



MARITIME EXCHANGE

for the Delaware River and Bay

Leading the Way to Port Progress

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October 22, 2020

Commissioners
Delaware River Basin Commission
P.O. Box 7360, 25 Cosey Road
West Trenton, NJ 08628

Dear Commissioners:

On behalf of its 300 members in the Delaware River port region, the Maritime Exchange for the Delaware River and Bay has reviewed the March 2, 2020 petition submitted by a coalition of interests to modify the designated use of Zone 3 and River Miles 95.0 to 81.8 of Zone 4 of the Delaware Estuary to include primary contact recreation. We have also read the Commission's June 10, 2020 response and the revised petition dated July 28, 2020.

While the Maritime Exchange supports the goals of the Clean Water Act, we must strongly oppose the practicality of the petition based on safety and regard for human life. Specifically, we disagree with the claim that "Alleged hazards associated with commercial shipping and navigation does (*sic*) not prohibit redesignation for primary contact recreation." On the contrary, hazards to recreational water users that may arise from commercial shipping are among the most important reasons to deny the petition to change the designation. For example, a small passenger ferry in New York harbor collided with ten kayakers on a guided tour, two of whom were seriously injured. Closer to home, you may recall that two people died and many more sustained serious injuries when a barge under tow struck a disabled "duck boat," illustrating the danger to small craft unable to move under power.

SAFETY CONCERNS

Vessels underway

Within the zones mentioned are no less than 30 marine terminals handling a diverse array of cargoes, from bananas to petroleum to containers. Each year sees more than 4,000 cargo ship transits through the region. Further, these ships are getting larger all the time, and the line of sight from these vessels often extends more than a mile forward on the water. Note also there is an even greater number of tug and barge movements in the area.

As should be obvious, a 50,000-ton ship takes a great deal of time and space to maneuver. These ships are unable to change course or stop quickly if a swimmer, kayaker, or other water user under no power or low power comes across the bow.

It is also important to note that because of the size of commercial vessels, recreational users often underestimate the speed at which they can travel, leaving the recreational boater surprised at how soon a large commercial vessel can close the distance between them. In addition, recreational boaters often believe they can be seen by the operator of an approaching commercial vessel. In fact, large commercial vessels can lose sight of a small boat at long distances, sometimes when the

smaller craft is still over a mile away and directly in front of, or nearly in front of, the commercial vessel. Further, radar may not be able to detect small craft at certain ranges.

Large commercial vessels must remain in the channel. The presence of recreational users in the channel, if seen, and if evasive action is taken, could cause the commercial vessel to run aground. This could result in injury to those on board, loss of cargo, or oil spills, in conflict with the very purpose of the Clean Water Act. Recreational boaters seldom know the location of the channel boundaries, and much anecdotal evidence exists to demonstrate that these small craft have impeded larger ships because they do not know how to keep clear.

Another danger arises when tugs moving throughout the port kick up a swell. The tug crews may not be able to see recreational users in time to prevent the wake hitting several minutes after they have passed. By the time the ship or tug operators see the pleasure boat or swimmers, it is too late for them to try to reduce wake or take evasive action.

Marine terminal activity

Recreational activity is no more warranted at or near marine terminals than it is near vessels underway. Though recreational water users may not see vessel movement in the area, there is no way for them to know when a cargo ship may dock or undock, when a work boat, such as a bunker barge or tug boat, will arrive or depart the area, or when the terminal operator may commence dockside maintenance activities.

Simply stated, recreational water sport activity around commercial ships and shipping facilities is unsafe and could result in severe injury or loss of life to such water users.

Security Considerations

While the need to keep recreational water use away from ships and marine terminals is paramount from a safety perspective, maritime security considerations are equally important. The presence of recreational users around commercial maritime vessels and marine terminals also creates maritime security risks and will increase the number of security response calls for the Coast Guard.

The U.S. Coast Guard prohibits unauthorized access to any regulated vessel or facility from the landside and waterside (33 CFR 105). Anyone nearing a vessel or facility, especially from the water, is automatically deemed suspicious, as vessel and facility security personnel are unable to distinguish between someone who is a true security threat versus an individual who is simply engaged in harmless recreation. As a result, owners/operators are mandated to take immediate action. Responding to such events will result in excessive unnecessary costs to Coast Guard, police, and other responders. More importantly, it will divert those resources from their primary security responsibilities.

Finally, we note that the petitioners cite numerous examples of activities currently taking place as a rationale to change the designation. Clearly, persistent use of the waterway for recreational purposes should not result in a new designation. DRBC should call upon all available authorities to prevent organizations from sponsoring events involving primary contact water activities in areas not designated for those activities.

Thank you for the opportunity to express our concerns. Please feel free to contact me at 267-670-7945 or dennis.rochford@maritimedelriv.com if you have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink that reads "Dennis Rochford". The signature is written in a cursive style with a long, sweeping horizontal stroke at the end.

Dennis Rochford
President

cc: Lisa Himber