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Delaware Deepening: Progress Made on Multiple Fronts

With work well underway, project proponents continue to rack up key victories to advance the deepening of the Delaware River main shipping channel from 40 to 45 feet. Included among these are a critical favorable federal court ruling, the surety of additional funding, and a contract award that initiates the third phase of the dredging project by summer's end.

On July 3, a three-judge panel of the Third Circuit Court of Appeals upheld separate rulings by Federal District Judges in Delaware and New Jersey stating the U.S. Army Corps of Engineers had complied with all state and federal environmental laws and could move forward to continue to deepen the 102-mile shipping channel between Philadelphia and the sea. Circuit Judge Anthony J. Scirica, who authored the 67-page opinion, wrote, "For over twenty years, the Corps has devoted substantial efforts to evaluating the proposed five foot deepening project [of] the Delaware River. It has published three comprehensive National Environmental Policy Act reports, received multiple rounds of public comments, and had immeasurable communications with relevant state and federal agencies."

Ballard Spahr attorney Harry Weiss, who argued the appeal for the Philadelphia Regional Port Authority (PRPA), said that "This decision is legally significant because for the first time a court has analyzed a provision of the Clean Water Act that clears restrictions that might otherwise apply to projects [like the 45' project as opposed to routine maintenance dredging] that are deemed necessary to maintain navigation."

"This is a major milestone toward completion of the channel deepening project," said Maritime Exchange President Dennis Rochford, "and it clears the way as we move forward on securing additional funds for the project and dredging additional sections of the river."

State and federal funding for this project through early summer totals just over $75 million. This includes $30 million released from Pennsylvania, $16.8 million in the Corps' FY12 Work Plan, and approximately $30 million of proposed federal funding that

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TRACS Goes Live on ACE

On August 7, the Maritime Exchange successfully converted TRACS, its community based cargo manifesting and release system, to the Automated Commercial Environment (ACE) Multi-Modal Manifest System (M1). The migration marked the end of a multi-year project that included several months of development and over a year of testing.

Earlier this year, Customs and Border Protection (CBP) announced a September 29, 2012 end-of-life cycle for its aging Automated Manifest System (AMS) for ocean and rail manifests. By that date, all AMS filers would have to convert their systems to ACE. By the end of July, approximately 53% of all ocean and rail manifest submissions were being processed through ACE M1.

The TRACS migration involved a coordinated effort between the Exchange, its developers, and CBP. To most participants, the migration was virtually transparent, as most of the modifications to the TRACS system to meet the ACE requirements were "behind the scenes." After a brief maintenance window, TRACS users were reconnected to the system and were active in ACE M1.

Among the most substantial changes were the accommodations for the multitude of new status messages (e.g., holds and releases) that can be generated through ACE. As part of the International Trade Data System (ITDS) initiative, conceptualized as single portal through which trade and federal agencies communicate, participating government agencies such as Coast Guard, the Environmental Protection Agency, and the National Marine Fisheries Service will begin to communicate cargo hold and release messages di-

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PA Governor Tom Corbett Supports 45' Channel Project at Press Conference



Pennsylvania Governor Tom Corbett addressed more than 200 regional business and labor stakeholders at an August 7 Philadelphia Regional Port Authority (PRPA) press conference applauding the progress of the Delaware River Main Channel Deepening Project. The event, held at Packer Avenue Marine Terminal, was attended by more than a dozen federal, state and local officials and legislators. Shown on the dais in this photo behind Corbett on his left are (left to right) Senator Bob Casey (D-PA) and Pennsylvania Lieutenant Governor Jim Cawley, and to the Governor's right, (right to left) PRPA Chairman Charles G. Kopp, Esq., Representative Bob Brady (D-PA), and PRPA Executive Director James McDermott. Others attending the press conference but not shown in this photo included: Senator Pat Toomey (R-PA); Representative Patrick Meehan (R-PA); State Representative William Keller (D-PA); Captain James Roche, President, Pilots Association for the Bay and River Delaware; Dennis Rochford, Maritime Exchange President; and Boise Butler, President, ILA 1291.

Interview with
Kevin Castagnola
Executive Director and CEO
South Jersey Port Corporation



Kevin F. Castagnola, a 25-year veteran manager of the South Jersey Port Corporation (SJPC) was named by the SJPC Board of Directors at its meeting in January to head the corporation as Executive Director and CEO. The Beacon *caught up with him to discuss a range of issues important to our local port community.*

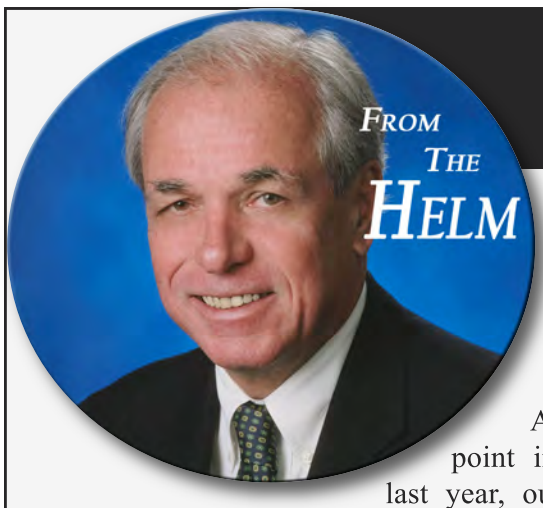
Q: What are your short and long-term objectives as Executive Director and CEO for the South Jersey Port Corporation?

A: For over 25 years, I had the privilege to work under the tutelage of Joseph A. Balzano, who provided the vision and stability in leadership to grow the South Jersey Port Corporation's mainstay terminals in Camden, New Jersey, later in Salem, New Jersey, and the current major expansion at the Paulsboro Marine Terminal with the support from the SJPC Board of Directors. Following Mr. Balzano's passing late in 2011, I was appointed as the Executive Director by the SJPC Board and Governor Chris Christie.

Recognizing the uncertainty of a global rebound and a return to a robust recovery, prudently, the SJPC right-sized its staffing, trimmed operational costs and made management decisions that have resulted in greater efficiencies and increased operational revenues, thus positioning the agency to be prepared to foster growth, enhance public/private partnerships and serve to improve New Jersey's intermodal transportation infrastructure. Additional efforts for the near term include leveraging new technologies to bring efficiencies and real-time responsiveness in managing data relative to cargo movements through the port, as well as enhancements for improved overall port security.

Our rivers and connections to the ocean are highways of international trade that are no less important than the interstate highway system. No civilization that hopes to tap into a global economy can prosper without leveraging its capabilities, so expanding the port assets

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Overcoming Significant Challenges

At this point in time last year, our port was confronted with a number of uncertainties, challenges and opportunities. Twelve months later, these issues are now being resolved in a manner where we can be cautiously optimistic about the future of our port.

One issue that continues to be front and center for our port community is the deepening of the Delaware River main shipping channel to 45 feet. This time last year, after over 20 years of collective effort to secure federal funding for the project, the final push was being made to include funding in the FY12 Corps of Engineers budget. The logjam broke in February of this year when federal funds were secured for FY12 and included in Appropriation Bills for FY13. And earlier this summer, a Federal Appeals Court ruled in favor of the Corps, clearing the way to continue deepening the channel.

Uncertainty with respect to the future of this project has now been replaced with a sustainable path forward to complete this project by 2016. A contract has been awarded for the deepening of the next section of the Delaware known as Reach "A," an 11-mile stretch of the channel located in the vicinity of the Philadelphia International Airport and the Walt Whitman Bridge, with work expected to begin in September. It is expected that Reach "D," a 14-mile stretch of the channel in Delaware, will be deepened beginning December, 2012.

In September of last year, in what was considered a thunderbolt to both our regional port and economy, it was announced that three oil refineries located in Pennsylvania would be sold or shuttered by summer's end, 2012. The challenges to our region to deal with this issue were of a monumental nature, to say the least. Industry, labor, and all levels of elected officials came together to save regional jobs. In the end, of the three refineries, two will continue to operate and process crude oil and produce refined products. The Trainer facility comes back on line this fall as Monroe Energy, and the Sunoco Philadelphia facility will continue to operate in partnership with the Carlyle Group as the joint venture Philadelphia Energy Solutions. The final disposition of the Sunoco Marcus Hook, Pennsylvania refinery remains to be seen.

While the petroleum and chemical processing industries will continue to face economic and regulatory challenges for the foreseeable future, particularly throughout the northeastern U.S., our regional port complex surely benefits from the new life breathed into this vital sector of our economy.

And as current economic conditions are also adversely impacting global trade, the shipping industry dependent on this trade continues to look for opportunities to invest in port infrastructure in order to be positioned to both recover and capture additional market share once the economy rebounds. This is a prudent strategy.

No doubt, a weak economy will stretch out the timeframe within which new investments are considered and made. Future global economic growth, along with the expansion of the Panama Canal, are two factors driving investments in infrastructure projects at ports up and down the East Coast. As an example of expected growth, Jamaica, already a major trans-shipment hub for Far East container traffic coming through the Panama Canal for East and Gulf Coast ports, plans to expand its annual capacity from the current 2.5 M TEUs to 5 M TEUs.

Here on the Delaware River, the building blocks are in place to capitalize on these opportunities. A new South Jersey Port Corporation cargo terminal is under construction in Paulsboro, New Jersey. Private investors are looking at the opportunities to invest in a new Philadelphia Regional Port Authority container terminal at the Philadelphia Navy Yard. And the Port of Wilmington is exploring opportunities to partner with a private entity to invest in port infrastructure projects.

So yes, if the past 12 months are any indicator, cautious optimism is certainly warranted for our regional port community in the coming year. Time will tell.



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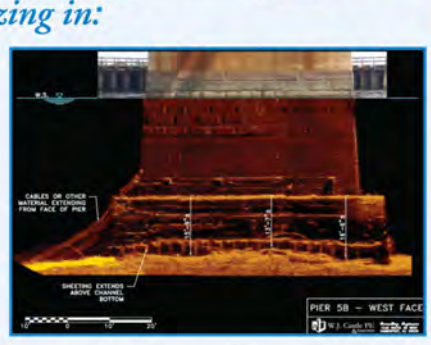
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Carlyle Group/Sunoco Partnership Keep Refinery Open

The oldest and largest refinery on the East Coast remains operational as a result of a joint venture between Sunoco and global asset manager Carlyle Group.

The Philadelphia refinery, which has about 850 workers and produces up to 330,000 barrels a day, was originally scheduled to close in August. However, earlier this year, Sunoco announced that discussions with Carlyle Group were underway about the plant remaining viable.

In April, Sunoco and Carlyle released a statement naming the joint venture Philadelphia Energy Solutions, and stating that not only would the newly-created entity retain current refining jobs, but that up to 200 more could be created as the refinery is updated and expanded.

According to officials, under terms of the agreement, Sunoco will contribute its refinery assets to the joint venture in exchange for a non-operating minority interest. Carlyle will have the majority interest and oversee day-to-day operations. The company plans on $200 million worth of capital improvements at the site, along with a new leadership team.

"We could not be more pleased with this outcome," said Michael Nesbitt, Manager, Marine Services for Sunoco and Maritime Exchange Board Member. "Existing jobs will be preserved. New jobs may be created. What better reasons could there be for celebration of this business development?"

Delta Subsidiary Monroe Energy Acquires Trainer Refinery Complex

On April 30, Monroe Energy, a wholly-owned subsidiary of Delta Air Lines, reached an agreement with Phillips 66 to acquire the Trainer Refinery Complex south of Philadelphia. The acquisition includes pipelines and transportation assets that will provide access to the delivery network for jet fuel reaching Delta's operations throughout the Northeast, including its hubs at LaGuardia and JFK.

After receipt of $30 million in state government assistance for job creation and infrastructure improvement from the Commonwealth of Pennsylvania, Monroe's investment to acquire the refinery will be $150 million. Monroe will spend $100 million to convert the existing infrastructure to maximize jet fuel production. Production at the refinery combined with multi-year agreements to exchange gasoline, diesel, and other refined products from the refinery for jet fuel will provide 80 percent of Delta's jet fuel needs in the U.S.

Former Trainer workers would be offered jobs under a tentative agreement reached with the United Steel Workers, Delta said.

Monroe is partnering with leading energy companies to supply crude oil and receive jet fuel in exchange for Trainer's non-jet fuel outputs. Under a three-year agreement, BP will supply the crude oil to be refined at the facility. Monroe Energy will exchange gasoline and other refined products from Trainer for jet fuel from Phillips 66 and BP elsewhere in the country through multi-year agreements.

Trainer will be run by a seasoned leadership team headed by 25-year refinery veteran Jeffrey Warmann. Trainer will be Monroe's only refinery, and not part of a larger system. Because of this, Monroe can focus solely on optimizing Trainer and its contribution to Delta rather than optimizing its contribution to a much larger integrated oil system.

Monroe expects changes to the plant infrastructure to increase jet fuel production to be complete by the end of the third quarter, resulting in expected 2012 fuel savings of more than $100 million.

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Exchange Chairman Visits Rhoads Maritime Industries



Chairman John Reynolds (left) and his business partner, Nick Manzi, pictured beneath the Aegis Destroyer Yorktown *at Rhoads Inc. new graving dock, during a recent inspection visit hosted by Board Member Admiral Joseph C. Hare.*

Harbor Maintenance Tax Update

House and Senate conferees have concluded work on H.R. 4348, Moving Ahead for Progress in the 21st Century (MAP-21).

MAP-21, also known as The Highway Bill, was passed by both the House and Senate, and then signed into law by the President on July 6.

On the critical issue of ensuring that funds in the Harbor Maintenance Tax Fund (HMTF) are used for their intended purpose of dredging and maintaining coastal ports, harbors and waters, an issue championed by the Realize America's Maritime Promise (RAMP) Coalition, this bill falls short. It does not provide for full funding of HMTF for dredging purposes.

What MAP-21 does do suggests Dennis Rochford, Exchange President, is to "give the impression that the Administration should request, and that the Congress should expend, all the monies collected via the HMTF for their intended purpose."

This year, funding for dredging is expected to increase to $1 billion from $850 million last year. While clearly an improvement, the total collected by the HMTF is expected to be $1.5 billion, meaning the surplus in the fund will have grown to $7 billion by the end of the year.

Kevin Castagnola, Executive Director and CEO of the South Jersey Port Corporation and Chairman of the American Institute for International Steel's (AIIS) newly-formed Ports Committee, stated, "We thank those AIIS members who took the time to inform their Senators and Representatives of the HMTF funding issue, and the criticality of these funds being made available for their intended purpose, which is keeping our waterways navigable and safe." Like the Exchange, AIIS has made HTMF one of its key agenda issues.

TRACS Converts to ACE

continued from page 1

rectly through ACE. CBP continues to work with the federal agencies that have the authority to place such holds in the system to implement the technical and legal framework to accomplish this, and the Exchange modified TRACS code to accommodate the many potential messages it could receive.

Beyond its own efforts to prepare for the ACE M1 conversion, the Exchange was selected to be one of the early adopters to test CBP's initial rollout of ACE. Beginning in May of 2011, the Exchange and a select group of other participants representing a cross-section of the trade community assisted CBP in debugging the earliest version of the software, and continued to do so until the first production release of ACE M1 in December 2011.

"The entire process of developing specifications, programming, testing, and debugging has been very intense for Exchange IT and Operations staff," said IT Director Michael Fink. "Of course, we are very familiar with large migration projects as demonstrated by the periodic upgrades to Maritime On-Line we have implemented over the years. We had a good plan and talented staff working on all aspects of the transition which contributed to the success of the project as a whole."

Major Stow Plan Enhancement Released

In addition to the TRACS migration, the Exchange also released its new version of the Stow Plan module of Maritime On-Line. The system was enhanced to provide filers with greater flexibility to submit stow plans for vessels with multiple manifests. The Stow Plan system includes functionality to import containers from TRACS manifests to help eliminate re-keying efforts, and also accommodates BAPLIE imports from versions 1.x, 2.x, and 3.x.

"We've improved on the system and have worked with our users to redevelop the Stow Plan module to better accommodate all of the community's needs," Fink said. "We've always adhered to the 'community-based' system approach, and that means listening to the participants who are actively engaged in Maritime On-Line on a daily basis. The users' suggestions and comments have been invaluable through all of our development processes."

A River Runs Through It!

By: CAPT Kathleen Moore, USCG
Sector Delaware Bay

The Delaware River runs through it! When I first learned I would be making my way northeast from Texas to lead the team at CG Sector Delaware Bay, my non-Coast Guard, South Texas friends could not fathom where I was actually going. The Coast Guard has an office in Delaware? What port is there at the Delaware Bay? Leave it to the Coast Guard and its process of trying to name Sectors that they struggled to find a name that would encompass the complexities of an area that includes the world's largest freshwater port, and most of the recreational bays and beaches of New Jersey and all of Delaware. I was delighted by so many aspects of the assignment and the chance to knit together many of the lessons learned during the experiences of my career! Let's see if I can describe to you what I mean.

The Coast Guard's Role in a Diverse Port Community

I spent 1994-1998 in Vessel Inspections and Investigations in the ports of Los Angeles and Long Beach. While many people know the location as a high-volume container port, it also had a significant amount of bulk cargo, break bulk traffic and included tanker and LPG traffic supporting the refineries of Wilmington (California…eerie, right?). This port complex provided an exceptional foundation for my early operational career in Marine Safety. These were the early days of Port State Control and a tremendous growth period for our inspectors to understand the impacts of control measures on ships, agents, owners and facilities. Three-year tours on two island archipelagos, on Puerto Rico in the Caribbean and on Oahu in Hawaii, gave me a deeply rooted understanding of how dependant many communities and businesses are on the marine transportation system. While I was in Puerto Rico, we commissioned the *EcoElectrica* LNG import terminal supplying natural gas for power to the island. A short time in New Orleans and the time in Corpus Christi truly exploded my appreciation for the inland tug and barge business and the national treasure that is our Intracoastal Waterway.

Responding to Natural Disasters and Casualties

I must admit, there is one thing I don't miss about being on islands: the vulnerability of island infrastructure to catastrophes! Oh, I do love the tropics, but it seems islands are more-often-than-not in the path of some storm that threatens to level the place! Hurricane Georges did a number on Puerto Rico in 1998 and Super Typhoon Ioke rolled Wake Island as a Cat V storm in 2006. I'm certainly grateful for the experience I've had in responding to big storms, but I am also grateful for now being nestled on the East Coast where the infrastructure is more robust and the other modes of transportation give us certain recovery options that islands just don't have. I'm also quite grateful to be so close to the Atlantic Strike Team and the states of Pennsylvania, New Jersey and Delaware with talented, well equipped and practiced emergency responders. I am also happy to have had some fantastic experience in responding to vessel casualties, including a Russian cement carrier aground off San Juan, Puerto Rico for four and a half months in 1999, and a certain U.S. Navy cruiser that went aground in front of Honolulu Airport in 2009.

Port Security Post 9-11

Both the time in Hawaii and two years in Corpus Christi, whose area boasts both significant petroleum and chemical tanker traffic and facilities, have provided fantastic environments for problem-solving the challenges of vessel and facility security, understanding the trade-offs of Safe Refuge and dealing with the needs of seafarers and shore access. When it comes to our military port players, Hawaii's Pearl Harbor was a great tutor and the military outloads of Corpus Christi provided a great learning opportunity as well.

Capt. Moore Assumes Command of Sector Delaware Bay



On May 24, at a U.S. Coast Guard Change of Command ceremony held at the Sheet Metal Worker's Union Hall, Capt. Kathleen Moore assumed command of Sector Delaware Bay. Pictured (l-r): Maritime Exchange President Dennis Rochford, Capt. Moore, and Rear Admiral Steven H. Ratti, Commander, 5th Coast Guard District.

Enduring Port Partner Relationships

As I begin to recognize the names and faces of the maritime community throughout the Delaware River and Bay, I never forget that you all have known and worked with one another for decades. I know that we're just getting to know one another and that I need to earn your trust. I know many of you still cringe at the thought of a new Captain of the Port every three years. Thank you, from the bottom of my heart, for the warm welcome so many of you have extended. I also echo the high praise many of you have expressed for the talented professionals that are the men and women of CG Sector Delaware Bay. We're committed to serving this area following the very best traditions of our Service, with professionalism and integrity.

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Pennsylvania Governor Tom Corbett Steps Down from DRPA Board

Pennsylvania Gov. Tom Corbett announced that he would be stepping down in August as chairman of the Delaware River Port Authority (DRPA) Board of Commissioners.

The governor also announced that he would name Andrew J. Reilly of Middletown Township, Pennsylvania to succeed him on the board. The governor recommended that the board elect sitting Commissioner David F. Simon of Gwynedd Valley, Pennsylvania to serve as chairman.

"Leading the DPRA through a period of transition has been a welcome challenge," Gov. Corbett said. "When I joined the Board of Commissioners last year, I said I would remain only as long as it took to return the authority to its core mission: Providing safe, reliable, customer friendly transportation to the people of southeastern Pennsylvania and southern New Jersey. I believe the board is reliably committed to that mission, and the time has come for me to leave it in the board's care."

Gov. Corbett appointed himself to the board and was subsequently elected chairman in March 2011.

During his tenure, the DRPA has ended the controversial policy of issuing bonds to fund economic development projects unrelated to transportation, reduced its aggregate debt to just over $1.2 billion from a high of about $1.45 billion, moved forward on the Walt Whitman Bridge redecking and PATCO passenger car renovation projects, decreased the authority's 2012 debt service by approximately $2.5 million per month, increased its operational liquidity, created the DRPA Office of the Inspector General to fight waste and abuse, completed its first reverse auction for electricity at an estimated annual savings of about $1.3 million and kept spending in check by submitting nearly flat annual operating budgets for two years in a row.

The incoming chairman and the governor's latest board appointment both have extensive experience in government, trial law and non-profit corporate governance.

"As chairman, Gov. Corbett has given the DRPA every tool it needs to become one of the most efficient, customer-focused and respected transportation agencies in the country," Simon said. "I intend to put those tools to work. We will continue to focus our mission on transportation. We will continue to strengthen management controls and pursue management efficiencies. Most importantly, we will add value on our customers' terms, not our own."

The Exchange congratulates Governor Corbett on a job well done and looks forward to continuing to work with the DRPA on issues of mutual interest and concern.

Philadelphia Welcomes Lt. Col. Becking



The U.S. Army Corps of Engineers Philadelphia District ushered in new leadership as Lt. Col. John C. Becking assumed command from Lt. Col. Philip M. Secrist, III during a June 26 ceremony in the Wanamaker Building's Crystal Tea Room.

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The Intersecting Roads of Tax and Customs in Related Party Pricing

Legal Ease

By: John P. Donohue, Esq.
Thorp Reed & Armstrong, LLP


John P. Donohue, Esq

It had been the mantra of the U.S. Bureau of Customs and Border Protection for years. Whenever an importer, facing a challenge by Customs to his related party pricing, argued that his transfer pricing had been reviewed by the IRS, Customs would steadfastly announce: "We will not accept proof of IRS compliance as proof of Customs compliance. We are two different agencies. We enforce two different laws. Tax valuation is not the same as Customs valuation. Our perspectives are very different. Tax law looks to annual statements of profit and loss. We at Customs look at a transaction-by-transaction profitability because Customs entries are presented on a shipment-by-shipment basis. Each entry stands separate and apart from every other entry." International Trade lawyers could recite the mantra by heart. And importers who had spent hundreds of thousands of dollars fashioning a transfer pricing policy to comply with the IRS standards were told that those standards were irrelevant in determining Customs valuation compliance. Forget for a minute that we are one nation; managed by one federal government; under one set of federal laws; subject to the jurisdiction of one Treasury Department; selling to a customer at only one sales price. Depending upon the hat worn that day by Uncle Sam, compliance with one set of laws did not mean compliance with another.

To the executives running international businesses, this refusal by government to recognize the common objective of complying with two laws made no sense. Nor did it make any more sense to their lawyers, who would explain the distinctions, but would not defend the position.

If a price were acceptable to the IRS, the lawyers would argue, why would not that same price be acceptable to Customs? And if Customs disregarded a transfer price, what would be the impact on that decision for tax purposes? Routinely importers would be told that proof of federal tax compliance with the immensely complicated tax transfer pricing rules was irrelevant to a determination of the integrity of a transfer price for Customs purposes.

A crack in the wall of the separation between the two agencies began to show in 1993, when the Congress enacted into the Customs law a notion known as "entry reconciliation." For the first time, Customs departed from the notion that every entry stood apart from every other entry. Customs allowed importers to make one value at entry, subject to that value being later adjusted when certain elements of value ultimately were resolved. So for example, if in calculating the value of his product for customs purposes, an importer of automobiles wanted to take an exemption for U.S. origin tires and windshields, but lacked the specifics from his supplier as to the value of those American components, the Customs entry reconciliation law would let the importer hold open the final valuation of all of the entries until the importer got the documents supporting the exact value of the U.S. origin components. And one "reconciliation entry" was filed to adjust the pricing of all automobiles containing those components. All of a sudden, every entry did not stand separate and apart from every other entry.

As the pricing of related party goods increased in complexity, importers and related party sellers were not simply adjusting for items such as American origin components. They were adjusting prices to ensure that each party to the international transaction had an appropriate level of profitability to satisfy the taxing authorities in both buyer's and seller's countries. In short, they were adjusting transfer prices to ensure tax compliance. In some instances, the import values of the goods went up, to ensure adequate profitability to the seller, and in other instances they went down, to ensure adequate profitability to the importer.

How were such adjustments to prices, many of which were made after entry, to be treated? The initial reaction by Customs was simple. When a post entry price was increased, Customs simply included the upward adjustment in dutiable value and announced it to be part of the "total price paid or payable, whether direct or indirect," as the law states. However, when the post entry adjustment prompted a decrease in entered values, Customs was less certain. Generally the downward adjustments were disallowed and duty refunds were denied, leading those who study such things to recall the July, 1961 comment by President Kennedy about the Soviets: "We cannot negotiate with those who say 'what's mine is mine and what's yours is negotiable.'" But as the number of downward adjustments increased and the refusal to recognize them became more untenable, Customs, to its credit, began to examine more closely if there could be authority to both recognize the IRS compliance work and in so doing, recognize the downward adjustments that were prompted by those who were only trying to abide by the tax laws of several nations. It literally took years for the notion to crystallize, but eventually it did.

Eventually Customs found authority in a rarely utilized provision of the regulations which recognized a price if it were fixed by a "formula." The term was not otherwise defined in the regulation, but the example that it gave was clear. Assume in January A agrees to sell and B agrees to buy a product sold on the London Commodity Market for delivery in June. Assume that both parties agree that they will not fix a price until the date of export, and that the price will reflect the price then quoted on the London Market. Even though, at the time of the agreement, no price is fixed, the ultimately derived price is defensible, according to the regulation because the formula is fixed. From this starting point, Customs concluded that a price arrived at by a transfer pricing formula could nonetheless qualify as a valid price, even if later adjusted by the terms of that formula. And when the formula was created to comply with the tax laws, the two roads, heretofore running only parallel, actually merged. And the merger became far more palatable if the entries were subject to reconciliation, and the values were left open with an intention of later adjusting them. Thus the notion of reconciliation, in harmony with the broader view of the notion of tax law compliance, created the outcome that the legal and business community had been seeking for years.

In a ruling issued on May 30, 2012 and effective on July 30 of this year, that ostensibly revoked a single ruling issued to one chemical company denying it post entry downward adjustments, Customs agreed that a post entry downward adjustment to price could be legally recognized. And it gave substantial credibility to the impact of IRS compliance when it ruled that a price decrease that was prompted to ensure compliance with the tax transfer pricing rules could be recognized for Customs purposes as a "formula price" if a five part test was met. The price would be respected if:

1. The transfer pricing policy was in effect before the date of importation of the goods;
2. The pricing policy, including the policy prompting the adjustments, was used in the preparation of U.S. tax returns;
3. The transfer pricing policy specifically states how such prices are to be determined;
4. The company can support the adjustment from its books and records; and
5. No other conditions exist that would affect the acceptance of the transfer price.

Johnny Mercer would have been happy. The irresistible force of the Customs mantra finally met the old immovable object of tax compliance, and something eventually did give. Customs found solid authority in a reconciliation law actually enacted for other reasons, and in a theory of "formula" that gave the Agency the flexibility that it both wanted and needed. And a common sense intersection of the laws of tax and customs has been advanced. Maybe President Kennedy was right. Maybe what's ours really is ours.



Marcus Hook Facility Hosts USCG/DBRC Exercise

The Sunoco Marcus Hook Facility recently hosted the U.S. Coast Guard Atlantic Strike Team (AST) and the Delaware Bay & River Cooperative (DBRC) for an emergency response exercise.

The exercise simulated an emergency product lightering operation: the transfer of oil or hazardous material from a stricken vessel to another vessel, barge, or temporary storage device.

In this simulated vessel casualty, a self-contained hydraulic pumping system was positioned on Marcus Hook's 2B Dock area to provide hydraulic pressure to power a portable viscous oil pumping system positioned on the simulated stricken vessel. The system was used to transfer water, as 'simulated oil' from a simulated stricken vessel (the Oil Spill Recovery Vessel *DELBAY*) onto a DBRC barge. In an emergency, this process would prevent oil or other material from leaking into the surrounding water via a ruptured tank, or from tanks that are in jeopardy of being ruptured.

No actual oil was moved during the exercise, but team members successfully tested their readiness, equipment, and ability to work together. The participants included 24 members of the USCG Atlantic Strike team and six members from the DBRC. The DBRC and AST have a common mission – oil spill response, so it makes sense to train together and share expertise and techniques, said Rich Schultz, Commanding Officer of the AST. Lessons learned from recent oil spills have shown that working together and pooling assets towards a common goal have significant advantages over separate operations and conflicting objectives. Therefore, the DBRC members and the USCG are committed to continuing joint training, and working together on projects that enhance the regional ability to prepare for and respond to oil spills on the waters of the Delaware River and Bay. Sunoco is a long standing member of DBRC and fully supports this kind of activity; this is a great opportunity for all involved, according to Bill Kelly of Sunoco Marcus Hook.

The Delaware Bay and River Cooperative is a long standing oil spill preparedness and response asset for users of the Delaware River and Bay. The DBRC, a non-profit corporation, is fully funded by the petroleum and transportation industries, and is organized to respond to and protect the environment from oil spills on these waters with pre-staged equipment throughout the area. The DBRC has been providing these services since 1977 and can respond to spills in the 110 mile area from the Betsy Ross Bridge in Philadelphia to the offshore areas outside the Delaware Bay.

The USCG Atlantic Strike team, based in Fort Dix, New Jersey, is one of three in the country. These teams are designed to rapidly deploy to emergencies including oil spills, hazardous materials, biological weapons and radiation. The other two national teams are based in Mobile, Alabama and Novato, California. The exercise demonstrated the advantages of industry and government working together towards a common goal. The petroleum and transportation industries and the DBRC have always enjoyed a very good working relationship with the USCG, and this exercise is just one example of the efforts to maintain that relationship.



DRBA and AST joint exercise simulating an emergency lightering operation. Their common mission: Oil Spill Response.

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Von Dreele Retiring from SCI

The Rev. Canon James D. Von Dreele, a veteran Episcopal priest, has announced his retirement as Executive Director of the Seamen's Church Institute of Philadelphia and South Jersey (SCI) and Chaplain to the Port. His retirement is effective November 30, 2012.

The announcement was made by Marylou Robinson, an executive with CSX Intermodal and president of the 169-year-old nonprofit organization's board. She has appointed a committee that includes people from key areas of the local maritime industry and church community to search for a successor and plan the transition.


Father James Von Dreele

Since taking the helm of Seamen's Church in 1996, Father Von Dreele's work has touched virtually every area of the local maritime industry, a powerful engine of the regional economy which now includes shipbuilding and repair as well 1,500-plus cargo ships and tankers. Speaking at local churches and local civic organizations, he has been an advocate for the maritime industry as well as for the crews aboard the ships that dock on the Pennsylvania and New Jersey banks of the Delaware River each year.

Father Von Dreele has managed one issue after another in a long series of difficult transitions in global seafarer ministry. Locally, the Seamen's Center was once the focal point of the work. It has been a place where seafarers gathered to phone home, surf the Internet and relax over games and television programs.

Now the ministry is increasingly mobile, providing services aboard ships and transportation ashore. It helps seafarers manage under tightened security and still have their needs met, to use personal laptops and cell phones to communicate with friends and families back home.

The Seamen's Church is an ecumenical and independent locally governed organization affiliated with the Episcopal Diocese of Pennsylvania. It is part of a global network of similar ministries in virtually every port, working together to make seafarers allies in the efforts to keep commerce flowing in a safe and secure manner.

Father Von Dreele has been an ordained priest in the Episcopal Church since 1971. He spent the first 25 years in the priesthood serving parishes in northern New Jersey and Pittsburgh.

After retiring from Seamen's Church, Father Von Dreele will continue serving as a priest, mainly assisting the rector at St. David's Episcopal Church in Wilmington, Delaware, where his family was a founding member of the parish in 1954.

Please join the Exchange in thanking Fr. Jim for his service and wishing him the very best upon a well-deserved retirement.

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Ringing in Revised Garbage Regulations With the New Year

By: Timothy M. Gerland, Senior Vice President
Hudson Marine Management Services

In January 2013, we will not only be celebrating the New Year, we will also be facing the implementation of amended garbage regulations for the Prevention of Pollution from Ships (MARPOL 73/78 Annex V), which applies to ship-generated garbage.

In the United States MARPOL 73/78 Annex V is regulated under the Marine Plastic Pollution Research and Control Act of 1987 (MPPRCA) which is codified in 33 U.S.C.§1901 et seq. The implementing regulations are included in the U.S. Code of Federal Regulations Title 33 part 151. It is important to note that within the United States the regulations are applicable to ALL recreational, fishing, uninspected and inspected vessels, and foreign flag vessels on the navigable waters and other waters subject to the jurisdiction of the United States, out to and including the Exclusive Economic Zone (200 miles).

The revised regulations prohibit the discharge of virtually all types of garbage, with limited exceptions, into the sea unless explicitly permitted under the MARPOL 73/78 Annex V. One of the primary changes to the regulation is that in the past MARPOL Annex V established parameters for discharging certain garbage into the sea based on the type of garbage and the distance from the nearest point of land. The discharge of plastics material containing plastics was prohibited. Under the revised regulations, the discharge of virtually all garbage (with limited exceptions) is prohibited. The exceptions to these regulations include emergency and non-routine situations, "generally" the discharge is restricted to food wastes, identified cargo residues, animal carcasses, and identified cleaning agents and additives and cargo residues found in wash water which are not harmful to the marine environment. The regulation further requires ships to follow garbage management procedures onboard to minimize the garbage generated, collect, process and store onboard and discharge as appropriate either overboard if the garbage and vessel position meet the exception parameters or to an approved shoreside reception facility.

As noted previously one method of garbage management onboard ships is to segregate, store, and discharge garbage. That method of discharge can be either at sea provided that the required discharge parameters are met, or to an approved shore side reception facility. Those reception facilities are regulated under part 158 of Title 33 of the Code of Federal Regulations which provide the parameters for facility approval upon verification by the U.S. Coast Guard.

Additional requirements include a Garbage Record Book and Management Plan for every ship certified to carry 15 or more persons, every ship 400 gross tons and above (100 gross tons and above for the Garbage Management Plan) and every fixed and floating platform.

Enforcement of the garbage regulations in the U.S. is the responsibility of the U.S. Coast Guard, which is authorized to ensure compliance with the regulations and also carry out the review and approval of shore-based reception facilities. At present, it is not expected that the USCG intends any major changes to how it verifies and enforces the garbage regulations, other than making sure that the Reception Facilities under 33 CFR 158 have adequate capacity to accommodate vessels and their refuse. Although one can never rule out changes in the future.

We would anticipate seeing an increase in the amount of garbage being landed to the approved shoreside facilities and the authorities to closely inspect the vessel's records regarding their garbage records and management plan to ensure compliance with the new regulations.

So as you are ringing in the New Year remember to keep all the trash inside the rails.

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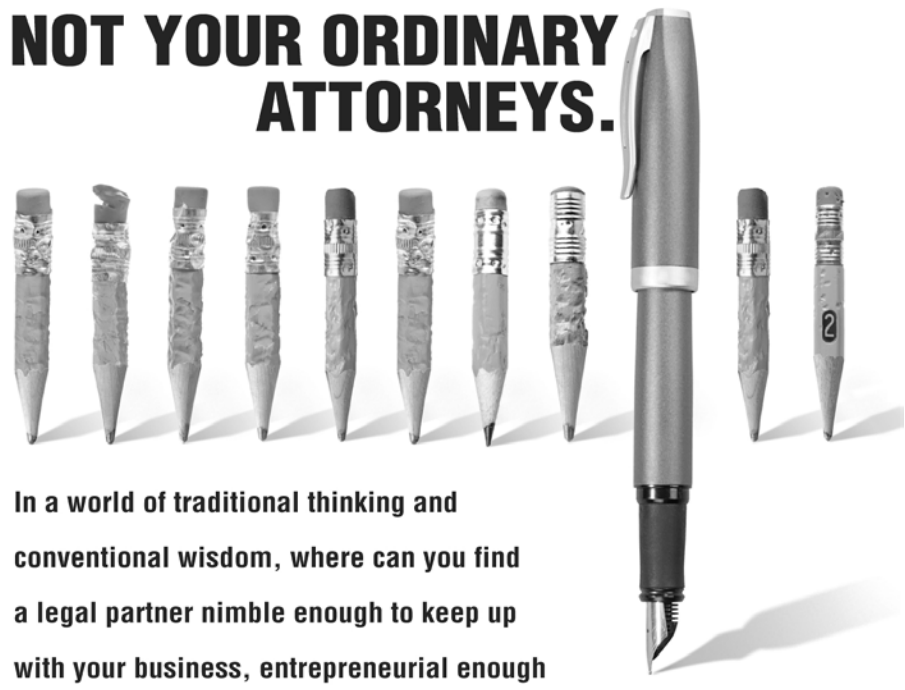
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Q&A With Kevin Castagnola

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along the Delaware River in southern New Jersey means added value for both the economy and the regional workforce.

The leading economic development program for the SJPC is the creation of the Paulsboro Marine Terminal in Gloucester County, New Jersey, from several historical industrial sites into a state-of-the-art port facility. As the economy continues its slow climb out of recession, New Jersey is optimistic that as the new terminal in Paulsboro comes online, the economy will continue its upswing and the ports in Camden, Salem and Paulsboro will be poised for the incremental growth that is sure to follow the burgeoning of existing trade lanes and new global markets.

The Paulsboro Marine Terminal, a new 200-acre facility, is scheduled to be ready for port operations in 2014. Through the implementation of the varied construction activities, the terminal project has already created nearly 260,000 worker-hours or nearly 130 full time equivalent jobs of on-site construction activity. Completion of fill material placement and the commencement of wharf construction and associated terminal infrastructure, such as utilities, rail track and internal roadways are expected for the balance of 2012 through to the completion of Phase I construction.

Our second major economic development program is the Southern New Jersey Regional Intermodal Rail/Port Improvement project, funded in part through the Federal Transportation Investment Generates Economic Development (TIGER) Round III grant. The program represents a significant public and private partnership between the South Jersey Port Corporation, Conrail and Salem County, New Jersey. The project includes a selection of major rehabilitations to key portions of the existing 43-mile network of existing rail lines in southern New Jersey, and targeted investments in a new dockside rail capacity that will provide direct transloading of international cargoes at the Port of Paulsboro. Each of these improvements will enhance intermodal connectivity for rail users and port facilities throughout Camden, Gloucester and Salem Counties.

The project is divided into three distinct components: (1) Delair Bridge Approach Trestle Rehabilitation; (2) Oldman's Trestle Rail Bridge and Critical Repairs to the Salem Running Track; and (3) Paulsboro At-Grade Rail Infrastructure. The Delair Bridge is the principal rail link between Pennsylvania and New Jersey and carries approximately 98,000 carloads of freight annually, connecting all of southern and central New Jersey to the national rail network. The rehabilitation of the Delair Bridge Approaches will consist of the replacement of deck girder spans and associated steel work on the structure to accommodate industry standard 286,000 lb. rail cars. The Oldmans Trestle Rail Bridge is the pivotal structure along the 18 mile rail line from Swedesboro, New Jersey to Salem City, New Jersey. The 100-year old trestle will be reconstructed. In addition, 1.05 miles of 86 lb. track within Salem County will be replaced with 136 lb. track, thereby ensuring ongoing operability of the rail system. Lastly, to augment port operations in Paulsboro, a new at-grade rail crossing will be constructed at the entrance to the terminal along with approximately six turn-outs and nearly 11,000 linear feet of rail track and sidings within the terminal to accommodate inbound and outbound cargoes.

Q: The completion of the Panama Canal expansion is expected in 2014. What economic impact do you see this development having on our region?

A: The current expansion of the Panama Canal will double the Canal's capacity and the resulting economy of scale advantage for larger ships is anticipated to change the logistics chains for both U.S. imports and exports. Despite the recent worldwide recession, the expected general trend for international trade is one of continued growth as the world's population and standard of living grow. The port capacity to receive the largest ships able to fit through the Canal is based on a number of elements including channel depths, channel widths, turning basin size, sufficient bridge heights, as well as port infrastructure including dock and crane capacity. With the current capacity of the Delaware River limiting the size of ships transiting the river, there may be opportunities for East Coast ports similar to those ports on the Delaware River to receive transshipments where the largest ships would unload containers/cargo at a transshipment hub located in the Caribbean or a large U.S. port for reloading on smaller feeder vessels for delivery to ports with less channel capacity such as the Delaware River ports.

Q: What challenges do we as a region need to address to grow commerce and jobs in our port community?

A: Seaports are powerful economic engines which create significant economic impacts and lead to prosperity. The State of New Jersey created the SJPC as an engine of economic growth through the development and operations of marine terminals for the seven southern counties of the state that comprise the Port District. The success of this charge can be measured in many ways. One example is shown in a recent report prepared by the Rutgers University's highly respected Edward J. Bloustein School of Planning and Public Policy. The report, prepared on behalf of the New Jersey Department of Transportation, identified that in 2010, SJPC supported 1,101 direct jobs, 2,028 total New Jersey jobs with a New Jersey annual payroll of $99 million, and net business income of $298 million. Even in the midst of an economic recession, the ports continue to support jobs and generate business revenue.

Looking ahead, a major challenge to growing commerce and jobs on the waterfront is also one of our major assets. That is the Delaware River maritime complex that is comprised of three states: New Jersey, Pennsylvania and Delaware. Although each state has a colloquial responsibility to grow business for its own domain, those unique assets and resources each state deploys focused on economic development ultimately benefit the greater region. If a particular business opportunity is not a good fit for our own facilities, we would much rather see the business go to one of our neighboring facilities than see the business leave the Delaware River all together. Developing complementing facilities and partnering on various initiatives can result in positive growth for the region.

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World's Largest Ro/Ro Vessel Arrives at Packer Avenue

Nearly 250,000 new cars have been unloaded at Packer Avenue Marine Terminal since August 2010

The world's largest roll on/roll off (ro/ro) vessel, the *MV Tysla*, discharged Hyundai and Kia vehicles on June 30 during a port call at the Packer Avenue Marine Terminal (PAMT).

Nearly 250,000 vehicles have been unloaded since Hyundai Motor Co. and its logistics affiliate, Glovis of America, began local operations in August 2010, said David Whene, president of Greenwich Terminals, which operates PAMT.

"We're always working to improve our facilities and capabilities in order to successfully compete in an increasingly complex and challenging global world," said Thomas J. Holt, Jr., President of Astro Holdings, Inc., which leases PAMT under a long-term concession with the Philadelphia Regional Port Authority. "Bringing in massive ships such as the *MV Tysla* shows that our efforts are working, and we expect to attract additional new business in the months and years ahead."

The *MV Tysla* is 265 meters long and has a cargo volume of 138,000 cubic meters. It has a capacity of 8,500 car-equivalent units (CEU). There are six fixed and three hoistable decks. Norwegian shipping firm Wilh. Wilhelmsen said the ship has more flexibility to carry high and heavy cargo, and also was built to be environmentally friendly, using nearly 20 percent less fuel than older ro/ro ships.



The MV Tysla*, the world's largest Ro/Ro vessel, arrived at the Packer Avenue Marine Terminal in June. The ship has a capacity of 8,500 CEU and uses nearly 20 percent less fuel than older Ro/Ro vessels.*

The vehicles arriving at PAMT are processed at a 100-acre auto finishing facility at Pier 98 Annex at Columbus Boulevard and Oregon Avenue by the Walt Whitman Bridge. Once completed, those cars leave the facility by truck and possibly in the future by rail.

Good News for Channel Deepening

continued from page 1

was included in the FY13 Senate Appropriations Committee ($31 million) and the House of Representatives Energy & Water Development Appropriations bill ($29.45 million).

"The cooperation and leadership exhibited among the Governors of Pennsylvania and Delaware and U.S. Senators and House Members from these two states has been both inspirational and instrumental in getting us to the point we are today," said Charles Kopp, PRPA Chairman. "Each of these elected officials understands how critical this project is to protecting and creating good-paying, family-sustaining jobs throughout our regional port."

To date, Norfolk Dredging has completed two contracts to deepen 17 miles of the main channel to 45 feet between the C&D Canal and Claymont, Delaware. Great Lake Dredging has been awarded the third contract to deepen Reach "A," an 11-mile stretch of the shipping channel from the Walt Whitman Bridge to just north of Chester, Pennsylvania. Funding for this part of the project will come from the $16.8 million included in the Corps' FY12 Work Plan and matching funds released by the Commonwealth of Pennsylvania.

The next stretch to be deepened beginning in December of this year and known as Reach "D," will be 14 miles of channel south of the Chesapeake and Delaware Canal.

Captain James Roche, Pilots Association for the Bay and River Delaware, lauded the fact that the project is actually in construction and noted, "Once state and federal funding became available, and dredging to deepen the channel actually began last year, more and more ships' captains and others in the maritime industry realized that the Delaware River will be prepared to accept and safely navigate the larger post-Panamax cargo vessels to terminals throughout the port."

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THE ROYAL REPORT

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Another Successful Chilean Fruit Season

Every Chilean fruit season has its challenges. This year, we were tasked with creating and implementing best management practices for fumigated commodities, a new issue to the US East Coast. We did it, we did it well, and it was a remarkable coordinated effort.



Roger Richardson
Executive VP
ROYAL FUMIGATION

ROYAL FUMIGATION would like to say ***thanks*** to everyone who pulled together to deal, successfully, with this and other important and complex issues:

Dennis Rochford, President, and **Lisa Himber**, Vice President The Maritime Exchange for the Delaware River and Bay

Francisco Labarca, CEO of Pacific Seaways

Port of Wilmington, Holt Terminal and Tioga Marine Terminal

Gene Bailey, Executive Director; **Frank Vignuli**, Director of Operations; and **Randy Horne**, Director of Engineering and Maintenance **Port of Wilmington**

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John Achzet, VP Operations; **George Milyo**, Compliance/Operations Director; **Ted Milyo,** Branch Manager; **Dave Caudell,** Service Supervisor; and **Anne Bookout**, VP and General Counsel **Royal Fumigation**

My thanks to all of those named and the countless others who made the Chilean fruit season a success.

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Fax: 631-369-4909

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Delmarva Operations
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Morton Joins DSPC Board



Delaware's Legislative Council of the General Assembly approved the appointment of Michael L. Morton as Delaware's new State Controller General and confirmed his appointment to the board of directors of the Diamond State Port Corporation (DSPC) effective July 1, 2012. Established as a state corporation in 1995, the DSPC owns and operates the Port of Wilmington, Delaware. An economic engine, Delaware's seaport is responsible for 4,300 family-sustaining jobs, generating $365 million in business revenue, $340 million in personal income and $31 million in State and regional taxes annually.

The Office of Controller General is the fiscal oversight arm of the Delaware General Assembly. As such, the Office not only prepares the State's finance legislation but also serves on several committees and boards on behalf of the legislative branch. These include the Delaware Economic and Financial Advisory Committee, the Cash Management Policy Board, the Group Life and Group Health Committees, and the Delaware Stadium Corporation. Also, the Office of the State Controller General provides staffing for the Delaware General Assembly and, specifically, the Joint Finance Committee and the Joint Legislative Committee on the Capital Improvement Program.

Mr. Morton has served in the Controller General's Office since 1988, most recently as the Deputy Controller General. He is a graduate of the University of Delaware with a B.S. degree in Economics and a Masters Degree in Public Administration.

"We welcome Mr. Morton to the DSPC board of directors and to the Port of Wilmington, Delaware," remarked Gene Bailey, executive director of the DSPC. "From his years of service in the Controller General's office, Mr. Morton brings a wealth of knowledge and experience in state financial policies, procedures and strategy formulation that will be of invaluable assistance to the Port in our role as an economic engine for the State of Delaware. We look forward to his valuable guidance and counsel in the future."



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Exchange Annual Database Update Underway

Most readers of *The Beacon* have heard this request many times: please help us keep our lists current. To meet our goal of facilitating communications among maritime stakeholders in our region and beyond, the Exchange has developed a database containing contact information for over 5,000 maritime professionals, legislators, federal and state officials, and members of the press. We also maintain a significant number of committee and subject-related distribution lists, and keeping the information current can be a daunting task.

Although we update our database throughout the year as information changes, we recognize that some individual updates will be missed. So each fall, we reach out to our entire constituency to ask for the latest contact information. In addition to keeping our database current, the information is used to publish the annual Delaware River *Port Directory*.

As we did last year, the Exchange contacted everyone in the system via email to request confirmations or updates. The response has been very positive, and to those who have already replied, we thank you.

If our email didn't get through to you, or you haven't yet responded, we would appreciate your sending us your current contact information, including name, company, phone/fax numbers, email addresses, mailing address, web addresses, etc.

And if someone forwarded a copy of this newsletter to you, and you'd like to be added to the list directly, please let us know.

Send info to dstargell@maritimedelriv.com.

THANK YOU!!!

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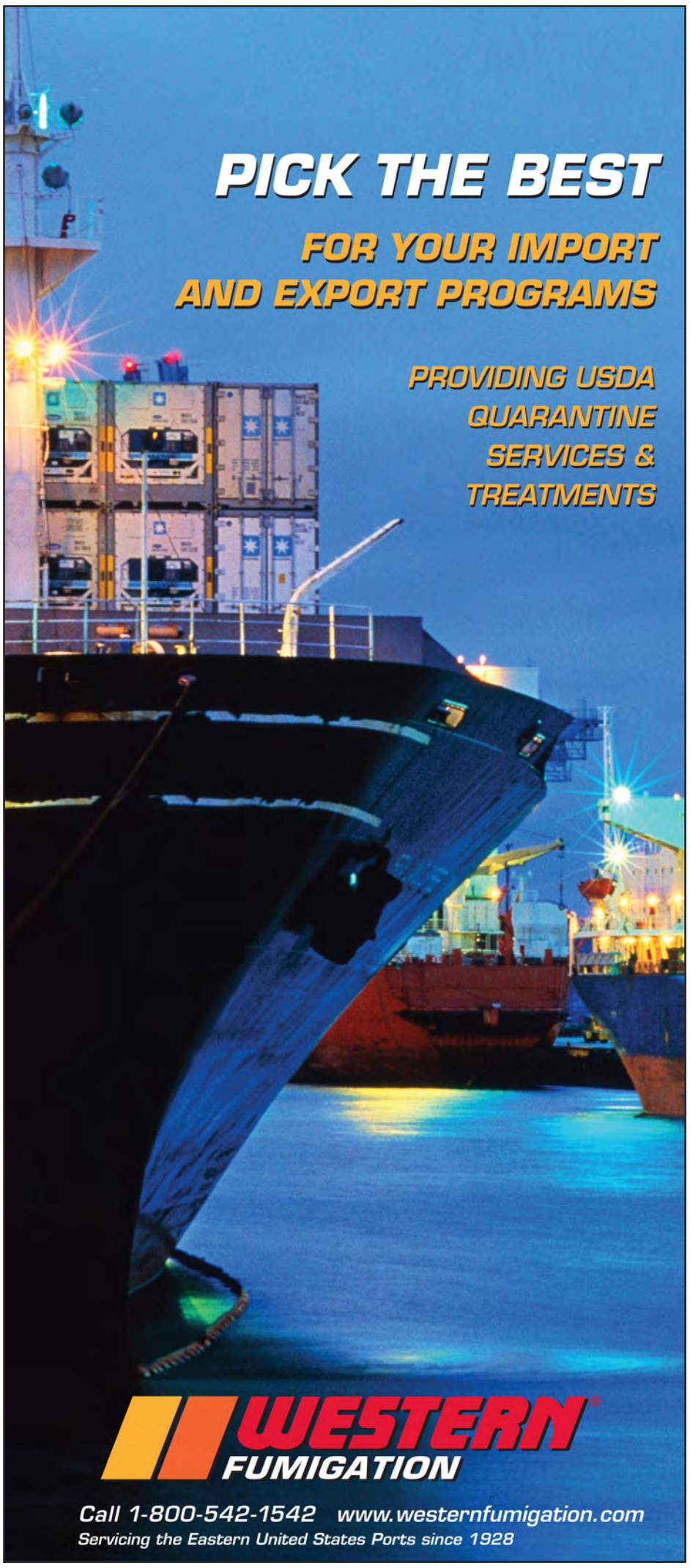
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Editorial

TWIC: A Tin Anniversary

Hard to believe, but it's true. It's been 10 years. On August 14, 2002, the Transportation Security Administration TWIC program team first came to the Delaware River region to meet with stakeholders to discuss the implementation of the Transportation Worker Identification Credential project in what would become the first of the two TWIC pilot programs.

Many of us still remember that original three-phase pilot: TSA first mapped out the "as is" and "to be" business processes, then different card technologies were tested, and finally a prototype phase attempted to test how the cards would work in an operating environment.

Many of the early issues we tackled – such as which biometrics to use, card topology, scope of the background checks, liability, and cost sharing – have since been resolved, though not necessarily to everyone's satisfaction.

After publication of the TSA final rule on card issuance in 2007, we dealt with a whole host of new challenges. None of us needs to be reminded of the pains – and cost – associated with enrolling in the program and activating our TWIC cards during those early months. Over time, many of those issues, too, ultimately were resolved.

Yet here we are – 10 years later and facing our card renewals. And the biggest issue of all remains outstanding.

There is still no requirement to use these inordinately expensive cards in a reader.

Coast Guard's latest estimate has a final TWIC reader rule at least a year and a half away, at best.

And after the more recent TWIC reader pilot program ended last year, serious questions remain about the reliability and performance of the card itself.

The Maritime Exchange has always supported the TWIC concept – and it's as valid today as it was in 2002. If maritime facilities are all going to require IDs, there should be a standard such that truckers, longshoreman and others who need to access multiple facilities are not required to obtain separate IDs for each terminal. But after all this time, expense, and imposition on maritime businesses and workers, it's appropriate to question whether we should pursue the program set out all those years ago.

At this juncture, a decade later, modifying the path forward in a collaborative effort among policy makers and maritime interests must and should be considered.

Since the enabling regulations for the Maritime Transportation Security Act were promulgated, each maritime facility has made significant improvements in its security posture. Facilities are physically harder, security training is more comprehensive, and technologies such as video analytics have enhanced detection capabilities.

Rather than investing hundreds of millions of additional dollars to acquire biometric readers and associated infrastructure, we need to evaluate alternatives that include those core TWIC components which complement the other facility security improvements put in place over the past ten years. We need to eliminate those measures that are both technologically and operationally unworkable — and all too costly to be justified.

This 10-year landmark is significant. We should take advantage of this opportunity to have a meaningful and fruitful discussion. Let's make sure we get it right!

CG Guidance on Crew Detentions is Welcome

In early August, RDML J. A. Servidio, Assistant Commandant of the Coast Guard for Prevention Policy, issued an ALCOAST bulletin providing additional guidance on processing of 'detain on board' crew members.

This is an important issue, and the guidance summary bears repeating here:

> Foreign national crew members may be restricted to their vessels while in port for either administrative or security reasons. When an individual is restricted for only administrative reasons, *existing security requirements, including vessel and facility security plans are sufficient and neither operational controls nor additional security requirements are appropriate* (emphasis added).
>
> In cases where a restriction is due to security concerns, the Captain of the Port (COTP) shall impose operational controls requiring the vessel owner/operator to develop and implement a security plan as described in Ref (A) and this message.

This ALCOAST comes as a direct result of discussions at the National Maritime Security Advisory Committee and addresses concerns about non-standard practices at U.S. ports. If implemented uniformly, the guidance will go a long way toward aiding ship agents, owners and operators in planning their port calls.

As industry has requested, the Coast Guard distinguishes between a crew member who may be a security threat and require external guards, and those who are detained for administrative reasons, such as lack of visa. If administrative, the guidance holds that existing vessel and facility security plans are sufficient and "crew member security plan provisions . . . do not apply."

In the Delaware River area, where a large number of ship calls are trampers, this is a real issue. Many arriving crew members do not have visas. Detaining these mariners on board is hard enough; treating them as criminals by posting third party guards – armed or otherwise – is unconscionable.

This new Coast Guard guidance is an excellent first step in the effort to balance security concerns with humanitarian, operational and economic concerns. But there is more that can be done.

The next step is to ensure Coast Guard and Customs adhere to the guidance at the ports of entry. In addition, in concert with the ALCOAST, in May, the NMSAC adopted a series of recommendations directed at addressing arriving and repatriating crew processing. (click here to view recommendations). Coast Guard and Customs have to yet to respond to the request for a joint meeting to further the dialogue.

There is room and justification for modifying current procedures – and regulations if necessary. The federal agencies must be willing to work with industry to identify mutually acceptable solutions to today's problems.

The Beacon *is the official newsletter of the Maritime Exchange for the Delaware River and Bay. The Exchange encourages its readers to submit letters to the editor at any time in response to articles that appear in* The Beacon *or to address other topics of interest to the port community.*

Please direct any correspondence or inquiries regarding the contents of this newsletter to:

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New Energy Contract Generates Savings for Port and Tenants

The South Jersey Port Corporation (SJPC) recently completed a reverse auction that will save $231,700 in energy costs through 2014 for the Joseph A. Balzano Marine Terminal and the Broadway Terminal in Camden, New Jersey. The agency has utilized the reverse auction for electrical energy several times in the past reaping similar results.

"We will be getting our energy cheaper and from more green and renewable sources and that means reduced energy costs for the terminal's operations as well as those of our tenants," said Executive Director Kevin Castagnola. The SJPC is an electrical energy distributor which means that the savings it realizes through actions such as this reverse auction also benefits its tenants who purchase their electricity directly from SJPC.

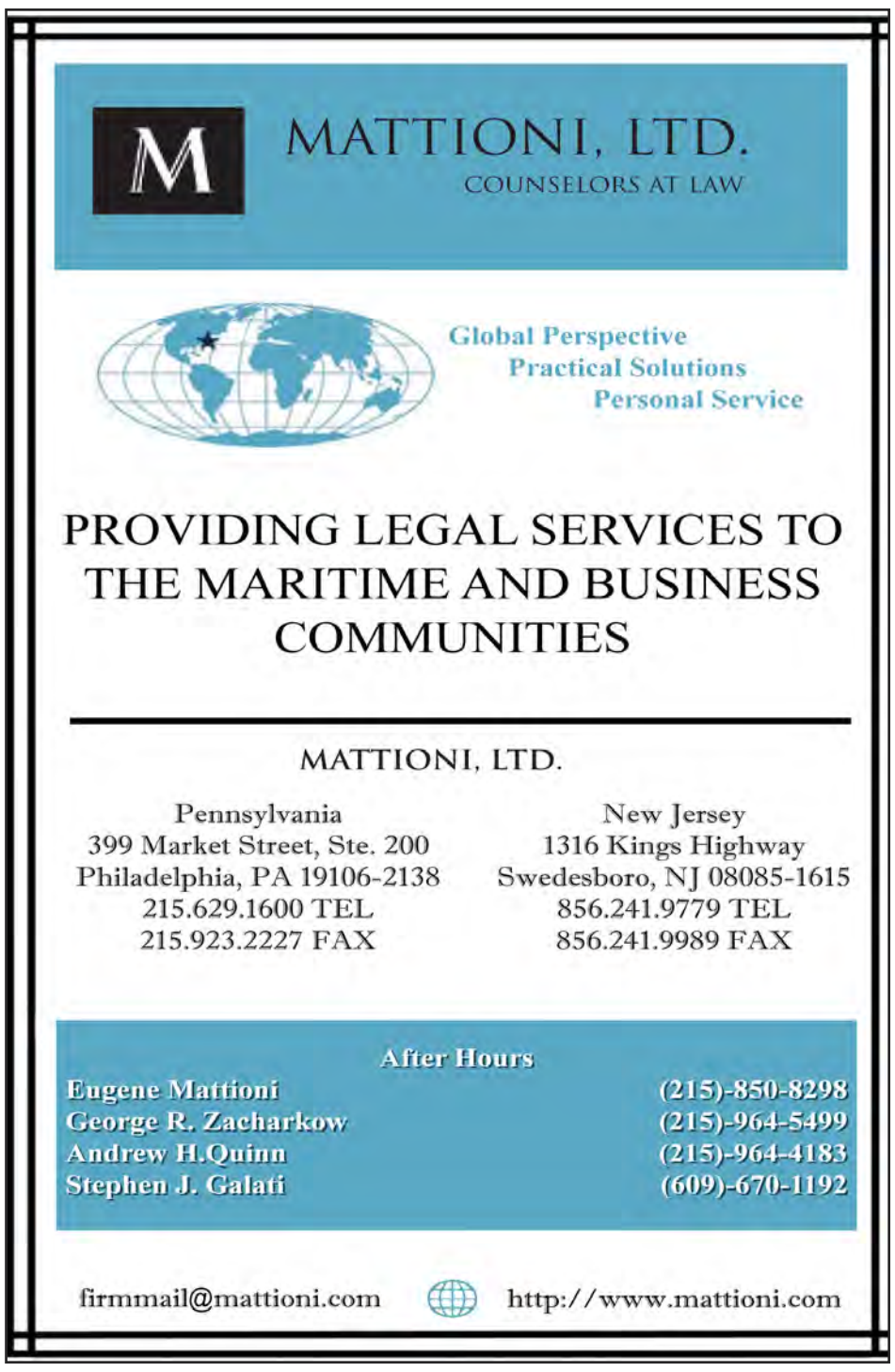
Eighteen companies participated in the electrical energy reverse auction bidding process hosted by World Energy that included an option for 10 percent of green renewable energy.

Direct Energy Business with a $0.0713 per kilowatt hour rate and 10% of the energy supply coming from green renewable sources won the auction. The new rate will take effect on the first metering reading in January 2013.









Notes & News

The Exchange sends out best wishes for a speedy recovery to one if its own. Operations Specialist **Pat Newcomb**, who has been a member of our staff for 21 years, recently underwent major surgery and will be out on recovery for several weeks. Get well soon, Pat!

The **Delaware River and Bay Authority (DRBA) Commission** welcomes new board member **Richard S. Mroz, Esq.** as Vice Chairman. Commissioner Mroz, who was confirmed by the New Jersey State Senate on June 28 to replace Mr. Niels Favre, will serve a term that extends to July 1, 2015. "I am honored that Governor Christie chose to appoint me to serve the residents of the State of New Jersey as an Authority Commissioner," Mroz stated. "As former Chief Counsel to the New Jersey Governor, I am very familiar with the Delaware River and Bay Authority – its organization and operation. With its family of transportation facilities, the Authority plays a key role in the economic future of South Jersey and I look forward to working with my fellow Commissioners and management to continue to maximize the Authority's full potential." The Commission is comprised of twelve commissioners, six each from Delaware and New Jersey, who are appointed by their respective state Governors.

Welcome Aboard

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Upcoming Events

09/10/12 Traffic Club of Philadelphia Fall Golf Outing
The Springhaven Club, Wallingford, PA
Contact Rian Nemeroff: riannemeroff@hotmail.com or 215-914-0392

09/11/12 Seamen's Center of Wilmington Fall Fundraiser
Firestone Restaurant, Wilmington, DE
Contact Joan Lyons: 302-575-1300 or seamenscenterwilmde@yahoo.com

Tri-State Maritime Safety Association Board Meeting

09/12/12 **Maritime Exchange Board Meeting**

09/14/12 Ports of Philadelphia Maritime Society Annual Golf Outing
Springfield Country Club
Contact Mike Scott: 215-426-2600

Ports of Philadelphia Maritime Society Annual Crab Feast
Deck at Harbor Point, Essington, PA
Contact Theresa Penot: 484-496-7305 or visit
www.portsofphilamaritimesociety.com

09/18/12 Seamen's Center of Wilmington Board Meeting

09/19/12 DRPA/PATCO Board Meetings, Followed by Committee Meetings

Philadelphia Regional Port Authority Board Meeting

09/20/12 Port of Wilmington Annual Golf Classic
DuPont Country Club, Wilmington, DE
Contact Vered Nohi-Becker: 302-472-7819 or vnbecker@port.state.de.us

09/27/12 World Trade Association of Philadelphia Annual Banquet
Cescaphe Ballroom, Philadelphia, PA
Contact Deborah Ingravallo: wtaphila@comcast.net or 856-642-3957

10/10/12 **Maritime Exchange Executive Committee Meeting**

10/17/12 DRPA/PATCO Board Meetings, Followed by Committee Meetings

Philadelphia Regional Port Authority Board Meeting

10/25/12 Ports of Philadelphia Maritime Society Past Presidents' Dinner

10/26/12 Area Maritime Security Committee Managing Board Meeting
USCG Sector Delaware Bay

For a complete schedule and event details, visit www.maritimedelriv.com







