

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION WASTEWATER DISCHARGE AUTHORIZATION PROGRAM

SARAH PALIN, GOVERNOR

555 Cordova Street
Anchorage, Alaska 99501
Phone: (907) 269-7504
Fax: (907) 269-7509
www.dec.state.ak.us

December 18, 2008

Michael Gearheard
Office of Water and Watersheds
EPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

RE: NPDES Vessel General Permit for Discharges Incidental to the Normal Operations of Commercial Vessels and Large Recreational Vessels

Dear Mr. Gearheard:

On July 21, 2008, the Environmental Protection Agency Region 10 (EPA) requested that Alaska certify under Section 401 of the Clean Water Act a federal permit regulating ballast water and other incidental wastewater discharges from certain vessels over 79 feet long. As provided at 40 CFR 121.16(a), the Alaska Department of Environmental Conservation (DEC) waives its authority to act on this request for certification.

In deciding to waive our certification authority in this instance we saw value in allowing the federal permit to take effect in order to control ballast water practices and stem the spread of invasive species that could threaten Alaska's aquatic resources. We also recognized that EPA's actions and the permit development schedule are driven by court order.

At the same time, we are concerned that the final permit – which we have not seen at this point – includes clear, effective, practicable and reasonable conditions for Alaska vessel traffic. We earlier provided comments on a draft permit and ask that EPA revisit those comments as it develops a final permit. Those earlier comments questioned some permit conditions and how they could apply to Alaska vessel traffic, but generally endorsed a best management practices approach for the initial term of the permit.

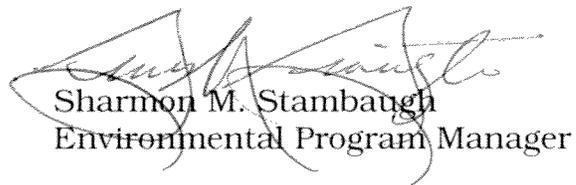
We are, of course, concerned that the court-driven schedule has not allowed us to conduct the level of review normally afforded a federal permit of this importance to Alaska. It follows that we are intensely interested in working with EPA as it collects information, gains experience with the permit, and considers potential amendments. Moreover, we expressly reserve our rights to comment on, certify or object to conditions in the permit at the time of renewal, or before to the full extent that those rights exist and our experience and judgment suggest a need.

Finally, we are already receiving inquiries from vessel owners and operators as to their obligations to apply for coverage under this permit. We suggest that outreach efforts will be needed to communicate permit requirements and processes to affected persons and interested public. While we are willing to help with those efforts, we encourage EPA to design and execute a competent outreach program.

This letter does not address matters of consistency with the Alaska Coastal Management Program (ACMP) and does not constitute the State's consistency determination. While we are waiving our Section 401 Clean Water Act certification authority, this letter should not be interpreted to waive any of the State's authorities under the federal Coastal Zone Management Act or the approved state ACMP. All decisions concerning consistency with the ACMP will be made and communicated by the Alaska Department of Natural Resources, Division of Coastal and Ocean Management.

If you have any questions regarding this decision please contact me at (907) 269-7565 or at sharmon.stambaugh@alaska.gov.

Sincerely,



Sharmon M. Stambaugh
Environmental Program Manager

cc: Cindy Godsey, EPA/Anchorage Field Office Region 10
Mike Lidgard, EPA NPDES Unit Region 10
Ryan Albert, EPA Headquarters Water Permits Division
Deborah Nagle, EPA Headquarters Water Permits Division
Larry Hartig, ADEC, Commissioner
Lynn Kent, ADEC, Director, Water Division
Denise Koch, ADEC, Cruise Ship Program
Randy Bates, ADNR, Director, Division of Coastal and Ocean Management
Sue Asplund, ADF&G, Deputy Director
Jay J. Manning, Director, Washington Department of Ecology
Association of State and Interstate Water Pollution Control Authorities