



The American Waterways Operators
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Lynn M. Muench
Senior Vice President - Regional Advocacy

June 15, 2010

COL Vincent Quarles
Commander, Chicago District
U.S. Army Corps of Engineers
111 North Canal Street, Suite 600
Chicago, IL 60606

RE: Dispersal Barrier Efficacy Study,
Interim III: Modified Structures and
Operations, Illinois and Chicago
Area Waterways Risk Reduction
Study and Integrated Environmental
Assessment

Dear COL Quarles:

The American Waterways Operators (AWO) is the national trade association for the tugboat, towboat and barge industry. AWO's 350 member companies operate on the coasts, the inland rivers and the Great Lakes, safely and efficiently moving more than 800 million tons of cargo critical to the U.S. economy. AWO members also provide essential escort and shipdocking services in our nation's ports and harbors. AWO members are proud to be part of an industry that is the safest and most fuel-efficient, and has the smallest carbon footprint, of any surface transportation mode. AWO members also have a deep commitment to safety, having adopted in 1994 the Responsible Carrier Program, a code of safe practice and environmental stewardship that is a condition of membership in the association.

Fifteen AWO members have headquarters in Illinois, and many others operate vessels that transit through Chicago-area waterways. AWO and its members fully understand the severity of the Asian carp situation and are active in finding and implementing solutions to halt carp movements while not halting navigation. We appreciate this opportunity to comment on the U.S. Army Corps of Engineers' Dispersal Barrier Efficacy Study, Interim III: Modified Structures and Operations, Illinois and Chicago Area Waterways Risk Reduction Study and Integrated Environmental Assessment.

As noted in the report, navigation provides a multi-million dollar benefit to the Chicago region, as shipments through O'Brien and Chicago locks saved shippers \$150 million in

2008. The report also points out that moving cargo off the roads and onto the waterways reduces air pollution and highway accident rates. Therefore, AWO thanks the Corps for recognizing that regular lock closures are not a preferred alternative. However, random lock closures with no established protocol or notification to the industry will have a chilling impact on the industry and our customers.

As the report notes, temporary lock closures will impact the economy due to the “underutilization of commercial vessels [and] increased transportation and logistics costs for shippers.” Lock closure severely affects AWO members’ operations as well as the operations of their customers, and AWO echoes the report’s assessment that forcing a tow to remain idle could cost up to \$54,000 per day. ***In order to minimize these impacts, it is critical that the Corps provide the industry with at least 30 days notice and a firm timeline prior to any lock closure to ensure appropriate business planning.*** As the report notes, this kind of notice will allow shipments to be rescheduled, thus allowing commerce to continue to flow.

AWO is concerned about the report’s prediction that agency requests to close the lock will be provided to the Corps “with very little lead time.” Oftentimes, the agencies have acted immediately after a positive eDNA test, even though the Corps notes in its report that it “cannot conclude that water samples testing positive for eDNA evidence confirms the presence of Asian carp.” It is critical for the well-being of the Chicago-area economy and environment that the Corps weigh any requests for lock closure carefully and, if such a request is granted, that industry be provided as much time as possible to plan for such a closure. ***AWO requests that the state and federal agencies develop a protocol which outlines the criteria used to justify closures.*** Of course, no closure should be considered until all other possible actions have been exhausted.

In regard to the Corps granting a lock closure request, AWO noticed that the report outlines the sequence of events for the Corps after a lock closure request is received. AWO thanks the Corps for committing to coordinate with the towing industry before closing the locks. However, the report also outlines the sequence of events for the Coast Guard after a request to close the Chicago-Area Waterways System (CAWS) is received; this sequence shows the Corps closing the locks, if needed, before coordinating with industry on the closure. AWO urges the Corps to have a dialogue with industry before it closes the locks for any reason, and to take the industry’s operations and the flow of commerce into account when deciding when to close the locks.

In fact, ***AWO requests that the Corps ensure that it is getting full industry input by creating an advisory group to be made up exclusively of towing industry representatives.*** The input of this group will be invaluable when the Corps and other agencies consider how to engage in efforts to protect Lake Michigan from the carp. In the past, providing adequate warning before waterways closures has been a significant shortcoming of the federal and state agencies involved in this process. The inclusion of a group that will be sensitive to the need for notice, in addition to being concerned about

the long-term viability of our nation's waterways and their ecosystems, will only help the Corps fulfill its multiple missions.

AWO also requests that the Corps include towing industry representatives on the Asian Carp Rapid Response Workgroup. Currently, the group is composed of 13 entities and not one of them speaks on behalf of the industry, even though the impact of the decisions this group recommends and ultimately makes is significantly felt by the towing industry. As a primary stakeholder in CAWS, it is appropriate that the industry be allowed to bring its knowledge of the waterways system to bear on the important and far-reaching decisions that the workgroup helps craft.

AWO thanks the Corps for the opportunity to comment on this report, and would be pleased to answer any questions or provide further information.

Sincerely,

A handwritten signature in cursive script that reads "Lynn M. Muench". The signature is written in black ink and is positioned below the word "Sincerely,".

Lynn M. Muench



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Senior Vice President - Regional Advocacy

June 15, 2010

COL Vincent Quarles
Commander, Chicago District
U.S. Army Corps of Engineers
111 North Canal Street, Suite 600
Chicago, IL 60606

RE: Interim Report IIIA, Illinois and
Chicago Area Waterways Risk
Reduction Study and Integrated
Environmental Assessment, Acoustic
Bubble Barriers near Brandon Road
Lock and Dam

Dear COL Quarles:

The American Waterways Operators (AWO) is the national trade association for the tugboat, towboat and barge industry. AWO represents 350 member companies in an industry of nearly 4,000 towing vessels, more than 27,000 dry and liquid cargo barges and over 30,000 mariners. Fifteen AWO members have headquarters in Illinois, and many others operate vessels that transit through Chicago-area waterways. We appreciate this opportunity to comment on the U.S. Army Corps of Engineers' Interim Report on Acoustic Bubble Barriers in the Chicago Area Waterways System (CAWS).

AWO members have demonstrated their full commitment to protecting the ecosystems of the Great Lakes and the Western Rivers through their cooperative work with the Corps and the U.S. Coast Guard to build, test and maintain the electric dispersal barriers in the Chicago Sanitary and Ship Canal (CSSC) over the past several years. We are committed to continue that work as the long-delayed Barrier IIB is installed this summer and fall. Additionally, AWO provided comments to the Corps in March on its planned Environmental Assessment of acoustic bubble barriers, and we have stated our support over the past several months before the U.S. House Committee on Transportation & Infrastructure, Water Resources & Environment Subcommittee, the Illinois Senate Environment Committee and the Chicago City Council Committee on Energy, Environment and Public Utilities.

Consistent with the positions expressed in these statements, we strongly encourage the Corps and other federal agencies to implement technologies that hold the promise of preserving the natural resources of the Great Lakes and the Western Rivers, while not harming commerce. We strongly support your plans for the development of a demonstration acoustic bubble curtain with strobe lights (ABS) deterrent barrier near Brandon Lock and Dam. It is the industry's expectation that Congress, with the full support of the Asian Carp Regional Coordinating Committee (ACRCC), will fund this demonstration barrier fully and efficiently to ensure immediate construction and maintenance. As the Corps begins this important and promising work, we respectfully request that you address the following areas of concern: 1) notification prior to any closure; 2) the use of eDNA in evaluation of carp location; and, 3) increased federal agency outreach to the industry.

1. Notice Prior to Closure

AWO fully understands and appreciates the rigorous and concentrated work that implementing the ABS demonstration barrier will entail. AWO members will, once again, work with federal and state agencies to ensure that the necessary technology is effectively placed in the Chicago Area Waterways System. We ask the Corps and the other agencies to work with the industry to minimize disruptions to waterborne commerce. AWO appreciates the Corps' intention "to ensure that notice is provided in a timely fashion to minimize impacts on navigation to the extent possible."

During the last twelve months, lock closures and changes in the electric fish barriers' operating conditions were done with limited or no notification to industry. For example, during the three week-long closures over the last year referenced above, vessel operators and shippers never received 30 days advanced notice. Thirty days is the minimum notice necessary for the towing industry and its customers who routinely ship products to and from long distances such as Houston and Pittsburgh. Without a 30 day notice, companies cannot make rational business decisions. As the barrier is constructed and for any necessary maintenance, ***AWO respectfully requests that the Corps provide the industry with a 30 day notice prior to any closure or change in operating procedures to perform work on the ABS demonstration barrier along with a detailed timeline.***

2. Use of eDNA in Assessing Asian Carp Locations

As the Corps is aware, three week-long closures of portions of CAWS have occurred since August 2009 in response to reports of positive, but unconfirmed, eDNA samples. The extensive fishing efforts and rotenone applications that have taken place during these closures have resulted in the discovery of only one Asian carp, far south of the electric barriers. Given these results, the industry believes that relying exclusively on eDNA is unwise until further scientific analysis is completed on this novel, non peer-reviewed technology.

We fully agree with the Corps' statement in this interim report, therefore, that one "cannot conclude that water samples testing positive for eDNA evidence confirms the presence of Asian carp." We are concerned, however, about the statement immediately following this one that indicates that, "[u]ntil other methods for positive and confirmatory Asian carp detection become available and affordable, the ACRCC and USACE intend to use eDNA as a basis for precautionary and prudent actions." It is not clear to us why the federal agencies involved in this effort would continue to make so many crucial decisions, including decisions that cause interruptions to pickups and deliveries of vital commodities, on the basis of unproven science. ***AWO respectfully requests that the Corps discontinue using eDNA as its only decision making tool until it has been peer-reviewed. If the testing is continued, AWO also requests the Corps institute blind sampling for all eDNA tests (see attached May 2010 letter on this issue). To further build the public confidence in this science, the Corps should send common samples to another lab to verify consistent results.***

3. Input from Industry

When making closure or other operational decisions, AWO encourages the federal and state agencies involved to broaden their sphere of input. ***Specifically, the Asian Carp Rapid Response Workgroup should include representation from the towing industry.*** Currently, the group is composed of 13 entities and not one of them speaks on behalf of the industry, even though the impact of the decisions this group recommends and ultimately makes is significantly felt by the towing industry. As a primary stakeholder in CAWS, the industry would add extensive knowledge to the group's far-reaching decisions.

To further strengthen the connection between what occurs on the waterways and those who live with the consequences of such actions, ***AWO also recommends the creation of an advisory group to be made up exclusively of towing industry representatives.*** The input of this group will be invaluable when the Corps and other agencies consider how to engage in efforts to protect Lake Michigan from Asian carp. As referenced above, providing adequate warning before waterways closures has been a significant shortcoming of the federal and state agencies involved in this process. The inclusion of a group that will be sensitive to the need for notice, in addition to being concerned about the long-term viability of our nation's waterways and their ecosystems, will assist the Corps as it works to accomplish its multiple missions.

Summary

As indicated in the introduction to these comments, AWO supports the construction of an ABS barrier. We believe that this solution allows for the continued movement of environmentally beneficial barge transportation while installing an important redundancy to the Asian carp prevention system. In the interim report, the Corps states that this deterrent system will not impede navigation. At this point in the barrier's development, we encourage the Corps to ensure that this remains an ongoing area of

analysis. It is important that it remain so because, as stated elsewhere in the report, there may be a future expansion of the ABS barrier to other areas within the CAWS.

AWO will continue to work with the Corps to seek a solution that protects the Great Lakes while supporting the economic and environmental benefits that barge transportation provides to the nation. Choosing between protecting the environment and preserving commerce is a false choice. The ABS demonstration barrier makes that clear. We thank the Corps for the opportunity to comment on this matter. AWO would be happy to provide further comments upon request.

Sincerely,

A handwritten signature in cursive script that reads "Lynn M. Muench". The signature is written in black ink and is positioned below the word "Sincerely,".

Lynn M. Muench

Enclosure: - Letter submitted by AWO in May 2010 to the U.S. Army Corps of Engineers



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Lynn M. Muench
Senior Vice President - Regional Advocacy

May 19, 2010

MG John Peabody
Commander, Great Lakes and Ohio Valley Division
U.S. Army Corps of Engineers
P.O. Box 1159
550 Main Street
Cincinnati, OH 45210-1159

RE: eDNA Testing
Protocol

Dear MG Peabody:

The American Waterways Operators (AWO) is the national trade association representing the inland and coastal tugboat, towboat and barge industry. Fifteen AWO members have headquarters in Illinois, and many others operate vessels that transit through the O'Brien Lock.

Ever since the electric fish barrier in the Chicago Sanitary and Ship Canal (CSSC) was proposed and installed, AWO and its member companies have worked with federal and state agencies, including the U.S. Coast Guard, the U.S. Army Corps of Engineers, the Environmental Protection Agency (EPA), and the Illinois Department of Natural Resources, to prevent the introduction of invasive species into the Great Lakes while ensuring that critical goods continue to flow to, from and throughout the Chicago region on the waterways. The industry's cooperation on this matter extended to the rotenone application that took place in the CSSC in December 2009, which involved the closure of the canal and an interruption in waterborne commerce, as well as the electro-fishing that took place in the Cal-Sag Channel during this same period, which also necessitated a waterway closure. We are now faced with another closure on the Cal-Sag Channel between May 20 and May 27.

During a May 18 conference call with federal agencies, our industry learned that there will be water samples taken in the area of the upcoming fish kill prior to the rotenone application to be tested for Asian carp eDNA. As you know, it takes between seven and

The Tugboat, Towboat and Barge Industry Trade Association

MG Peabody

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ten days to process the eDNA, so the results will not be known until several days after the fish kill has been completed. ***To ensure accurate, non-biased results, we request that random samples from the testing site and from other sites be taken by an independent, third-party contractor to ensure transparency and good scientific process. We further request that all future eDNA samples be taken by an independent, third-party contractor.*** Providing blind samples is a routine, scientific process that ensures accurate, non-biased results.

Thank you for your consideration of our request. We look forward to your timely response.

Sincerely,

A handwritten signature in cursive script, reading "Lynn M. Muench".

Lynn M. Muench

Cc: Mr. Bill Bolen, U.S. Environmental Protection Agency
RDML Mike Parks, U.S. Coast Guard
Mr. Marc Miller, Illinois Department of Natural Resources
Mr. Charlie Wooley, U.S. Fish and Wildlife Service
Dr. Leon Carl, U.S. Geological Service
Dr. Marc Gaden, Great Lakes Fishery Commission
Dr. John Dettmers, Great Lakes Fishery Commission
Mr. Patrick Carey, City of Chicago
Mr. Edward Staudacher, Metropolitan Water Reclamation District of Greater Chicago