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# ATHOS I: Decision Has Far Reaching Consequences for Terminal Owners, Operators

*By: Frank P. DeGiulio, Esq. and George R. Zacharkow, Esq.*

In May, 2013, the United States Third Circuit Court of Appeals issued a decision which will have significant legal and financial consequences for the maritime industry and particularly those who are in involved with the ownership and operation of marine terminals. The case arose out of the oil spill from the tanker ATHOS I in the Delaware River on November 26, 2004.




*On November 26, 2004 the Athos I hit an abandoned anchor in the Delaware River, puncturing the hull and releasing about 265,000 gallons of oil into the river.*

The spill resulted when the tanker, loaded with a full cargo of crude oil, struck an uncharted and abandoned anchor while navigating through Federal Anchorage No. 9 (Mantua Creek Anchorage) in the Delaware River enroute to the CITGO Asphalt Refining Company ("CARCO") terminal at Paulsboro. The contact punctured the hull and caused the second largest oil spill from a tanker in U.S. history. The tanker was more than three footballs fields away from CARCO's berth at the time, and it is undisputed that the entire incident occurred within the Federal Anchorage.

The Federal Anchorage, as well as the deep-draft dredged channels from the mouth of the Delaware Bay to Philadelphia and beyond, are part of the Delaware River "Federal Project." The dredged channels and anchorages of the Federal Project were created by the Army Corps of Engineers pursuant to specific laws enacted by the U.S. Congress, and the Army Corps has the responsibility to conduct hydrographic surveys and maintenance dredging of all Federal Project waters. The geographic boundaries of the Federal Project waters, including the Federal Anchorage, are specifically defined in the Code of Federal Regulations, and the locations of those boundaries are clearly indicated on all official navigational charts. The ATHOS I never entered CARCO's berth area, which was beyond the designated limits of the anchorage.

The culprit anchor was a stockless design commonly used by the U.S. Navy. There was no chain attached and the shank had been cut off, eliminating all manufacturer's marks and serial numbers. The party who was responsible for depositing the anchor in the Federal Anchorage has never been identified, although there are indications that the anchor had been used as a weight to facilitate dredging operations. The only parties authorized to dredge in the Federal Anchorage are the Army Corps and its selected dredging contractors.

Evidence discovered at a local university after the spill indicated that the anchor was present on the bottom for at

*continued on page 4*

# 45' Project Receives Additional Funding

This past June, the U.S. Army Corps of Engineers announced a total of $42 million had been included in the FY13 Work Plan for the 45' Main Channel Deepening Project. This amount represents a $10 million increase from the original allocation included in the FY13 Energy & Water Appropriations (E&W) bills passed by the House and Senate last year, as well as the amount included in the President's FY13 Proposed Budget.

"Dredging the Delaware is a great opportunity for significant job creation and economic growth," said Senator Bob Casey (D-PA). "I've continued to push the Administration and the Army to dedicate adequate funds to this effort. I've raised the issue personally with President Obama and Vice President Biden and will continue to press the Administration on this until this project is completed."

This announcement follows on the heels of the release of the President's FY14 Proposed Budget that included an additional $20 million for the 45' Deepening Project.

In late June, both the Senate and House Appropriations Committees included $20 million and $19 million respectively in their E&W spending bills for this project.

"I was pleased to work with Congressman Rodney Frelinghuysen (R-NJ), Chairman of the House Energy and Water Appropriations Subcommittee, who like me, realizes how important investing in this project is to our regional port complex, and to the jobs and economic activity it will generate," said Rep. Patrick Meehan (R-PA).

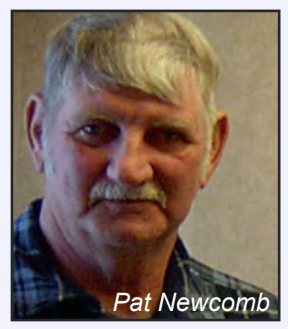
The Exchange acknowledges the dedication of our elected officials to this critical effort.

## Job Well Done !!!

*The Maritime Exchange takes this opportunity to thank and recognize two of its Operations staff members who have provided exemplary service to the organization for many years.*


*Scott Anderson*

In June, **Scott Anderson** celebrated the 30th anniversary of his employment with the Exchange. Over the years, Scott has proven himself to be a valued member of the Exchange team and a true friend of the port community. Here's to another 30, Scott!


*Pat Newcomb*

The Exchange thanks **Pat Newcomb**, one of our nightside watchstanders based out of Lewes, Delaware, for his 20 years of service to the Exchange and its members. Throughout his tenure, Pat demonstrated his unwavering devotion to his job and the Exchange. Pat, you will be missed!

# Community Collaborates to Fund PORTS®

With funding for the regional Physical Oceanographic Real Time System (PORTS) maintenance discontinued earlier this year, a broad coalition of port interests came together to develop both short-term and long-term strategies to fund the annual operations and maintenance of this system. Included in this coalition are the Pilots' Association, the Mariners Advisory Committee, the Exchange, the Philadelphia Regional Port Authority (PRPA), the South Jersey Port Corporation (SJPC), the Port of Wilmington (POW), the Delaware River Port Authority (DRPA) and the Delaware River and Bay Authority (DRBA).

PORTS is a real-time tide/weather monitoring system that is a critical aid to safe navigation, among myriad other uses.

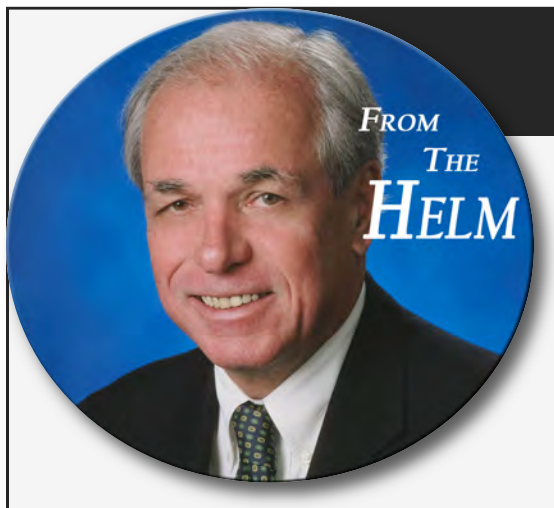
"Mariners are a prime, but not the only, users of PORTS data," according to Captain Stephen A. Roberts, Chairman of the Mariners Advisory Committee (MAC). "Pilots, captains and other mariners review the weather and tidal data prior to beginning a transit of the waterway. Municipal and county planners, emergency responders, and many others use PORTS data when preparing for and responding to environmental events and incidents."

The annual cost to maintain the Delaware River PORTS system is $300,000. Realizing how critical this system is, the PRPA, SJPC and POW each appropriated $100,000 to fund the operation and maintenance of PORTS for the 12 months. Following this action, the PRPA executed a contract with the National Oceanic and Atmospheric Administration (NOAA) for the continued enhancement, management, operation maintenance and repair of the system.

With the short-term funding in place, the coalition's focus shifted to establishing a sustainable funding stream to keep PORTS operational.

There are 22 PORTS systems operating throughout the U.S. The total cost to NOAA to operate and maintain these systems is approximately $5 million. Lan-

*continued on page 3*




# Back to School – Exchange Style

It's the dog days of summer as we're working on this issue of *The Beacon.* After a drenching June and a blistering July, the weather these first few weeks of August has been absolutely delightful. The traffic is lighter, and meetings are fewer. Most of us are managing to take some time off. Congress, too, is in recess.

It's that perfect time of year. Time to relax a little, to regroup, and to get ready for what is to come.

Always on our minds this time of year is the potential for an active hurricane season, particularly after the devastation of Superstorm Sandy last October. For the six-month hurricane season which began on June 1, NOAA's Atlantic Hurricane Season Outlook says there is a 70% likelihood of 13 to 20 named storms, of which 7 to 11 could become hurricanes, including 3 to 6 major hurricanes, with winds of 111 mph or higher. These ranges are well above the seasonal average of 12 named storms, 6 hurricanes and 3 major hurricanes.

While there's nothing we can do to prevent this type of disaster, we can certainly plan for it. The Exchange and other members of the regional port community are working with Coast Guard to exercise our MTS Recovery and Salvage/Response plans before the potential deluge.

And though there's little going on in Washington, DC right now, we can anticipate a busy fall. The Delaware River port community made substantial headway on a number of issues in the first seven months of the current Congress, but we have our work cut out for us over the next several months.

We will continue to work with our congressional delegation to ensure the $19 million included in both the House and Senate appropriations committee bills for the 45' project is included in the all-but-certain Continuing Resolution (as opposed to a final budget bill) that Congress will pass to keep the federal government operating beyond September 30th of this year.

Following the successful inclusion in the Senate version of the FY14 Water Resources Development Act (WRDA) of legislative language that directs full utilization of the Harbor Maintenance Tax for its intended purpose of maintenance dredging of shipping channels and harbors throughout the U.S., we will be working closely with our Congressional delegation, and colleagues throughout the country, to ensure similar language is included in the House version of the WRDA bill that is scheduled to be marked-up in the Transportation and Infrastructure Committee this Fall.

We'll also engage with Congress and the Federal Emergency Management Information to identify opportunities to enhance the Port Security Grant Program. Among the recommendations to FEMA are the return of the program to the fiduciary agent model which ensures a dedicated pool of funding for certain port regions, resumption of a three-year performance period, and ensuring the PSG Program remains separate from other Homeland Security grant programs.

And as you'll read elsewhere in this issue of *The Beacon*, the Exchange and a coalition of like-minded agencies and organizations will continue efforts to obtain full federal funding for the Physical Oceanographic Real-Time (PORTS®) system.

So we'll enjoy the lull while it lasts. But we're also sharpening our pencils.

Jeffrey Rochford

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# Bi-Partisan Vote Gives Voice to Importance of Strong Ports to U.S. Economy

On May 15, the Senate passed S. 601, the Water Resources Development Act of 2013 (WRDA) on an 83-14 vote. Section VIII of this legislation, the Harbor Maintenance Trust Fund (HMTF) Act of 2013, is the primary section that impacts Harbor Maintenance Tax (HMT) spending. It addresses the growing surplus of funds in the HMTF, ensures all revenues will be spent for intended purposes, increases operation and maintenance investment in U.S. ports, promotes equity among ports, prevents cargo diversion from U.S. ports, and ensures U.S. ports are prepared to meet modern shipping needs.

In testimony submitted to the U.S. House of Representatives, assistant secretary of the Army for Civil Works stated the Corps of Engineers could complete maintenance dredging projects to authorized dimensions over a five-year period if the total annual amount of HMT collected were expended for its intended purpose.

"Over the years this level of spending has not been possible since approximately only half of the HMT revenues collected were appropriated and used to dredge shipping channels and harbors at ports throughout the U.S.," said Barry Holliday, Executive Director of Dredging Contractors of America. "The balance of these funds totaling upwards of $7 billion have in effect been expended as an offset to the national debt."

President Obama's proposed budget for FY14 included $834 million for maintenance dredging and related activities, a slight increase from last year's budget. However, the Senate Appropriations Subcommittee on Energy & Water Development appropriated $1 billion from the HMTF for maintenance dredging of harbors and channels. The full Senate Appropriations Committee approved this higher amount at the end of June.

It is anticipated full utilization of the annual HMT revenues will be in place by FY20. Over the next six years, an additional $100 million of these collected tax revenues would be added to the previous year's base expenditure level.

"Given the expansion of the Panama Canal and the increase in the number of Post-Panamax ships that will be serving U.S. ports, there is no earthly reason not to fully utilize the harbor maintenance tax revenues to maintain our shipping channels and harbors to their full capacity," said Maritime Exchange President Dennis Rochford.

The Act also includes a formula for how funds would be used, distinguishing between the FY12 funding level and new monies. It uses a baseline of FY12 ($868 million) and allows the Corps of Engineers/Office of Management and Budget to continue to control how the funds are spent. Any amount appropriated in excess of the FY12 amount would be subject to certain prioritization rules as well as allow for expanded uses and HMT rebates to address donor equity and cargo diversion concerns. None of these excess funds could be accessed until all ports are maintained to their federally authorized dimensions.

Of the excess funds, 80 percent would go to "high-use" deep-draft ports and 20 percent to Great Lakes navigation, although there are exceptions for navigational hazards and emergency events such as storms. "High-use" deep-draft ports are defined as ports with channels greater than 14 feet deep and that handle more than 10 million tons of cargo annually. Once all high-use ports are fully maintained, the funds are to be distributed as follows: 10 percent to be divided equally among the 22 Corps Districts for their distribution to moderate- and low-use projects and 90 percent to be distributed nationally to keep minimum clearances in channels.

*continued on page 9*

## Maritime On-Line Update

In July 2013, the Maritime Exchange implemented a minor change to the eNOA/D module of Maritime On-Line® (MOL) to allow the transmission of I-418 crew data to the U.S. Coast Guard National Vessel Movement Center (NVMC). This change, which was part of the larger schema update introduced earlier in the year, allows users to submit answers regarding crew longshoreman work through MOL in order to meet regulatory requirements.

The changes come as a result of the efforts undertaken by the Exchange, representing the National Association of Maritime Organizations, and the World Shipping Council to eliminate the submission of the paper I-418 form in favor of the electronic transmission. After a very successful pilot program, Customs and Border Protection opened the pilot program up to all interested ocean carriers and other filers earlier this year.

As always the Exchange is committed to meeting the needs of MOL participants and encourages system participants to contact our Operations staff with any suggestions or comments.

*For more information on the new data requirements, contact Exchange Director of Operations Paul Myhre at 215-925-2615 or pmyhre@maritimedelriv.com.*

## PORTS Funding Sought

*continued from page 1*

guage included in the reauthorization of the 2002 Hydrographic Services Improvement Act provided that NOAA "shall, subject to the availability of appropriations, design, install, maintain and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency."

Based on this, the coalition sought support for urging the U.S. Department of Commerce to include this funding in its annual budget request as well as to have this funding included in the annual Commerce, Justice, Science and Related Agencies (CJS) Appropriations Bill. A wide range of regional PORTS stakeholders' interests contacted the tri-state Congressional delegation and urged them to support this legislative initiative. In addition to local efforts, maritime interests around the country contacted their House and Senate members, requesting their support as well.

The mark up of the CJS Appropriations Bill included the following language as well: "The Committee encourages NOAA to request funding that reflects the totality of the [PORTS] program's costs, including operations and maintenance, in future budget requests, as authorized by the Hydrographic Services Improvement Act (Public Law 110-386) in future budget submissions."

This is a very positive first step in the process of securing necessary and long-term PORTS funding and will move this critical cause forward, hopefully to a successful conclusion within the next budget cycle.

"PORTS is a crucial part of our port's economic, safety and environmental health infrastructure," said Exchange Vice President Lisa Himber. "Its loss would have a negative impact on our ability to navigate, monitor and protect the waterway."

## Coons Appointed to Appropriations Committee



On June 20, Senator Christopher Coons (D-DE) was appointed to the influential Senate Appropriations Committee.

This is the first time in 40 years that a member of Congress from the State of Delaware has held a seat on this powerful committee.

"My priorities on Appropriations will be consistent with my work in the Senate so far — helping businesses grow and creating jobs, supporting innovative research, and giving law enforcement the tools to keep our communities safe," the Senator said.

Senator Coons will continue to serve on the Judiciary, Foreign Relations and Budget committees, and will retain his Chairmanships of the Senate Judiciary Subcommittee on Bankruptcy and the Courts and the Senate Foreign Relations Subcommittee on African Affairs. Because of Senate rules, he was required to give up his seat on the Energy and Natural Resources Committee.

"Port stakeholders in all three states have come to realize that Senator Coons is a true champion for our industry," said Exchange Vice President Lisa Himber. "In the short time he has been in office, he's already tackled issues such as PORTS funding, resources for Customs-Agriculture Inspectors, and port security grants on our behalf." Staff members in the Senator's Wilmington and Washington offices have been doggedly determined in their follow ups with the various government agencies responsible for programs that matter to Exchange members, Himber noted.

The Exchange applauds Senator Coons' leadership and looks forward to continuing to work with him in his new position on the Appropriations Committee.



# Athos 1 Consequences

*continued from page 1*

least three years prior to the incident and possibly longer. It was undisputed that neither CARCO nor the Army Corps of Engineers or the Coast Guard knew of the existence of the abandoned anchor prior to the incident. Annual hydrographic surveys by the Army Corps, including a survey just six months before the incident, failed to detect the anchor. During the three years before the incident, hundreds of vessels with drafts as deep or deeper than the ATHOS I used the anchorage or called at the CARCO terminal, all without incident.

As required by the Oil Pollution Act of 1990, the owner of the ATHOS I engaged contractors to clean up the oil pollution and incurred substantial costs, some of which were reimbursed by the federal government. The vessel owner and the United States sued CARCO as the owner and operator of the Paulsboro marine terminal where the ship was bound on the voyage in question, to attempt to recover damages and pollution cleanup costs. The case was tried in 2010 in the U.S. District Court at Philadelphia and resulted in a decision exonerating CARCO from all liability to the vessel owner or the government.

The Trial Court's 2010 Decision

At the trial the vessel owners argued that the Federal Anchorage constituted part of the "approach" to the terminal for which CARCO was responsible based on the theory that a vessel necessarily had to navigate through those federal waters in order to reach the terminal. The vessel owner argued that CARCO therefore had a legal responsibility to survey the Federal Anchorage to ensure that no hazards to navigation were located in those Federal waters.

In response, CARCO argued: (a) that no U.S. court has ever held that a private terminal owner/operator has any legal responsibility for federal waters; (b) that the Federal Anchorage was a public waterway open for use by all vessels of any type for various purposes and that a finding that a private terminal owner has legal liability for the safety of those waters would potentially expose the terminal to liability to all users; (c) that the Army Corps, NOAA and the U.S. Coast Guard are statutorily charged with the responsibility to survey, dredge, chart and issue operating regulations for the Federal Anchorage; (d) that the vessel owner's argument that the anchorage became part of the "approach" simply because the vessel had to navigate through it created an impossible standard of liability since the same could be said for all waters through which the vessel navigated on its voyage up the Delaware River.

Following a lengthy trial the U.S. District Court rejected all of the claims against CARCO, finding that it had no liability to either the vessel owner or to the government. In rejecting the vessel owner's argument that the Federal Anchorage was the "approach" to the CARCO terminal the court astutely and correctly arrived at the following conclusion:

"But the definition of "approach" that [the vessel owner] urges the Court to adopt is unreasonably expansive. Although the docking pilot was aboard the ATHOS I, the ship was in an area of the Anchorage open for the passage of all ships, not an area used exclusively, or even primarily, by vessels docking at the Paulsboro refinery. From 2000 to 2004, a total of 673 vessels anchored in the Anchorage (including repeat visits from the same vessel), and in 2004 alone, 121 different cargo vessels anchored in the Anchorage…In 2004, 42 vessels docked at CARCO's terminal (including repeat visits from the same vessel)…Although not all of these ships would have passed through the area that [the vessel owner] contends CARCO should have scanned, the volume of traffic illustrates that CARCO had no control over the use of the Anchorage. To accept [the vessel owner's] argument would have the effect of potentially expanding the definition of "approach" to the entire Anchorage or to the entire Delaware River. A more reasonable definition of "approach" is the area "immediately adjacent" to the berth or within "immediate access" to the berth."…Under these definitions, the Anchorage was not within the approach to CARCO's berth, and CARCO did not have the legal obligation to survey there."



*Shown here is the anchor that punctured the hull of the Athos I in November of 2004. Ownership of the anchor has never been established.*

The Court of Appeals' Decision

The vessel owner and the government appealed the District Court's decision to the Third Circuit Court of Appeals. CARCO opposed the appeal, and various terminal owners and operators on the river and throughout the country, as well as interested terminal and port associations, also filed a brief urging the Court of Appeals to affirm the District Court's decision.

In its May, 2013, decision, the Court of Appeals overruled the District Court and held that the tanker's selected path through the Federal Anchorage was the "approach" to the terminal. Although the Court recognized that CARCO neither controlled nor maintained the Anchorage and that the Anchorage is available for use by any vessel regardless of its intended destination, the Court nevertheless held that CARCO had a legal responsibility for the "safety" of the Anchorage.

The decision is unprecedented and ignores both legal precedent and the realities of industry custom and practice, as well as the role and responsibilities of the Army Corps and the Coast Guard for the Federal Project waters of the river. No other U.S. court has ever held that a private terminal operator is responsible for the safe navigation of vessels in Federal Project waters. For more than a century the law here and throughout the country has provided that a terminal operator's responsibility is limited to the berth itself and the immediately adjacent waters providing entrance and exit, and that a terminal operator had no responsibility for the safety of surrounding waters in the "vicinity" of the berth over which it has no control.

In 1976 the same Court of Appeals affirmed a district court decision which held that the Army Corps was liable to a vessel owner for damage to its vessel caused by an unreported obstruction in one of the Delaware River dredged channels. In that decision the court held that the industry was entitled to rely on the Army Corps to survey and maintain the specified depth of all Federal Project waters and to accurately report conditions through public notice.

Even more troubling than its holding that a private terminal operator now is responsible for the safety of the Federal Project waters outside its berth is the Court's new and unprecedented definition of what will constitute the "approach" to a terminal in future cases for the purpose of determining a terminal operator's legal responsibility. The Court of Appeals held that in any specific instance when a ship is bound for a berth, the

*continued on page 10*

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# Grant Program a Success in Sector DelBay

## *More work still needed*

The Maritime Exchange has served as the Fiduciary Agent for the Port Security Grant Program (PSGP) since August of 2007. Since that time, port stakeholders, working through the Area Maritime Security Committee (AMSC), have had more visibility into what projects are being implemented in the tri-state region and how they're doing.

"There is a tremendous benefit to our port planners to understand the level of preparedness among the public and private port operators," said AMSC Chairman Kurt Ferry. "This helps us determine where gaps may still exist and how resources should best be allocated."

munications at strategic locations throughout the region. Many of the individual projects installed at public and private port facilities have been designed specifically to integrate into the larger area-wide initiatives.

One example is the recently-completed MDA Enhancement Project at the Port of Wilmington, which added cameras, license plate readers, video analytics and additional fencing and lighting. "In addition to meeting our own needs, our system was developed in collaboration with New Jersey State officials," said Sylvia Floyd-Kennard, Director of HR and Security for the Diamond State Port Corporation. She noted that the Port of Wilmington has



*With funds provided by the PSGP for its new boat, the Wilmington Fire Department responds to a reported fuel leak. Photo is courtesy of the Wilmington Fire Department and John Randolph.*

With the FY07 Supplemental grant award finishing up last year and the close-out process for FY08 and FY10 grants currently underway, the AMSC is in a position to evaluate how effective the grant program has been.

To that end, the Committee has contracted for a review the status of all sub-projects awarded under the grants and to update the region's Strategic Risk Management Plan. Work began in May, and the effort will be completed by year's end.

But even before the formal analysis is complete, there are clearly indications that the PSGP is meeting its desired goals.

"Our bridges have been hardened, there are more cameras looking into places humans could not possibly patrol on a regular basis, facilities have improved their communications systems and redundancy/recovery capabilities, and law enforcement in each of the three states has acquired additional assets and training. The 90-mile port complex now boasts a larger fleet of fire response boats, and firefighters up and down the river have obtained additional gear and training for marine fire response. All of this will help prevent and minimize the impact of any potential incident," said Exchange Vice President Lisa Himber.

Several regional Maritime Domain Awareness projects have been developed over the last several years as well. These systems have placed cameras, radar, and computer-based audio com-

also worked with the Delaware Information and Analysis Center and Wilmington Police.

Other projects implemented throughout the region were also designed in concert with various law enforcement and response organizations.

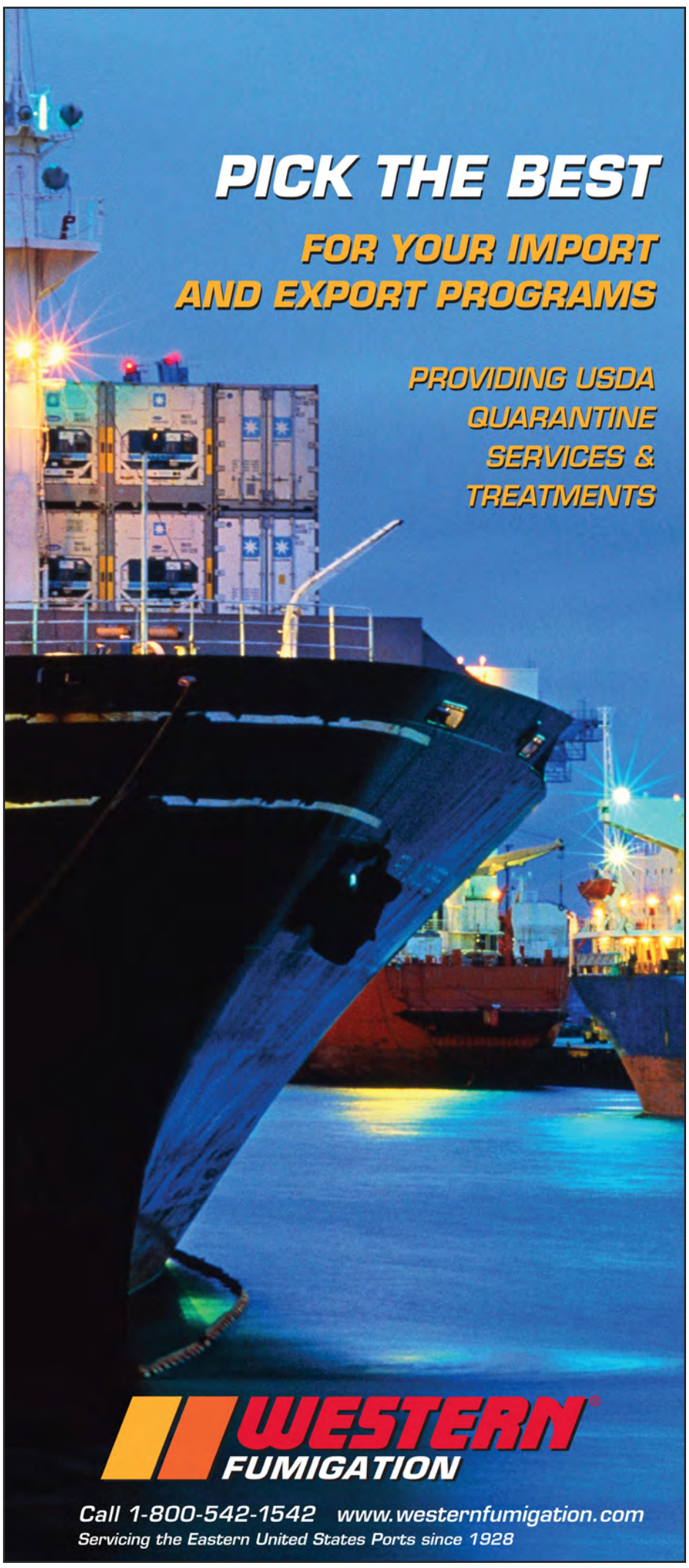
Ferry, who is also Facility Security Officer at the Packer Avenue Marine Terminal said his organization consulted with the Philadelphia Police and Delaware Valley Intelligence Center – a four-state fusion center – when developing his "Secure Information Sharing" systems.

"Now the time has come to look at these systems from a macro level," said Coast Guard Captain of the Port Kathy Moore. "As we look to address future port security needs, we need to be aware of new and evolving threats and take an integrated or enterprise approach to reducing risk."

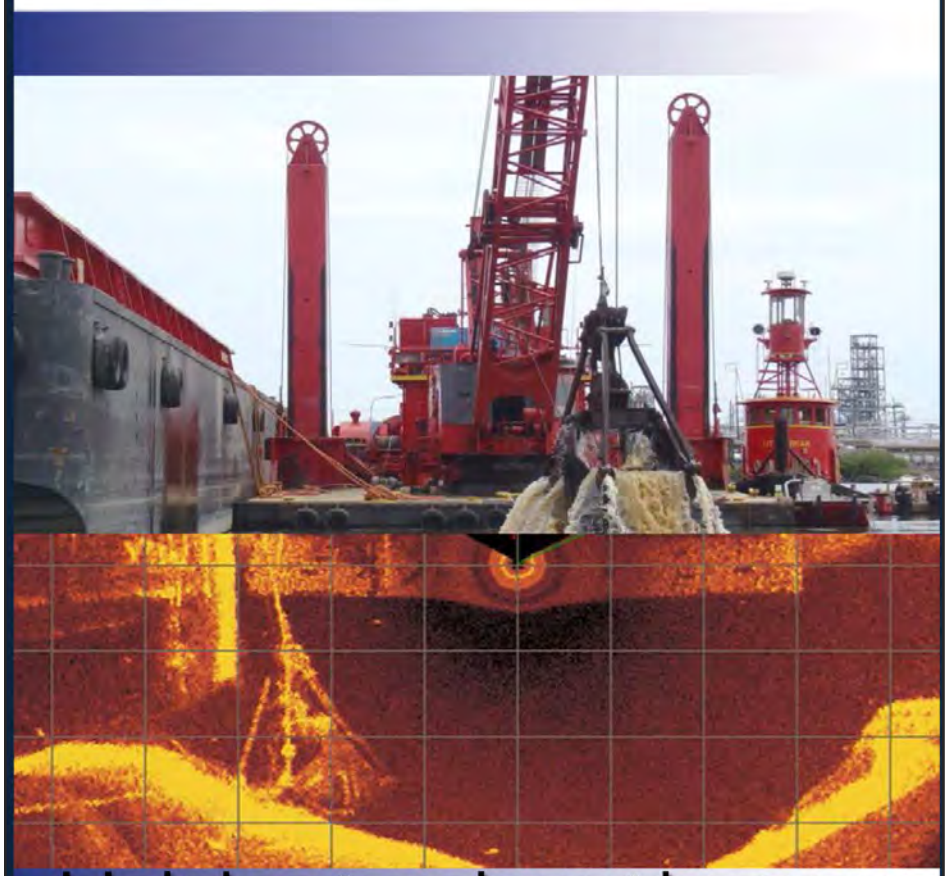
Though the Maritime Exchange and other stakeholders throughout the U.S. support a continued vibrant PSG program, the reality is funding has been decreased substantially in recent years.

"Given the likely potential decreases in federal funding for port security initiatives, we must collectively work to identify a mechanism to fund the ongoing integration of these important initiatives, allow for future upgrades as technologies evolve, and provide for future operational sustainment without relying on Port Security Grants." Capt. Moore said.



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# Paul Ives Inducted into Delaware Maritime Hall of Fame



Congratulations go out to Capt. Paul Lane Ives, Maritime Exchange Director Emeritus, who will be inducted into the Delaware Maritime Hall of Fame on October 12.

Each year, the Delaware Maritime Hall of Fame selects individuals who, among other criteria, must have made a significant impact upon the lives of others, with their contributions to maritime heritage having a lasting significance.

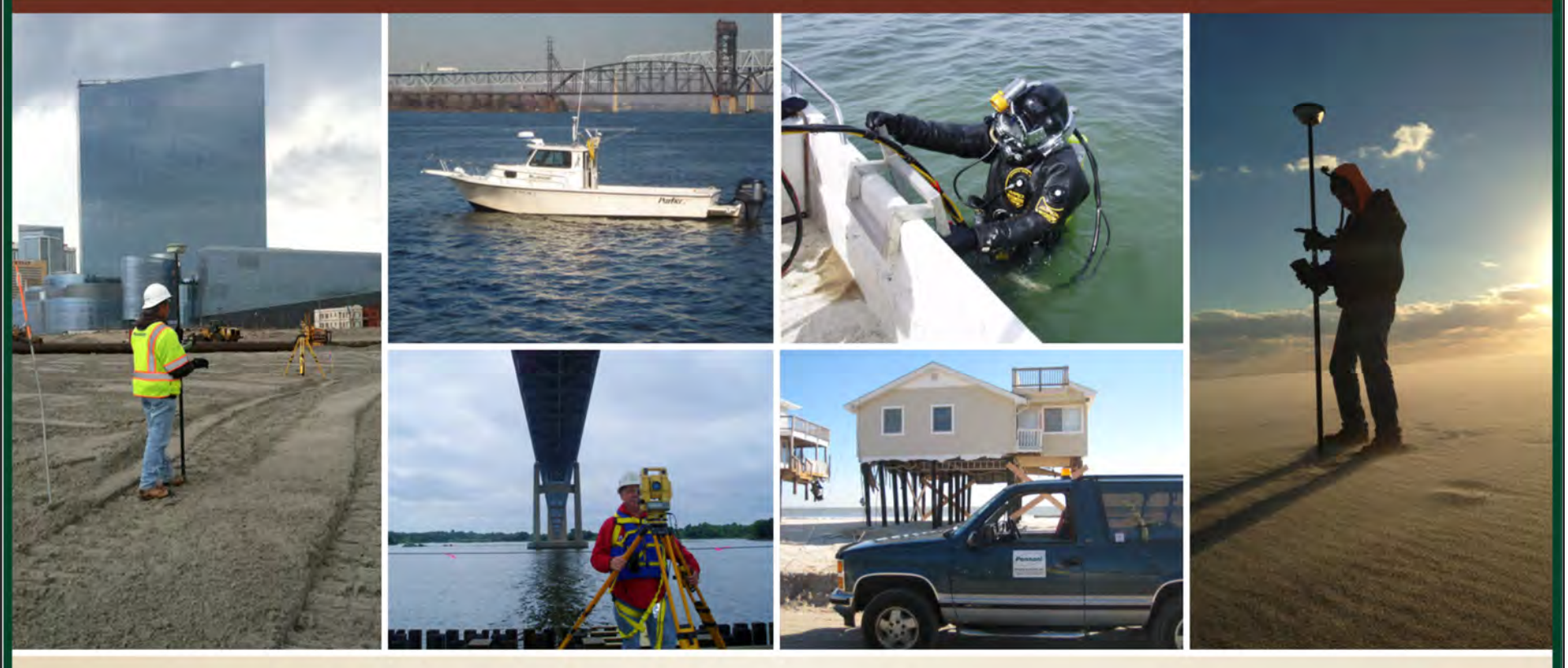
Capt. Ives is a retired licensed pilot for the Delaware Bay and the Chesapeake Canal. He is recognized for implementing the VHF Single Channel bridge-to-bridge communications, a system that ensures that all ships and pilots will be in constant communication, improving safety and reducing collisions. He traveled around the country giving presentations promoting the adoption of the Single Channel System as an industry standard.

Also being inducted this year are Hazel Brittingham, a Lewes historian; John (Jack) L. Gallagher, PhD, Professor of Marine Biosciences at the University of Delaware; Malcolm Mackenzie, who played a meaningful role in the revitalization of Wilmington's Waterfront; and Suzanne Thurman, who founded the Marine Education, Research & Rehabilitation Institute, Inc. (MERR) in 2000.

The banquet and induction ceremony will be at the Lewes Yacht Club in Lewes, Delaware. The event is sponsored by the Overfalls Maritime Museum Foundation (OMMF), an all-volunteer organization that is committed to preserving one of America's last remaining lightships.

*Tickets are $75 per person. Visit www.overfalls.org/maritime_hall_introduction.html for event registration or contact Denise Seliskar at seliskar@udel.edu or 302-542-6797 for additional information and special requests. Sponsorships are available.*

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# More Reason for Optimism

The Delaware River regional port complex continues to be transformed as it navigates through a sluggish economy and an ever-changing global marketplace. This transformation reflects the entrepreneurial spirit and resiliency of port operators, labor and other port stakeholders who work every day to capitalize on the infrastructure that sustains this economic engine – one which contributes over $6 billion to our regional and national economy.

In large measure, our success is occasioned by the leadership and support of our federal and state elected officials who continuously champion those initiatives critical to keeping our port competitive.

After the Great Recession hit in 2008, the impact on our port was dramatic. Three oil refineries shut down, container, bulk and break-bulk cargoes dropped precipitously, and vessel arrivals declined about 22%, from 2,500 to 1,950. These tough economic times hit our port, and ports throughout the country, as hard as at any time since the Depression of the 1930s.

But as we said, we are an enterprising and hardy bunch. Because of this, good things are happening.

The three previously shuttered oil refineries are now operational. PBF acquired the Delaware City Refinery, Monroe Energy (Delta Airlines) reopened the Trainer Refinery, and, Sunoco Logistics Partners are now moving propane and ethane from the liquid-rich Marcellus Shale areas in Western Pennsylvania through the once-idled Marcus Hook Refinery to markets throughout the United States and overseas. While some crude oil shipments to these refineries are being diverted from inbound tankers to rail shipments from North Dakota and Canada, there will be an overall increase in the number of tankers moving refined product and related chemical by-products to export markets worldwide.

Container traffic on the Delaware River has rebounded as well. Most recently, in January of this year Horizon Lines' shifted its Puerto Rico service from the Port of NY-NJ to the Packer Avenue Marine Terminal in Philadelphia. Other cargoes have rebounded as well, and based on the first seven months of this year, annual vessel arrivals are projected to come in at around 2,200.

Other major projects, either planned or underway, will position our port for future growth and expansion.

The South Jersey Port Corporation is constructing a new 180-acre bulk and break-bulk cargo terminal in Paulsboro, New Jersey which is scheduled to open in 2015.

The Philadelphia Regional Port Authority plans to start construction of a new 190-acre container terminal on the old U.S. Navy Base at Philadelphia, currently scheduled to open in 2017.

The Diamond State Port Corporation, which operates the Port of Wilmington, Delaware, will soon announce new infrastructure investments in the Port of Wilmington.

There's new business at the Kinder Morgan Fairless Facility, Tioga Marine Terminal and at Penn Terminals as well.

Amid all of this activity, the Aker Philadelphia Shipyard, also located at the Philadelphia Naval Ship Yard, just announced an agreement with Crowley Maritime Corporation of Jacksonville, Florida to build up to eight product tankers at a cost of $500 million. Aker, the nation's second largest commercial shipbuilder, adds a unique dimension to our port that complements the its diversity and resourcefulness.

We have weathered some very difficult years, though neither we nor the rest of the country is seeing pre-2008 activity levels.

But here on the Delaware River, we have a lot more reason to be optimistic than most. The future looks brighter than it has for a time.



## Exchange Annual Database Update Underway

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*.

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 your updated information to dstargell@maritimedelriv.com.

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# Opening Round of TTIP Talks with the European Community Ends on Optimistic Note but Don't Count on a Completed Agreement by 2014

## Legal Ease

By: John P. Donohue, Esq., Clark Hill Thorp Reed

The first round of the Transatlantic Trade and Investment Partnership talks (now referred to as TTIP) between the U.S. and the European Union were concluded on July 12, with both sides congratulating themselves (with some justification) for their commitments in moving the talks forward. But if you are a betting person, I recommend you stay clear of the stated commitment of the parties to conclude the trade talks by the end of 2014. Such a schedule appears to be wildly optimistic considering the fact that the almost-as-important Transpacific Partnership talks have been in earnest since March of 2010 with no end in sight after 17 negotiating sessions. If it took three years to conclude the agreement with Australia; two years to conclude the agreement with Bahrain and six years to conclude NAFTA, it appears unlikely that we will conclude a 29 State U.S.-EU agreement with such break-neck speed. At some point, reality takes over. Indeed, in a stakeholder survey that was undertaken jointly by the Atlantic Council and the Bertelsmann Foundation, published in April of this year, only seven percent of those surveyed believed that the 2014 deadline would be met. But least one become too despondent by the statistic, the same survey found that the largest number of those surveyed (28%) believed that the Agreement would be concluded by 2015, and a whopping 88% of those surveyed believed that some Transatlantic Agreement would be forged. Those are impressively optimistic figures.

The question that is only second in importance to the most obvious question ("will an agreement be reached?") is "what, specifically will be agreed upon?" Of course, in broad terms, only three outcomes are possible. Either the parties reach a broad consensus on all issues; they fail to reach an agreement on anything; or they land somewhere in the middle. Again, if you are betting, bet on the middle ground. At this stage, the parties are not even sure whether the issue of the trade in genetically modified foods and certain subsidies given to the European music and film industry are even on the table. We say they are; the EU says they are not.

In its survey, the Atlantic Council and Bertelsmann Foundation identified to the surveyed parties 17 negotiating objectives and asked that the objectives be placed into two categories. "What are the most important negotiating objectives to undertake; and secondly, what are the negotiating objectives most likely to be achieved?" Predictably they were not the same, but the outcomes were extremely informative. The issue that was considered the most important of the negotiating objective was a term we are sure to hear more frequently in the days ahead - "regulatory convergence." This is the process by which the regulatory frameworks of the two trading giants addressing comparable social objectives are harmonized to increase manufacturing efficiencies. Imagine, for example, if cars in Europe and the U.S. were allowed to run under the same average fuel efficiency standards; or the highway safety standards in Europe and the U.S. were exactly the same; or the lead content standards were identical in the manufacture of chinaware; or factory carbon emission standards were identical in both the U.S. and Europe. In the words of the late Sam Cooke "what a wonderful world it would be." A harmonization of regulations would increase production efficiency remarkably without creating an offsetting risk. Both societies have addressed comparable risks, but have regulated those risks slightly differently and at horrible costs. Suppose those rules were harmonized? And if you think it is impossible, consider this provision of the U.S. Korean Free Trade Agreement. Under that Agreement, a U.S. produced automobile, manufactured to U.S. automotive fuel economy and greenhouse gas emission standards, will be deemed compliant with the comparable but more stringent Korean auto emission standards if the U.S. made automobiles are within 19% of the comparable South Korean standards. The rules are not identical, but they have been harmonized. In the survey, regulatory convergence across "multiple sectors" and regulatory convergence for "manufactured goods" were the two most important negotiating objectives reported. Unfortunately, however, the same survey found that of the 17 negotiating objectives, these were numbers 13 and 16 in their degree of difficulty of being achieved. The most important are being perceived as the most difficult. The challenge for the negotiators now begins to emerge. Do they undertake the very difficult but important negotiating objective and run the risk of imploding the talks, or do they ensure an agreement of only the easy points? The opening remarks of U.S. Trade Representative Michael Froman at the July 8 Plenary Session seemed to take the "all or nothing" approach. He urged them to "resist the temptation of downsizing" their ambitions simply to get a deal.

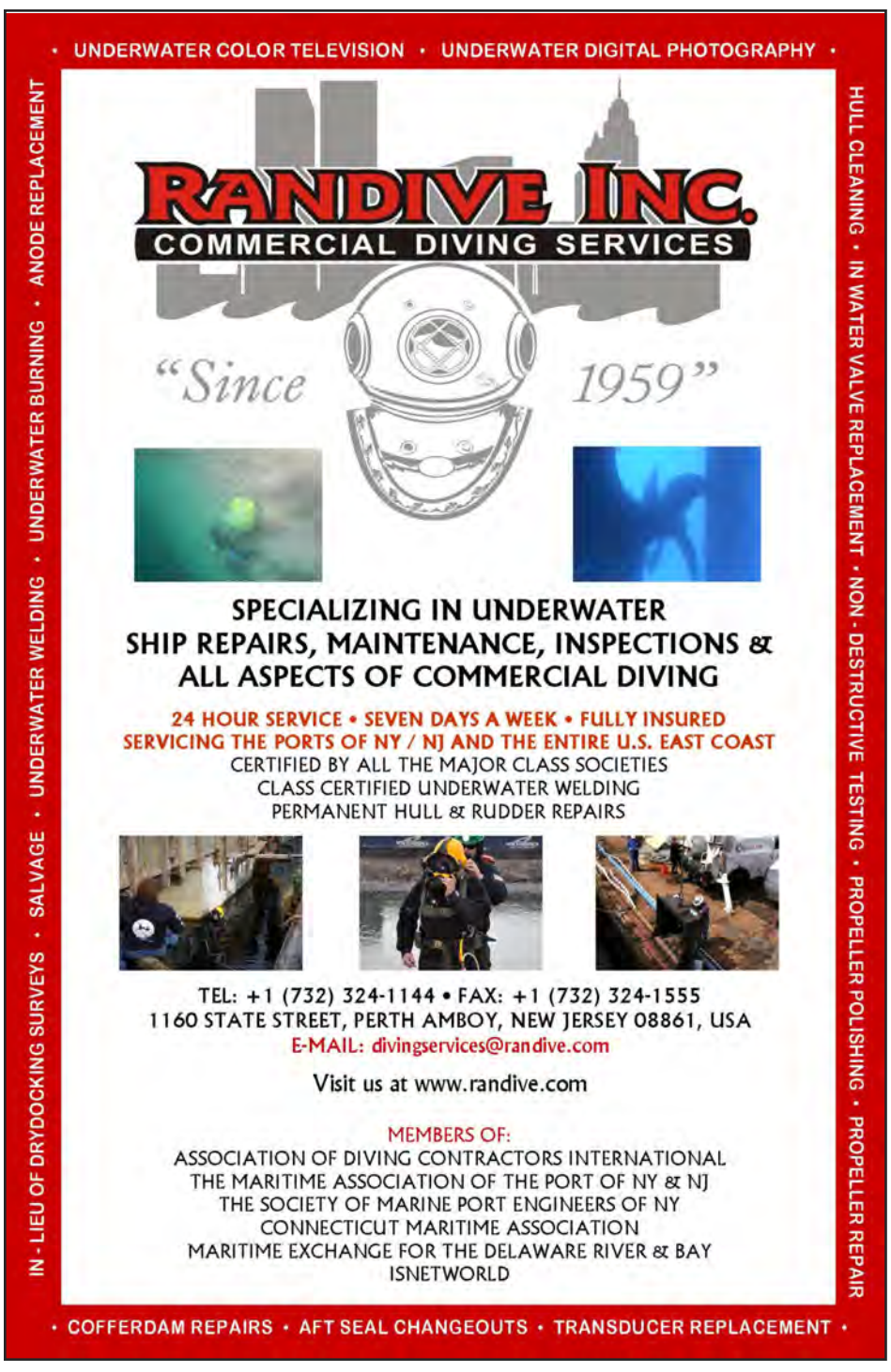


In terms of the likelihood of accomplishment, the item number one on the stakeholders list is the elimination or significant reduction of duties. The second subject for which the parties are optimistic about an agreement will be of great interest to Pennsylvanians – there is significant interest in reductions in all barriers (tariff and non-tariff) in the export of energy from the U.S.

Are there any obstacles? Two immediately come to mind. The first is the notion of transparency. Certain constituencies on both sides of the ocean appear to be confusing their right to contribute to the negotiating process with the government's view that it has the right to negotiate in secrecy. They insist on participating at every stage, including the right to review draft agreement language. And the bigger unknown is now the question of the NSA leaks and the extent to which negotiations on a greater relaxation of the rules related to ecommerce have been undermined. Everyone agrees that the NSA release has impaired the ecommerce negotiations. The only question is how badly.

The two diplomatic statements released at the conclusion of the first round of trade talks were quite different, but both were remarkably upbeat. Both sides are optimistic; both sides see increases in trade opportunities and positive benefits to both economies. Let's all hope the optimism continues as the talks become more substantive.

*John P. Donohue is a Partner in the firm of Clark Hill/Thorp Reed and is a member of the Firm's International Trade Practice Group. He is member of the Board of the Exchange.*




# Aker and Crowley Announce Joint Venture Plans

Aker Philadelphia Shipyard ASA (APSI) recently announced that its wholly-owned subsidiary, Aker Philadelphia Shipyard, Inc. and Crowley Maritime Corporation are expanding the cooperation initiated with the sale and delivery of two product tankers in 2012 and 2013. The expanded partnership includes four new product tankers with deliveries in 2015 and 2016, with the possibility to build four additional product tankers with deliveries through 2017. The parties have signed binding shipbuilding contracts for the first four tankers with a total contract value of approximately $500 million.

Consistent with the requirements of the Jones Act, Crowley will maintain control over the ownership, technical operation, and commercial management of the vessels. APSI and Crowley will share in the economics of the operation and chartering of the new vessels.

APSI expects to make an investment of approximately $115 million in the first four vessels through a combination of existing shipyard equity and new debt. Funding is expected to be met without any equity capital issuance. The new debt and the construction period financing are expected to be fully committed by the end of September.

"The shale revolution is creating industrial opportunities throughout the United States and specifically here in Philadelphia. We are pleased to expand our partnership with a first-class operator like Crowley to help meet the nation's longstanding goal of energy security," said Kristian Rokke, President & CEO of AKPS. "This strategic opportunity allows us to capitalize on the increased demand for Jones Act tankers in a way that will transform APSI in the years ahead."

The new 50,000 dwt product tankers are based on a proven Hyundai Mipo Dockyards (HMD) design which incorporates numerous fuel efficiency features, flexible cargo capability, and the latest regulatory requirements. The vessels will be constructed with consideration for the use of LNG for propulsion in the future. Design and procurement activities are already underway to support the start of construction of the first tanker in January 2014.

"We are very pleased to be partnering again with Aker in the construction of these new tankers," said Rob Grune, Crowley Senior Vice President and General Manager, petroleum services. "They are a well established and highly respected shipbuilder."

The joint venture transactions related to the operation and chartering of the new vessels are subject to agreement on definitive documentation and fulfillment of customary closing conditions. The transactions are expected to be completed by the end of the third quarter 2013.

APSI is currently constructing two 115,000 dwt crude oil carriers for SeaRiver Maritime, Inc., ExxonMobil Corporation's U.S. marine affiliate. Both of these crude oil tankers are scheduled for delivery in 2014.

## WRDA Addresses HMT Issue

*continued from page 3*

There is an exception provision to the high use prioritization for hazardous navigation conditions or impacts of natural disasters.

Equity is also addressed by S. 601, as it expands the eligibility of operation and maintenance (O&M) funds to include berth and contaminated sediment removal in certain HMT donor states if the funds available for O&M are above the FY12 levels, and if high-use deep-draft ports are fully maintained and the other priorities noted above are funded.

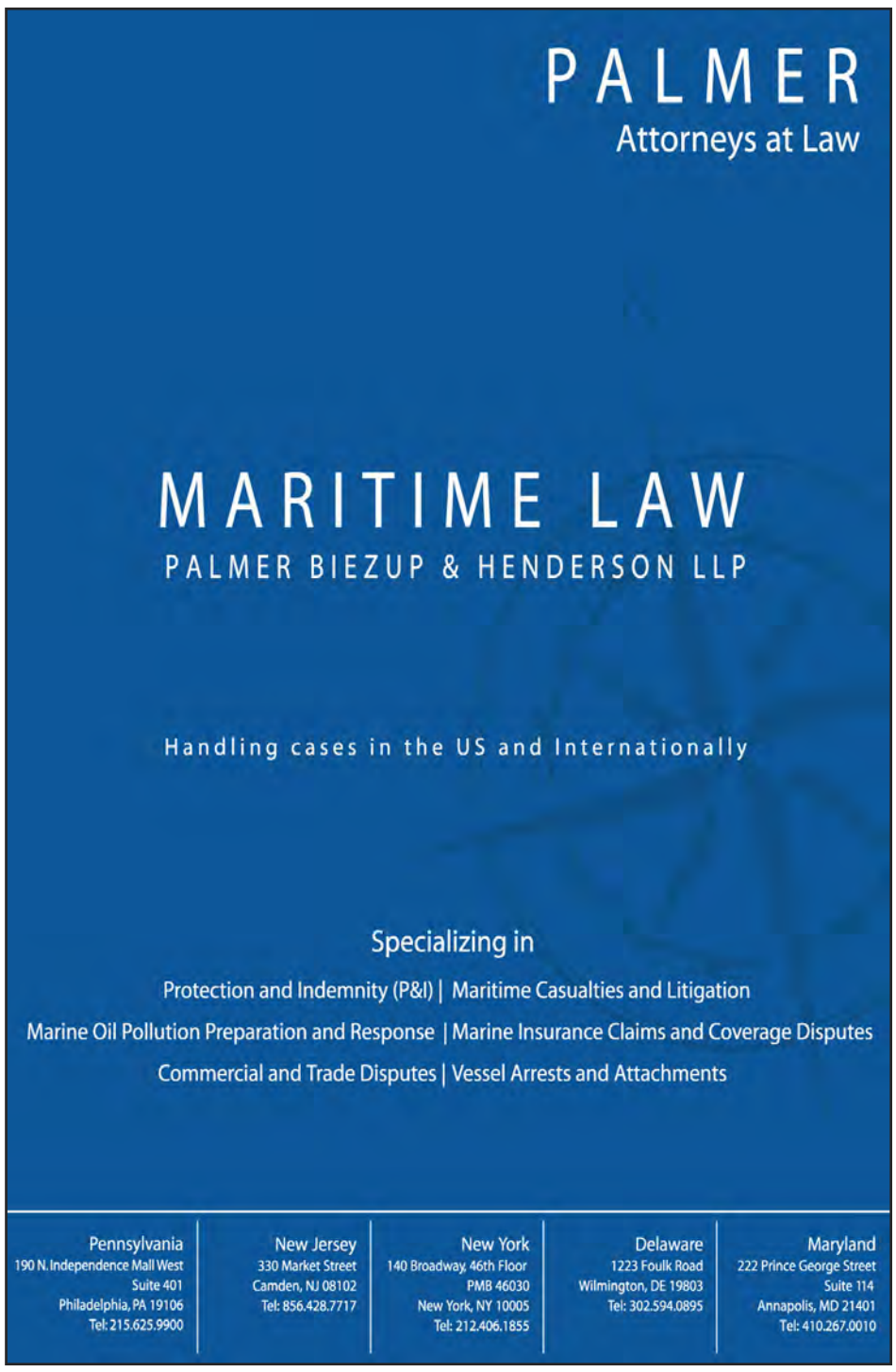
The formula contained in the bill establishes eligible states as those that contribute no less than 2.5 percent of HMT collections annually and that receive less than 50 percent of the total amounts collected by that state. A priority is given to projects at ports that have received the lowest amount of funding from the HMTF in comparison to the amount the ports contributed in the last three years.

The bill also includes several other provisions that relate to ports, such as:

- giving the Secretary the authority to approve assumption of maintenance for channel improvements and extensions constructed before December 2012;
- setting a framework for environmental reviews of channel improvement studies and, including financial penalty provisions for Federal jurisdiction agencies that fail to issue decisions in a timely manner; and
- enabling funds donated for an O&M activity, such as maintenance dredging, to be credited toward cost-sharing on a subsequent project for up to 20 percent of the construction cost.

"We believe that "full use" of HMT revenues for maintenance dredging is the right thing to do, and it is in keeping with the commitment made to both the nation's shippers and ports when the HMT law was first passed in 1986," said Thomas Valleau, who runs the North Atlantic Ports Association. "We applaud the intent of S. 601 to strengthen that commitment."






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# Athos 1 Consequences

*continued from page 4*

geographic area that will constitute the "approach" depends entirely on the route to the berth chosen unilaterally by the vessel's navigators. Specifically the Court held that "when a ship transitions from its general voyage to a final, direct path to its destination, it is on an approach" even if the selected path is through Federal Project waters.

The Court has created a "moving target" definition of "approach" that will result in legal and commercial chaos for terminal owners and operators. The "path" to a terminal is a decision within the sole province of a vessel's navigators and local pilots, and it varies from ship to ship based on the tides, currents, winds, and number of assisting tugboats. There is no "usual path," and a terminal owner cannot predict or control the vessel's navigational decisions, nor should it be charged with that responsibility. By defining a terminal owner's duty in terms of a ship's navigational choices, rather than a fixed geographical area that is within the terminal owner's control, as had been the case before, the Court's decision puts terminal owners in an impossible position – there is no ability to accurately determine the area for which they now have responsibility as it will vary from ship to ship.

Ships docking at the vast majority of terminals on the Delaware River typically take a docking pilot and assist tugs and begin maneuvering along the "path" to the berth while in the main dredged river channels or Federal anchorages. Thus, under the Court's new definition of "approach" each terminal will be responsible for the safety of portions of the Federal Project waters including the main channels and anchorage areas.

The Court of Appeals has imposed a costly, onerous, and amorphous burden on terminal owners by creating an affirmative duty to survey, locate and remove hidden obstructions in their now expanded but unbounded approaches. It is impossible to know what types of survey techniques and methods will satisfy a terminal owner's duty, how often surveys must be undertaken, or how terminals are supposed to coordinate their responsibilities in publicly-used waterways over which the Army Corps and Coast Guard have exclusive jurisdiction.

CARCO intends to petition the U.S. Supreme Court to review and reverse the Court of Appeals' decision. There will be an opportunity for concerned industry groups to support this appeal to the U.S. Supreme Court through the filing of amicus or "friend of the court" briefs to inform the Supreme Court of the adverse impact the decision will have on day-to-day port operations and the legal liability of marine terminals throughout the United States.

*If you have questions or require additional information please contact one of the authors, Frank P. DeGiulio of Palmer Biezup & Henderson, LLP (fpd@pbh.com; 215-625-7809) or George R. Zacharkow of Mattioni, Ltd. (gzacharkow@mattioni.com; 215-629-1600).*

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# PRPA: Early 2013 Stats Indicate Continued Growth

The Philadelphia Regional Port Authority (PRPA) is reporting notable increases in cargo volumes during the first half of 2013. With 2,519,967 metric tons of cargo handled during this time compared to the 2,217,803 metric tons of cargo handled during the same period of 2012, PRPA facilities experienced a 13.62 percent gain in cargoes handled. If current cargo trends continue throughout the remainder of the year, 2013 will be the fourth straight year of double-digit cargo growth.

"The Port of Philadelphia is a very versatile port," said PRPA Chairman Charles G. Kopp, Esq. "This is demonstrated by the fact that containers, breakbulk cargoes, and liquid bulk all showed strong gains during the first six months of this year."

Highlights of these Year-To-Date cargo figures include:

PRPA facilities handled 1,184,147 metric tons of containerized cargoes from January to June, 2013, compared to 1,002,911 tons handled during the same period of 2012; tonnage was up a healthy 18%. In total 168,820 TEUs of containers through June compared to the 135,656 TEUs handled during the same period last year, resulting in a 24% gain.

Breakbulk cargoes overall were up a strong 18%. This is due in part to healthy growth among the following:

- Steel: 116,249 metric tons of steel handled YTD 2013 compared to the 89,292 tons handled during the first half of 2012, up 30% by mid-year. Steel cargoes, much of which is destined for the automobile and construction industries, arrive at PRPA's Packer Avenue and Tioga Marine Terminals.
- Forest Products: received 209,823 tons of forest products January-June 2013 compared to the 168,012 tons handled during the same period of 2012. Forest products, which include newsprint, fine coated paper, pulp, and lumber, were up 25%. These cargoes principally arrive at PRPA's Forest Products Distribution Center at Piers 78/80 & 74.
- Cocoa beans: experienced a 21% gain, with 86,438 metric tons handled in the first half of 2013 compared to 71,631 tons handled during the same period of 2012. Cocoa beans, eventually manufactured into candy bars, cocoa powder, and a wide variety of chocolate products, arrive at PRPA's dedicated cocoa bean handling facility at Pier 84.

Fruit (126,121 tons), project cargo (21,884 tons), and automobiles (96,240 tons) performed at about the same levels as last year. Sugar, a cargo that returned to the Port of Philadelphia in the latter half of 2012 after a long absence, continued to make a mark at the port during the first half of this year, with 23,479 metric tons handled. Sugar arrives at the Tioga Marine Terminal.

Liquid bulk cargoes also showed a healthy gain in the first half of the year. With 655,448 metric tons of liquid bulk arriving at the Port of Philadelphia January-June 2013 compared to 611,022 tons handled during the same period of 2012, liquid bulk was up over 7%. Liquid bulk cargoes arrive at the Tioga Marine Terminal and are pumped via an elevated pipe bridge to Kinder Morgan's liquid bulk facility located across the street from the terminal.

"With the deepening of the Delaware River's main channel and our Southport Marine Terminal Project, the Port of Philadelphia is making the necessary improvements to our facilities and infrastructure to assure growth in the future," Kopp said. "But these impressive year-to-date cargo statistics demonstrate that PRPA and its terminal operators are out there right now building our business, before those enhancements come online. Further, these cargo statistics justify the ongoing support of Pennsylvania Governor Tom Corbett, who has recognized the importance of the international seaport in Philadelphia with strategic and substantial investment."




*A container vessel prepares to discharge cargo at the Philadelphia Regional Port Authority's Packer Avenue Marine Terminal. Containerized cargo tonnage was up a healthy 18% during the first half of 2013 compared to the same period of 2012.*

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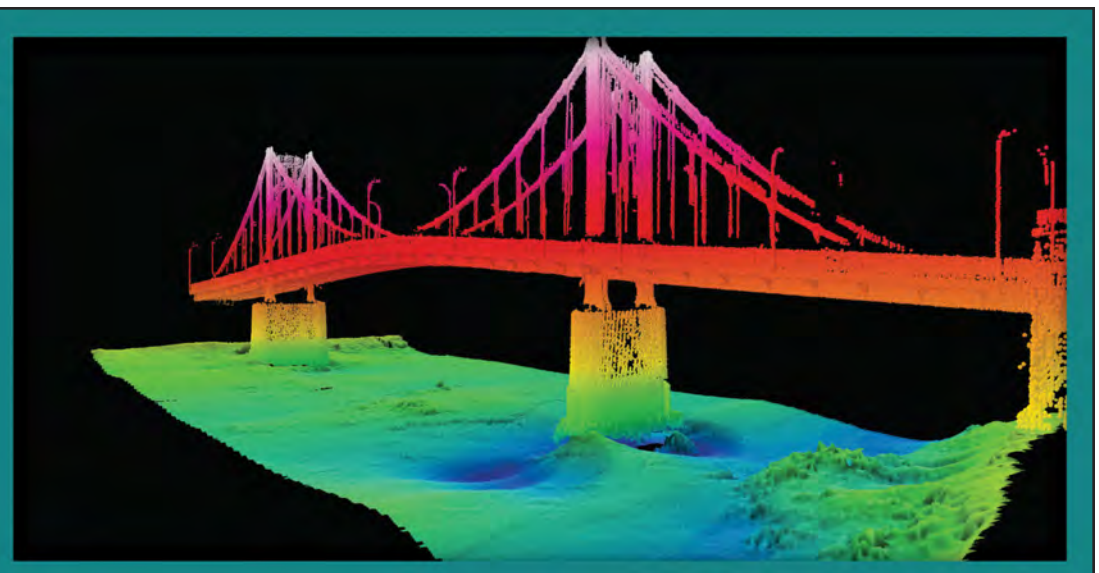
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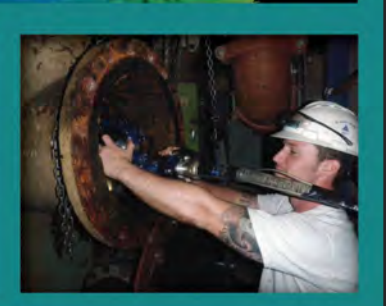
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# Norfolk Southern Discloses Initiatives to Reduce Greenhouse Gas Emissions

Norfolk Southern has disclosed its business strategy for reducing greenhouse gas emissions and environmental footprint in a filing with the international not-for-profit CDP, formerly known as Carbon Disclosure Project.

The railroad's annual public disclosure to CDP provides customers, investors, employees, and communities information about how Norfolk Southern is addressing potential risks and benefits related to greenhouse gas emissions.

"Norfolk Southern is committed to being an industry leader in environmental stewardship," said Blair Wimbush, vice president real estate and corporate sustainability officer. "Efforts to improve our performance and to mitigate the environmental impacts of business operations are part of daily life on our railroad. We are proud to offer customers a fuel- and carbon-efficient means of transporting their goods."

In the CDP filing, Norfolk Southern describes key strategic initiatives to reduce greenhouse gas emissions. These include purchasing new, more fuel-efficient locomotives, expanding use of idle-reduction and train-handling technologies, making infrastructure improvements, continuing research and development of alternative power, and recycling older locomotives.

Norfolk Southern has made considerable progress toward its goal to reduce greenhouse gas emissions by 10 percent per revenue ton mile between 2009 and 2014. By the end of 2012, the company had reached nearly 69 percent of the goal.

Longer term, the railroad's investments in infrastructure, including public-private partnerships, are expanding the nation's freight rail capacity and providing shippers a way to reduce their supply-chain carbon footprint. For example, by diverting long-haul freight to trains from trucks, Norfolk Southern's Crescent Corridor – which spans 11 states from Louisiana to New Jersey – has the potential to reduce greenhouse gases by 1.9 million tons annually when fully developed.

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# Editorial

## Water Issues are as Demanding as Ever

*By: Paul Bea*
*PHB Public Affairs*

The U.S. Army Corps of Engineers' chief civilian, Director of Civil Works Steve Stockton, recently participated in a webinar for USACE "communicators" on the subject of "transforming" the Civil Works program. In his presentation is what sounds like a stunning call to the professionals of his organization:

In a budget constrained era, we must do what we can to BE RELEVANT!!

Whether one's reference point is the America of the recent 20th century or the present 21st century it is hard to imagine the Corps of Engineers and its Civil Works program struggling to be relevant. The essence of the program is no less relevant today than it was when the emerging nation needed trained engineers to clear waterways to enable the flow of vital commerce.

Today, the need for shipping channels and other navigation features is as great as ever.

Today, the need for protection from flooding in urban Passaic County and on Iowa farm land has persisted for generations.

Today, the rising sea level and dropping Great Lakes levels pose significant threats to human life and the economy.

Mr. Stockton's cry for relevance reflects those and other water related challenges for our human and economic welfare as a continuing essential role for the Corps of Engineers. But he also was referring to a number of growing challenges facing the USACE and, I will add, government itself.

Much in government is not functioning as it should, which is to say not functioning well. In short, the policy making and funding roles of Congress are not being fulfilled and to a great extent the federal agencies are hampered by declining resources even as they are given more responsibility and seem to do little to improve their management and clear the decks of old regulation and procedure.

The Corps of Engineers and, consequently, the Civil Works program, have been diminished over the years. The ranks of the engineers, planners and economists have declined through attrition and so has the resident institutional experience. Congress has given USACE more to do — adding to its mission and the workload — and fewer resources to work with.

The statement on the webinar slide is telling of the frustration being felt within the storied organization. "In a budget constrained era, we must do what we can…" suggests both conditions put upon the Corps and put upon by itself. USACE leadership understands that while it has little power to change the overall fiscal situation that keeps a tight lid on Civil Works budgets it has some power to change how it works and how well it works.

Diminishing federal resources and a slow, slow process cause ports, communities, and municipal and state governments to look for alternate ways to clear the channels and, literally, hold back the flood waters. We see that most vividly in the port sector where governors in Florida and South Carolina have told Washington "we can't wait" — a favorite Obama phrase — and committed state funding to build commercially driven federal channel projects.

USACE leadership has identified and acknowledged the problems. Mr. Stockton's address to his civilian troops points to things they need to change and improve. For the most part this is not a new prescription as other speeches and presentations have said much the same in recent years.

Mr. Stockton's presentation includes wording that also should have shock value were it not for the fact that we are inured to the observations that there is "political and governance turmoil" that contributes to there being "no focus on America's needs and investment."

The United States is awash in water resource challenges. We have known for ages that there are fewer important resource needs central to surviving and thriving than water to drink, grow and flow. Economic globalization has put a spotlight on ports and shipping and thus the underwater infrastructure. There is no argument that oceans are rising. And decades of experience have shown that we cannot ignore the role that coastal and riverine waters play in maintaining the ecosystem. (A USACE video makes quick work of the facts and can be found here: http://youtu.be/486TdJ501LM.)

All these point to the long term relevance of the Corps of Engineers and the need to be organizationally and productively "RELEVANT!!" as Mr. Stockton intends it.

More importantly it points to Congress — in addition to states — being central to both the problem and the solution. These are serious, complex problems that require updated water policy, genuine consensus on how we shall address these survival issues, and long term investments.

We must insist on government tackling these issues. We have had plenty of reasons for pessimism but let us acknowledge a few recent, promising signs.

House and Senate Appropriations Committees, including the House Energy & Water Development subcommittee chaired by Rep. Rodney Frelinghuysen (R-NJ), produced USACE funding bills for FY 2014 that would boost port channel maintenance funding to a record $1,000,000,000, recognizing that Harbor Maintenance Tax user-paid revenues have been underutilized. This year we have seen the first serious action toward producing water resources (WRDA) legislation since 2007. The Senate passed its policy laden bill and we now look for the House to act on a draft bill during the coming autumn session.

*Paul Bea, the principal of PHB Public Affairs, is a government relations and policy advisor in Washington, DC. He blogs on marine transportation system matters at www.MTSmatters.com. Contact him at pbea@hhbpa.com.*

## We Want to Hear From YOU . . .

Attention all Maritime Exchange members! Beginning with the next issue of *The Beacon*, there will be a new feature to enjoy.

Members are invited to submit organizational profiles that tell our readers a little bit about who you are and what you do, news about your company's history and future plans, and the people in your company who make it all happen. Photos are welcome as well.

Interested members should send their company profile of 500 words or less to Beverly Ford at bford@maritimedelriv.com. Selection will be based on a first come first serve basis, so submit your information as early as possible. Articles are subject to available space and editor's approval.

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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# NY SNAFU a Teaching Moment for All Ports

Like gapers at a traffic accident, we outside the New York-New Jersey area are morbidly fascinated by the delays which plagued the port during the summer months. You can't help thinking, "oh, that poor guy." And then, perhaps somewhat guiltily, "thank the Lord it wasn't me."

In its simplest form, a computer glitch at one terminal facility caused a chain reaction which paralyzed the entire port region. A nightmare for any maritime executive: cargoes simply weren't moving. "Delays were so severe that container line Hapag-Lloyd urged customers to reroute cargo to other ports," according to one Journal of Commerce story.

Now, we could use this space to talk about how Delaware River port customers would never have to face the same problems and take advantage of the opportunity to solicit a host of new businesses. But that's not the takeaway from this story.

While the geopolitical environments of the NY-NJ and Delaware River port regions are somewhat similar – with both having multiple states, a combination of private and public terminal facilities, and a range of trucking providers from the owner-operator to the large conglomerates – they are different enough that it seems unlikely that a similar problem at one of our facilities would cause the same catastrophic chain reaction.

Unlikely, but not impossible.

Certainly, we don't have the congestion problems that hamper our neighbors to the north. While the Delaware River ports don't handle near the volumes, we do enjoy the luxury of a much larger waterfront that is ripe for port development. Witness the Southport and Paulsboro projects currently underway.

Beyond that, our relationship with the longshore labor force is one of mutual understanding and respect. While both employers and labor are dedicated to making the best deals they can, as they should be, overall the dialogue is positive, and our work force has time and again demonstrated its understanding of the business drivers that govern port customer choices. That is dramatically different from the environment in which the NY-NJ port operates.

But that doesn't insulate us from a single issue that could hamper operations throughout the region. Think back to 1989 and the grape issue, or perhaps the next superstorm veers in a slightly different direction and slams the Delaware Valley.

Our friends in NY-NJ are trying to learn from their experiences and they're taking steps to prevent future similar events where possible and improve their resiliency when disaster cannot be prevented.

We should be doing the same.

First, our terminal operators – and federal agencies, and all the other business which rely on a smooth supply chain – should become more active in the Area Maritime Security Committee resiliency planning efforts. In addition, our port community ought to look at other ideas which can help prevent or minimize the impact of events when they do occur. Some new initiatives will even improve the day to day operations of our port.

In the aftermath of the Sandy recovery and this latest incident, port businesses in NY-NJ are now looking at ideas such as standardizing gate procedures so drivers don't face a different system at each terminal and developing universal performance indicators for things such as truck turns. There are undoubtedly other opportunities to pursue.

Our port community is known for working closely together on issues of regional importance. The ideas under consideration in NY-NJ may or may not be useful in our area, but it's a discussion we should have.

# Tall Ships to Sail In for the 2013 Old City Seaport Festival

*By: Darrah Foster, Independence Seaport Museum*

The Independence Seaport Museum will host its annual Old City Seaport Festival on October 11, 12 and 13, 2013. The Old City Seaport Festival is a weekend-long event over Columbus Day weekend that brings tall ships, antique and classic boats, traditional small crafts, model ships and on-the-water family fun to the Port of Philadelphia.

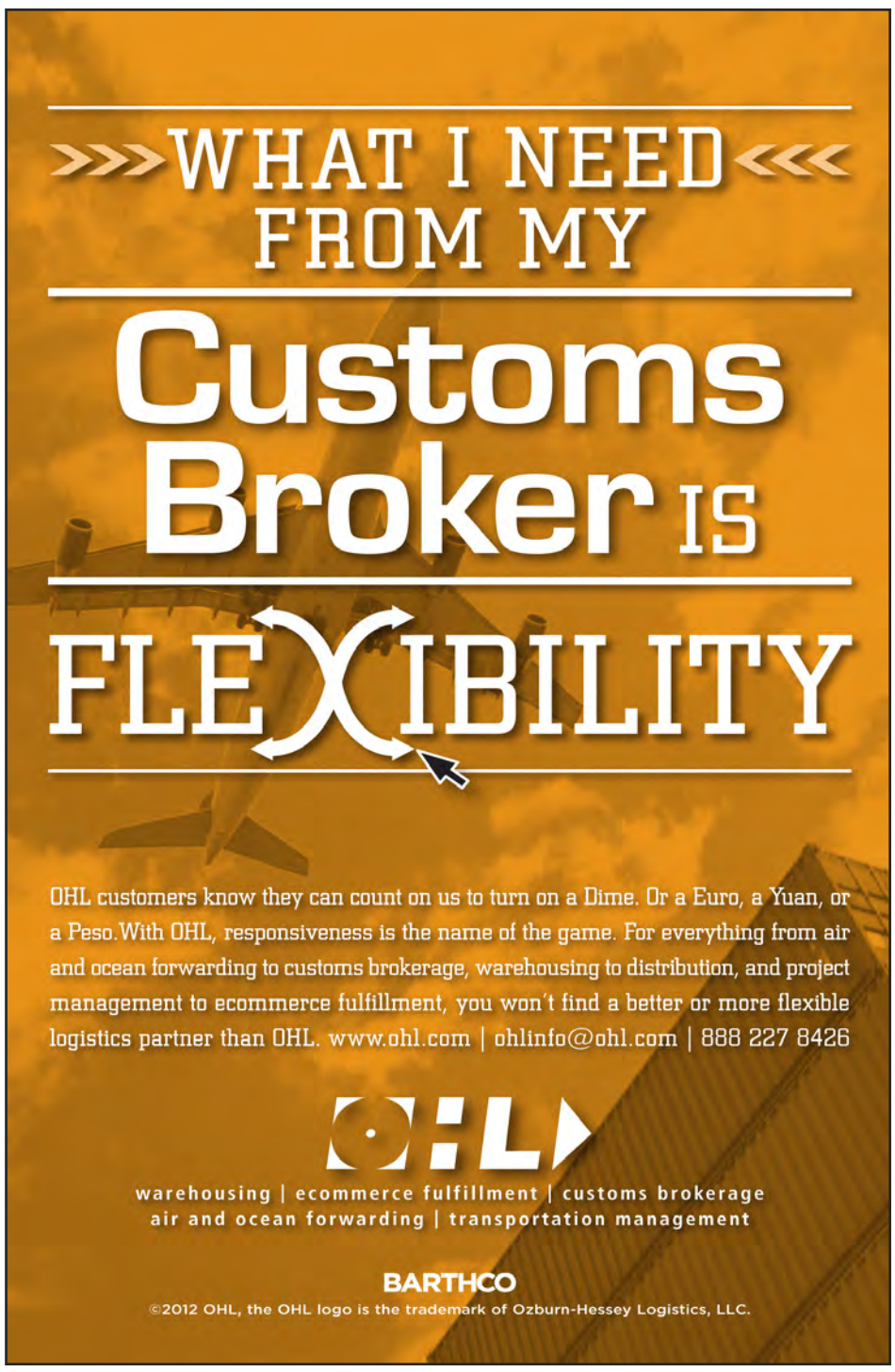
The main feature of the Old City Seaport Festival is the participating ships and boats that make their way to Philadelphia. There are seven confirmed tall ships that will provide deck and river tours. Boat enthusiasts and curious onlookers alike will have the experience of acquainting themselves with the ships firsthand. The ships include: *AJ Meerwald, Gazela Primiero, Pride of Baltimore II, Kalmar Nyckel, Mystic Whaler, Hindu and Virginia*. Also in attendance will be *Summer Wind, Patriot*, small crafts from the Traditional Small Craft Association – Delaware River Chapter as well as classic boats from the Antique and Classic Boat Society – Philadelphia Chapter.

The Seaport Museum is excited to partner with the TSCA Delaware River Chapter to manage the small boat races in the basin on Saturday and Sunday.

Boaters the Delaware River and beyond are invited to volunteering or showcase their vessels and should contact Gina Pickton at gpickton@phillyseaport.org or (215) 413-8688.







## Notes & News

The law and professional service firms of Clark Hill PLC and **Thorp Reed & Armstrong, LLP** recently announced an agreement to merge the two firms, each with more than 100 years of history. The combined firm includes more than 300 attorneys in a wide variety of practice areas, will operate in 12 offices in seven states and will utilize the brand name **Clark Hill Thorp Reed** in chosen markets, including all geographic markets where Thorp Reed & Armstrong has a presence today.

In June **Holt Logistics Corp**. presented four graduating seniors from Gloucester City with $500 scholarships each to be used for their matriculation to the United States Military Academy at West Point and the Naval Academy in Annapolis in the fall. Each of the four scholarship recipients exemplify the physical, mental and social prowess needed to be accepted into the prestigious Military and Naval Academies, and all share a goal of entering into military service from a very young age. The scholarships are a first for Holt Logistics Corp, which has a long history of hiring returning veterans. The company had been seeking ways to further support local young adults who choose to serve their country.

## WTA Names Holt Logistics as Company of the Year

Since 1931, the World Trade Association of Philadelphia has chosen to honor a company or individual who best supports the Port of Philadelphia. This year that recognition goes to Holt Logistics Corporation, named as the WTA "Company of the Year" award for 2013.

The event will take place on September 18 at Cescaphe Ballroom, 923 North 2nd Street, Philadelphia, starting at 6:00 pm.

For more information or to reserve your place, call 856-642-3957 or email wtaphila@comcast.net.

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## Upcoming Events

| | |
|---|---|
| 9/07/13 | Independence Seaport Museum 2013 Coast Day |
| 09/10/13 | Tri-State Maritime Safety Association Board Meeting |
| | Port of Wilmington Maritime Society Board Meeting |
| **09/11/13** | **Maritime Exchange Board Meeting** |
| | Seamen's Center of Wilmington Fall Fun(d) Raiser<br>Contact Joan Lyons: 302-575-1300 or seamenscenterwilmde@yahoo.com |
| 09/12/13 | Mariner's Advisory Meeting, La Veranda, Philadelphia, PA<br>Contact Scott Anderson: marinersadvisory@yahoo.com or 215-925-1524 |
| 09/13/13 | Ports of Philadelphia Maritime Society Russ Larsen Memorial Golf Outing<br>Springfield Country Club, Springfield, PA<br>Contact Mike Scott: mrscott24@yahoo.com |
| | Ports of Philadelphia Maritime Society Annual Crab Feast<br>The Deck at Harbor Pointe, Essington, PA<br>Contact Theresa Penot: 484-496-7305 or tpenot@nortonlilly.com |
| 09/17/13 | Seamen's Center of Wilmington Board Meeting |
| | Philadelphia Regional Port Authority Board Meeting |
| 09/18/13 | DRPA/PATCO Board Meetings |
| | World Trade Association of Philadelphia Annual Banquet<br>Cescaphe Ballroom, Philadelphia, PA<br>Contact Deborah Ingravallo: 856-642-3957 |
| **10/01/13** | **Maritime Exchange Executive Committee Meeting** |
| | Port of Wilmington Maritime Society Fall Luncheon<br>Contact Lindsay Penning: powms@wtcde.com or 302-656-7000 |
| 10/15/13 | Philadelphia Regional Port Authority Board Meeting |
| 10/12/13 | Delaware Hall of Fame Banquet & Induction Ceremony<br>Lewes Yacht Club, Lewes, DE<br>Contact Denise Seliskar at seliskar@udel.edu or 302-542-6797 |
| 10/16/13 | DRPA/PATCO Board Meetings |

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


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