discharged directly into the lakes we have to look
21 at the fact that it could affect water quality, so
22 we examined the physical, chemical, and
23 toxicological effects and analyze water chemistry
24 parameters.

25 Biological resources: Sensitive

1 resources could be impacted by the sweeping of DCR.
2 So we examine endangered species, protected and
3 sensitive species, the areas in which they thrive,
4 benthic community structure, fish, invasive species
5 and toxicology. And the toxicology reports are
6 actually part of the Appendices.

7 We did look at invasive mussels as an
8 area of concern. And then the protected and
9 sensitive areas, we looked, as I said, at the
10 Interim Enforcement Policy and whether it was
11 covering all the sensitive areas where --
12 principally where your marine life is inhabiting.
13 And those included National Estuarine Research
14 Reserve Systems, National Wildlife Refuges and the
15 National Marine Sanctuaries.

16 And, finally, socioeconomics: Here
17 we're looking mainly at the human environment and
18 the industries and how the rule might affect those
19 and how our alternatives would affect those. And
20 since it has direct consequences on the economic
21 activity, we did examine economic systems, the water
22 dependent infrastructure, fishing, subsistence and
23 environmental justice.

24 Finally, a very important part is
25 your consequences. By looking at the alternatives

1 and matching that against the affected environment,
2 conducting analyses, we come up with the
3 consequences for the alternatives.

4 What we started out with was
5 establishing criteria for the effects, how to grade
6 those effects, and we came up with effects of
7 no impact or negligible, insignificant impact, which
8 translates to minor, and significant impact or
9 major. And we applied these to each of the affected
10 areas and looked at each of the alternatives in
11 relation to those affected areas.

12 The first alternative we looked at --
13 first alternative I'm going to present -- is the No
14 Action alternative where there would be no
15 discharge. As you see, there is no adverse impact
16 for most of the resources, with the exception of the
17 socioeconomic resources, where there could be a
18 major impact because of the cost of implementing the
19 No Action alternative.

20 Now we're going to look at what we
21 call the Action alternatives. And this consists of
22 our proposed action and the three other alternatives
23 that follow that.

24 As a summary for all the Action
25 alternatives, we determined that there would be no

1 impact for most of the resources for those
2 alternatives. We did determine that there could be
3 insignificant or minor impact for sediment physical
4 structure, protected and sensitive areas, the
5 benthic community, invasive mussels and commerce,
6 under certain conditions.

7 Going into some more detail about
8 those. It's possible that a change in physical
9 structure of the sediment could cause small
10 localized shift in the relative abundance of
11 sensitive species.

12 As far as protected and sensitive
13 areas, there could be an impact as the protected and
14 sensitive areas are now designated, there could be
15 sweeping in those areas.

16 Invasive mussels, principally the
17 zebra and the quagga mussels: There may be a
18 preference for areas where there is DCR in the
19 substrate compared to just the soft sediment without
20 DCR.

21 And, finally, the socioeconomics:
22 The cost of control measures, whether they be
23 shipboard or shoreside, could cause a major economic
24 impact on shipping and related industries.

25 And the cumulative impacts: We are

1 obligated to look at the action -- proposed action
2 not only by itself, but in relation to future
3 possible activities and other things that are going
4 on. And so we came to the conclusion that as far as
5 cumulative impacts, we have DCR as a negligible
6 component in the large scheme; therefore, our
7 assessment is no impact. And I am going to go
8 through the different action alternatives and just
9 show the differences in impacts here.

10 In the proposed action, which is the
11 Interim Enforcement Policy with a mandatory
12 record-keeping and reporting, the main impact would
13 be on the socioeconomic resources.

14 For the proposed action with modified
15 exclusion areas, for protected and sensitive areas,
16 there would be slightly less impact than for the
17 other action areas.

18 And then for the control measures
19 alternatives, whether it be shipboard or shoreside,
20 there could be impact on socioeconomics by the
21 control measures cost, and likewise with the
22 shoreside.

23 Preferred alternative: Our preferred
24 alternative is the proposed with the Interim
25 Enforcement Policy and record-keeping and reporting.

1 And we would also add to that mitigation measures.

2 And I will describe those in a minute.

3 The proposed action allows us to
4 better enforce and monitor the Interim Enforcement
5 Policy, and we can gain additional information on
6 the practices and the cost so we can look at the
7 effectiveness and the cost of the control measures
8 so that we will have a better picture of that aspect
9 of the DCR and the rulemaking.

10 The mitigation measure is -- what
11 we've done is we've looked at the exclusion areas
12 and we came up with areas where we could, based on
13 the knowledge we have, include them as additional
14 exclusion areas, so that we could reduce the
15 possible impacts to some degree.

16 We did not propose the modified
17 exclusionary itself due to lack of information on
18 the specifics. And that's something we could gather
19 as we -- if we implement our proposed action. And
20 this mitigation could actually apply to any of the
21 action alternatives; not just the proposed
22 alternative.

23 And, finally, you would see in the
24 Draft Environmental Impact Statement a comparison of
25 the alternatives. We call this a Measles chart and

1 it gives a quick rundown of where the differences
2 are in the impacts of the different alternatives.

3 And that concludes my presentation.
4 Thank you.

5 MR. BERG: Thank you, Greg. Once
6 again I would like to bring up Lieutenant Heather
7 St. Pierre. She will be discussing and speaking
8 this time of the proposed DCR rule.

9 LT. ST. PIERRE: Hello again.
10 Basically what I'm going to go through is I'm just
11 going to give some highlights of the proposed
12 rulemaking. I'm not going to go through it in
13 detail and it will probably put everybody to sleep.

14 But basically, as I had mentioned
15 before, the congressional intent of this regulation
16 is a balance, maritime commerce and environmental
17 protection. And also we wanted to seek alternatives
18 to the zero discharge regulations that are currently
19 in effect in the Code of Federal Regulations.

20 That's because, based on the National Environmental
21 Policy Act analysis that was presented by
22 Mr. Kirkbride, we found that there's only minor
23 environmental benefits to doing so in a very high
24 cost industry as we had suggested. And it's \$51
25 million plus an additional \$35 million annually to

1 implement the zero discharge policy or zero
2 discharge regulation for industry. And that's
3 straight from our regulatory analysis in our Notice
4 of Proposed Rulemaking.

5 What I'd like to do, as I mentioned
6 before, I'm just going to go through some of the
7 highlights. The main things of this proposed
8 rulemaking are to adopt our Interim Enforcement
9 Policy as a regulation. We wanted to add -- Greg
10 had mentioned about the mitigation measures. We
11 wanted to add six additional sensitive and protected
12 areas to the exclusion areas.

13 We also want to encourage the
14 voluntary use of dry cargo residue control measures.
15 We want to require DCR record-keeping and recording.
16 And then lastly we will have a simultaneous launch
17 of new rulemaking that we will look into control
18 measures a little bit more in detail.

19 Because the Interim Enforcement
20 Policy has been out for quite a while I'm not going
21 to bore everyone with the details and go through it
22 line by line, but if people want to review that
23 further, it is on our docket and the instructions
24 are in your handout, but it is also on our website
25 page as well, so you can look at that in detail. It

1 is a two or three-page document.

2 What I would like to highlight are
3 some of the changes that we are also implementing
4 along with the Interim Enforcement Policy as a
5 regulation. And one of those changes is we added
6 some new sensitive and protected areas; specifically
7 Detroit River National Wildlife Refuge in Lake Erie,
8 Northern Refuge in Lake Michigan, Thunder Bay
9 National Marine Sanctuary in Lake Huron. And those
10 are where the charged are prohibited -- or it's
11 protected. Now in Green Bay and Lake Michigan it's
12 restricted to limestone and clean stone only.

13 Isle Royale in Lake Superior is
14 limestone and clean stone only, and Western Basin of
15 Lake Erie is limestone and clean stone on some
16 routes, and other DCRs permitted but only in the
17 dredged channels. So these are some changes to the
18 Interim Enforcement Policy that we would like to
19 adopt in our regulations, so I just wanted to
20 highlight those for you.

21 Also, too, as I had discussed these
22 voluntary DCR control measures, again we would like
23 to encourage the use of them to reduce the discharge
24 of the sweeping of DCR. And some of those measures
25 are -- as you guys have seen in our Draft

1 Environmental Impact Statement and also in our
2 Notice of Proposed Rulemaking and form, some of
3 those measures are very simple. Some of them
4 include brooms and shovels. Some of them include
5 enclosed conveyors, conveyor skirts, water or mist
6 or dust control, and radio communication just to
7 kind of keep things a lot cleaner and to reduce the
8 excess residue.

9 And what we're also asking people to
10 do is, on our forms, of course, as I will show here
11 in a minute, but we're also asking if people have
12 different methods that we have not listed that they
13 have found that work, we would like to know about
14 those so we can possibly employ those, so we would
15 like to include those on the form.

16 As I had mentioned, we would like to
17 require a -- we're proposing that we require
18 mandatory record-keeping and mandatory reporting.
19 Again we want you to record what control measures
20 that you use on this form, and that is for the
21 vessel and the facility or both. Also we would like
22 you to record the estimated amount of cargo residue
23 to be discharged, and that is during or just
24 immediately after loading and unloading so we can
25 kind of get an idea to connect that with the control

1 measure that was used, if any.

2 And then we would like you to record
3 the sweeping events when the actual sweeping occurs
4 away from shore.

5 And we're requesting reports to be
6 submitted on a quarterly basis so we can compile
7 that information. Or you can submit them whatever
8 way you'd like, but it's a requirement for a
9 quarterly basis. So that's our proposed rule.

10 And also very similar to other
11 regulations, we want you to maintain those forms for
12 inspection on board for two years for compliance
13 verification.

14 And this regulation would apply to
15 U.S. carriers anywhere on the Great Lakes, and it
16 would also apply to foreign flag carriers operating
17 in U.S. waters of the Great Lakes.

18 This isn't exactly the best form --
19 best photo of it, but you guys do have it in your
20 handout if you want to take a look at the dry bulk
21 cargo reporting form. And this is what we have
22 proposed and are seeking comment on it as well. But
23 you can find that in your handout. And this is
24 basically what you would be recording on: You're
25 recording your cargo, loading/unloading operations,

1 what facility -- what control measures that you have
2 implemented, your estimated amount of cargo to be
3 swept and then when you actually sweep the cargo,
4 where you swept it and the speed.

5 On the back side of this form it's
6 numbered and has letter codes, so instead of having
7 to write in all these blocks, this is a way for you
8 to record that information on this reporting form to
9 try to keep it simple. Again this is not
10 necessarily a complete list of these possible
11 control measures. So if you have something new,
12 we're asking people to record that as well and
13 describe that process to us.

14 Lastly, as I had mentioned, so we can
15 look deeper into the use of control measures because
16 we don't have enough information on them yet, is we
17 are going to -- with the publication of our final
18 rule we will simultaneously launch our -- an
19 Advanced Notice of Proposed Rulemaking; so basically
20 open up another docket and receive additional
21 information on control measures, which is what we
22 specifically would like to look into a little bit
23 further.

24 So with that I would like to turn
25 this over to Mr. Berg. Thank you.

1 MR. BERG: Thank you, Heather. Does
2 anybody else have anything?

3 At this time we would like to open up
4 the floor to the public for your comments. First of
5 all we would like to go over some ground rules. You
6 have a copy of them in the packets.

7 This is your opportunity to comment
8 on the contents of the NPRM and DEIS and we would
9 like to receive these comments. If you have a
10 question about the content of these documents, we
11 would kindly ask you to provide them in the form of
12 a comment.

13 Please use the microphone provided in
14 the middle of the room. Speak into the microphone
15 so that it can be heard because it will be recorded
16 by the stenographer.

17 Please state your name, affiliation
18 and whether you're commenting on the NPRM, the DEIS
19 or both.

20 Please limit your comment to five
21 minutes. I will raise my hand at the one-minute
22 mark indicating that you have one minute left. At
23 this time please wrap up your comment.

24 After all the registered speakers
25 have provided remarks, if the time permits, previous

1 speakers may provide an additional three minutes of
2 comment.

3 Written comments may also be supplied
4 as well if you don't want to speak in front of the
5 microphone. However, please remember you are in the
6 presence of a stenographer who is recording an
7 official transcript that will be entered in the
8 docket for public view.

9 After the comment period the
10 stenographer will also be available to take
11 additional comments if you would feel more
12 comfortable in a less formal setting.

13 At this time I'm going to ask
14 Mr. Jim Sharrow for comment.

15 MR. SHARROW: Good afternoon. I'm
16 Jim Sharrow. I'm the facilities manager with the
17 Duluth Seaway Port Authority and I have a couple of
18 very general comments on the NPRM today.

19 First of all I want to say that the
20 Duluth Seaway Port Authority is very supportive of
21 the process that the Coast Guard is using in
22 determining the suitability of discharging these
23 cargo sweepings into the lakes. Duluth Superior
24 Harbor is the largest, busiest, highest tonnage
25 harbor in the Great Lakes, and actually the 15th

1 largest harbor or busiest harbor in the U.S. And
2 ranked as a dry bulk port we are the busiest in the
3 United States. So the results of this process bear
4 heavily on the -- on this port. And I guess I'd
5 like to say that, in our opinion, this entire
6 process is something that began as a result of kind
7 of the law of unintended consequences; that when the
8 original MARPOL law or rule was accepted it was not
9 understood by our Federal Government or our agencies
10 back in the 1980s how it would be applied to the
11 Great Lakes because of the interpretation of cargo
12 -- of cargo residues as garbage. And we've been
13 struggling, we as an industry, to deal with this
14 ever since. It's been about 20 years now. But we
15 are very supportive of the process the Coast Guard
16 has been going through. We think it's a very
17 professional process and we're very happy to see
18 that you are trying to -- trying to handle this in a
19 balanced manner to balance the needs of industry
20 with the environmental needs of the region.

21 A couple of particular comments on
22 the form, on the use of the form and the layout of
23 the form. I question the viability and usefulness
24 of the man hours question. This can vary greatly --
25 the interpretation of what it means could vary

1 greatly from master to master who is recording this,
2 and I think you might find that it's a very unusable
3 data once it's been collected. And it will take
4 time. And some question the value in collecting
5 that particular data.

6 Also I might mention that the
7 expression of the cargo residue that's discharged in
8 cubic meters might be more accurate or easier for
9 the crews to define it or measure it in cubic feet
10 because I doubt that any ship would ever actually
11 discharge even one cubic meter of material.

12 That's all I have to say. Thank you.

13 MR. BERG: Thank you, Mr. Sharrow.

14 Next I would give the opportunity to
15 Mr. Nekvasil.

16 MR. NEKVASIL: Thank you. I'm Glen
17 Nekvasil. I'm vice president for corporate
18 communications for the Lake Carriers' Association
19 and I'm going to comment on the NPRM.

20 Lake Carriers represents the U.S.
21 flag vessel operators on the Great Lakes; 16 member
22 companies, 63 vessels. Last year we moved 104
23 million tons of cargo. Primary cargos are iron ore,
24 coal, limestone and cement.

25 We support the continuation of the

1 Wash-Down Policy. The Draft Environmental Impact
2 Statement finds no significant environmental impact,
3 but wash-down will allow us to continue to operate
4 our vessels as sufficiently as possible while
5 respecting the environment.

6 It's very important to understand
7 that these cargo residues are nonhazardous,
8 nontoxic, and most of the raw materials that move on
9 the lakes are shipped in their natural state or as
10 they're mined. Limestone, coal, for example,
11 sometimes they're rinsed and that goes into the
12 hold. Taconite: They do add a binding agent, clay,
13 during the process. But again it's pretty much as
14 it's mined out of the ground.

15 The amount of dry cargo residue being
16 swept is minute. The Draft Environmental Impact
17 Statement, the trades and the vessels that they
18 studied in that given year moved 165 million tons of
19 cargo, yet the amount of the cargo residue washed
20 over was only 500 tons. That's equal to
21 0.0006 percent of the cargo. So we are really
22 talking about minute amounts of cargo.

23 The DEIS finds that the highest
24 density track for cargo residue was coal on Lake
25 Erie. And if you do it on a per-acre basis, the

1 coal is equal to spreading three cups of coal over a
2 football field. And I just want to show folks, this
3 is three cups of coal. Spread it over a football
4 field. This is what we are talking about. We are
5 not covering the lakes with dry cargo residue. And
6 just in case someone thinks that there isn't a lot
7 of coal on Lake Erie, they ship 15 million tons a
8 year. They used to ship 50 million tons a year, but
9 Lake Erie is the eastern coal and now the western
10 coal is driving the trade. Again these cargos are
11 nonhazardous, nontoxic. The DEIS, to quote: The
12 effects of over a century of DCR sweeping on
13 sediment quality or biological resources are barely
14 detectable. To repeat, they are barely detectable.

15 So LCA endorses the continuation of
16 wash-down. We do understand the rationale for the
17 slight expansion of the discharge zones, but we
18 would note that your Draft Environmental Impact
19 Statement said that if you had continued to allow it
20 in those areas it would not have had a major impact
21 -- environmental impact.

22 We don't understand the encouragement
23 for vessel operators to use voluntary measures.
24 This is a disconnect to us. Obviously the industry
25 is using control measures. Otherwise we might --

1 the quantities wouldn't be so small. We do use
2 deck -- they do shovel it back into the hold and
3 back onto the belts. So I don't want anybody in
4 this room thinking that there are lots of measures
5 for vessel operators to apply today to further
6 reduce the amount of dry cargo residue. We are
7 doing our best. It's in our best interest. The
8 customer is paying us to deliver this cargo. He
9 doesn't want it swept over. He wants it in his
10 stockpile.

11 Also the rulemaking would make
12 mandatory the record-keeping that we're now doing on
13 a voluntary basis. We don't understand this
14 requirement, either. We don't think there is any
15 need for additional studies. You've been studying
16 this now for ten years.

17 And we are looking at dry bulk trades
18 that have existed for a long time. Marquette has
19 been shipping iron ore since 1852. Duluth has been
20 shipping iron ore since 1892. Rogers City has been
21 shipping limestone since 1912. So when they went
22 down and they got their samples they were looking at
23 tremendous amounts of cargo movement over a long
24 period of time. If you go back to 1900, iron ore
25 trade on the Great Lakes since 1900 is 7.1 billion

1 tons; the coal trade since 1900, 4.1 billion tons;
2 limestone, 2.2 billion tons. So the studies have
3 analyzed the impacts of tremendous amounts of cargo
4 movement over an extremely long period of time.

5 So in summation, we support the
6 continuation of the wash-down policy, but we do not
7 believe additional study is merited unless there's a
8 new dry bulk trade on the Great Lakes. Thank you.

9 MR. BERG: Thank you, sir. I'll give
10 the opportunity to Mr. Musick.

11 MR. MUSICK: Thank you very much.
12 I'm Tim Musick. I live in Duluth and I also work
13 with the Minnesota Pollution Control Agency. We
14 have an office here in Duluth right down by the
15 bridge.

16 We will have a formal written letter
17 coming with regard to our comments on the proposed
18 rule, but a couple of things that -- since I've been
19 doing most of the work on it, a couple of things I
20 wanted to add here.

21 The demonstration about three cups
22 here made me think a little bit about a complaint I
23 investigated that got me into this thing in the
24 first place. And that complaint was from a person
25 who lives on Park Point. Park Point is that spit of

1 sand that goes out and separates our harbor from the
2 lake. And this individual lived on the lake. And
3 he wanted me to come down and look at the coal that
4 was washing up on the beach in front of his house,
5 which I did. And he was absolutely correct.

6 Apparently there's some accumulation that rolls up
7 on the beach occasionally and I was able to pick up
8 quite a bit of coal on the beach right out here. So
9 there is a nuisance issue here. I don't want it to
10 be implied here that this is a strictly benign
11 operation, that there's nothing wrong with it, that
12 it all sinks to the bottom of the lake and so on.

13 Speaking of the bottom of the lake,
14 back in the mid '90s when I was involved with Earles
15 on Lake Superior -- which has been dogging me my
16 whole career, by the way, but, nonetheless, we were
17 out there doing sidescan sonar work. And it was
18 obvious to us what happens when you get in the
19 shipping lanes. It is a junkyard out there and this
20 is just a continuation of throwing things off these
21 ships. I think it's time for a paradigm shift here
22 and get away from this, after all this is the
23 21st Century here.

24 Now, what was disappointing for me in
25 the EIS work that the Coast Guard had done were a

1 couple things. One, the cost analysis. It was
2 almost embarrassing to read how you determined and
3 how you came to the \$51 million figure. Utilizing a
4 figure of \$1700 per hour for the ship -- and I don't
5 question that -- but when you take four crew members
6 with brooms and shovels and you put them to work for
7 two and a half hours on the deck and then you follow
8 that with one person down in the tunnels walking
9 down the tunnels for three and a half hours, giving
10 you a total of six hours tied to the dock because of
11 clean-up requirements, and you multiply that times
12 the 55 U.S. flag ships times the 60 trips per year
13 and you arrive at \$51 million. I have to tell you
14 that that is really a stretch. And it didn't even
15 consider anything with regard to mechanical sweepers
16 or vacuum systems on shore facilities -- or from on
17 shore facilities, which is really, I think, the crux
18 of the issue.

19 We're not here to complain about the
20 Coast Guard. We're not here to complain about the
21 shipping industry, per se. What we'd like this
22 thing to emphasize, however, is the importance of
23 addressing the onshore loading facilities, because
24 in my work, when it comes to a spill, the
25 responsible party is the party that spills the

1 material. It doesn't matter if it's a unit train
2 coming across Minnesota and it -- it derails for
3 whatever reason, they pick up the coal. If it's a
4 tanker on I-35 and he gets involved in an accident,
5 he cleans up the fuel even though he may not have
6 caused the accident. If an onshore facility for
7 whatever reason, operator error, mechanical
8 problems, spills something on the deck of a ship,
9 they ought to be required to clean it up. Now, if
10 we had better controls like that and if we had some
11 responsibility like that, they wouldn't be spilling
12 as much stuff, I can guarantee you, because they're
13 going to clean it up.

14 And I don't know about Maritime Law,
15 but it seems to me that somebody who spills
16 something on the deck of a ship should be able to go
17 on board and clean it up. And with vacuum systems
18 available today on trailers, drive them right up to
19 the ship, run a line up, vacuum it up, I don't see
20 it as an issue. From a safety point of view I think
21 the -- I watch these ships go by with taconite
22 pellets all over the deck. If you like walking on
23 marbles, walk on that ship. And to leave them on
24 that ship until they're ten miles -- excuse me --
25 13 miles out to sea is not a safety issue, because

1 if you want to be safe about it, you remove them
2 before the dock -- the ship leaves the dock. Times
3 up? Thanks.

4 MR. BERG: Thank you for your
5 comments.

6 We want to thank you all for your
7 participation and interest. Your comments were very
8 productive and important to us.

9 If you have not already visited our
10 displays in the back of the room, we encourage you
11 to do so. There will be a representative at the
12 displays to assist you. However, your verbal
13 comments while at the displays will not be recorded.
14 We again encourage you to provide a written comment
15 either by written form or with the stenographer.

16 If you are traveling, have a safe
17 trip. Meeting adjourned.

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REPORTER'S CERTIFICATE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

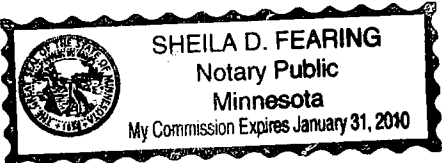
I hereby certify that I reported the public meeting, on the 15th day of July, 2008, in Duluth, Minnesota;

That the testimony was transcribed by me and is a true record of the testimony given;

That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

WITNESS MY HAND AND SEAL THIS 19th day of July, 2008.



Sheila D. Ford
Notary Public, Hennepin County, Minnesota
My commission expires January 31, 2010