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COL Stephen Murphy
Commander and District Engineer, New Orleans District
U.S. Army Corps of Engineers
7400 Leake Avenue
New Orleans, LA 70118

CAPT Kelly Denning
Commander, Sector New Orleans
U.S. Coast Guard
200 Hendee Street
New Orleans, LA 70114

RE: Navigation Safety Risk
Assessment for CEMUS, LLC
Permit

Dear COL Murphy and CAPT Denning,

AWO is the tugboat, towboat, and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. Our industry safely and efficiently moves nearly 700 million tons of cargo each year, including 630 million tons along the Mississippi River System. The towing industry contributes \$30 billion to the U.S. GDP annually, 75% of which is derived from the inland waterways. This river system is a vital link in the transportation of American grain and energy products. The CEMUS dock can disrupt and has disrupted this critical supply chain, which is important not just to our nation but to the world's food and fuel supply, especially during times of crisis such as the current war in Ukraine.

Considering the grave economic impacts of the CEMUS dock, The American Waterways Operators (AWO) is pleased that the U.S. Army Corps of Engineers (Corps) will follow the recommendation of the U.S. Coast Guard to require a formal National Safety Risk Assessment (NSRA) for the CEMUS, LLC permit MVN-1998-02358. Over the last several years, industry and the Coast Guard have expressed concern about the dock's impact on navigational safety, with documented concerns dating back to 1947. To help ensure transparency and credibility, AWO provides the following input, focusing on the scope of the study and the communication needed during the NSRA process.

The NSRA is designed to be undertaken before potentially unsafe structures are constructed, but the CEMUS dock has never undergone an NSRA. The dock was constructed in the early 1940s when the primary concern was winning World War II and safety concerns were minimally considered. The study must finally answer the following question: is this dock or its potential utilization an obstruction to navigation? We request that the study include historical data that has been summarized in an attachment from CAPT Watson dated March 14, 2022.

The NSRA should evaluate whether the dock and/or its intended customers' vessels would cause an "obstruction or alteration of navigable waters." And, if so, should the obstruction be removed? In all Corps permits, sections (c) and (f) discuss obstructions to free navigation, with section (f) stating that if future use causes unreasonable obstruction the owner will be required to remove or alter the obstruction. AWO believes that the scoping and the risks evaluated must consider whether the present and proposed future work does or will obstruct free navigation based on current and expected operations.

In keeping with the direction of Coast Guard risk-based waterways management, the study should focus on the strategic goals of 1) maritime safety; 2) maritime mobility; 3) maritime security (including economic security); and 4) protection of natural resources. The final product should "deploy high quality risk-based decision-making policies and tools to support decision makers." AWO encourages a robust and specific recommendation from Coast Guard Sector New Orleans to the Corps' New Orleans District that will ensure these strategic goals are met.

Scoping

Since there does not appear to be an original permit for the dock and the dock has either been hit or caused other allisions, industry believes the study should include a no dock scenario. Along with the no dock scenario, the following scenarios should also be included:

- The dock with one-deep barges attached;
- The dock with a Panamax vessel; and,
- The dock with a post-Panamax vessel.

The risk assessment must focus on heavy tows (25 or more barges). Evaluating transits by all vessels, including small recreational vessels, will distract from the navigation situations of greatest concern. An allision with the dock or bridge from a heavy tow could cause the river to be closed for days, resulting in catastrophic economic impact. Historical and modeled data should also consider environmental and/or social impacts of allisions from large tows.

Mishaps within Areas of Concern

The Coast Guard's NSRA guidance states that all public interest factors should be included in the evaluation. However, as the study is only allowed to consider a limited number of mishaps, it is essential that the correct issues are selected to accurately assess the complex nature of navigation safety. Industry requests CEMUS use the following mishaps, as outlined in the NSRA guidance:

- Location, Public Safety Impacts
 - Allisions or collisions with a structure and/or secondary vessel
 - Personnel injury or loss of life
 - Structural damage due to changes in environmental factors
 - Exposure to hazardous materials
- Waterway and Port Operations/Economic Impact
 - Damage to structures¹ in, on or adjacent to a waterway from an allision or wake wash from passing vessels
 - Vessel damage from mishaps such as collisions and groundings
- Environmental Impact
 - Potential or actual releases of oil or hazardous materials
 - Shoreline damage as a result of passing vessels

Risk Factors that Should be Evaluated

While the areas of concern outlined in the Coast Guard's risk model are broad to ensure flexibility in an NSRA, industry believes the following factors should be included when modeling risk for each issue area:

- Physical Location
 - Proximity to navigable channel, including vessels that could be moored at the dock;
 - Location on the inside or outside bank of a bend;
 - Composition and speed of existing vessel traffic in the Mississippi River and/or adjacent waterways;
 - Proximity to population centers; and,
 - Location relative to other waterfront structures or projects, including the 190 bridge and the Baer facility.
- Activity Related to the Structure/Waterways and Port Operations
 - Changes to the existing volume and type of vessel traffic; and,
 - Impact on the type and quantity of cargo moving through the ports.
- Weather and Environmental Conditions
 - Storms;
 - High wind; and,
 - Severe and sudden weather conditions, such as hurricanes and quickly changing water levels.

¹ The NSRA guidance defines *structures* to "include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other obstacle or obstruction" (§ 322.2 (b)). Section C.6. of the *Waterways Management (WWM): Navigation Safety Risk Assessments Tactics, Techniques, and Procedures (TTP)* also directs the evaluator to include submerged pipelines, cables, and waterway intakes in their evaluation of "structures."

Communication

As the NSRA guidance states, “Collaboration, communication, and transparency are essential elements of the navigation safety risk assessment process.” AWO encourages the following communication processes:

- Place all public hearings and comment periods in the *Federal Register*.
- Provide a 15-day window for stakeholders to provide input on the scope of the study.
- Utilize the Port Safety Council (PSC) as the primary portal for input and communication.
- Provide a minimum of two to three opportunities, utilizing a public meeting at the PSC, to comment on the study process and initial outcomes.
- Communicate progress on the NSRA on a quarterly basis, at a minimum, to all stakeholders, including but not limited to:
 - Carriers: AWO, Lower Mississippi River Coalition (LOMRC), River Industry Executive Task Force (RIETF)
 - Shippers: National Grain and Feed Association (NGFA), National Corn Growers Association (NCGA)
 - Shippers/Carriers: Port Safety Council (PSC), Louisiana Association of Waterways and Shippers (LAWS), Waterways Council, Inc. (WCI)
- Provide a 30- to 60-day comment period after the study is completed.

Professional Mariner Input

Respected professional mariners, mutually agreed upon by industry and CEMUS, should be part of the study process and analysis. On behalf of industry, the LOMRC has the knowledge, expertise, and skill to help select the appropriate mariners.

AWO and our partners thank you for your consideration and look forward to working with the Coast Guard and Corps throughout the NSRA process. Please do not hesitate to contact me or other industry members as you see fit.

Sincerely,



Lynn M. Muench
Senior Vice President – Regional Advocacy