
From: Brad Stellrecht
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/28/2013 5:09:49 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Address to:

Assistant Attorney General, Environmental and Natural Resources Division

Reference Case Number: (Must be included in subject line)

D.J. Ref. No. 90-5-1-1-10771

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

I support granting the Consent Decree to the SS Badger.

Brad Stellrecht
Country Road Rentals
brads@frontiernet.net

From: Gary Schlinkert
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/28/2013 5:15:14 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Good afternoon,

I believe that the consent decree should be approved.

Gary E. Schlinkert
Vice-President /Compliance Officer
West Shore Bank
201 W. Loomis St.
PO Box 627
Ludington, MI 49431
231.845.3500 x 3537
231.845.3502 - FAX
888.295.4373 - TOLL FREE
989.820.7811 - CELL
garys@westshorebank.com
www.westshorebank.com

CONFIDENTIAL

The information contained in this communication is confidential, may constitute inside information, and is only for viewing and use of the intended recipients. If you are not an intended recipient, you are hereby notified that any use, disclosure, or copying is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender at 231/845-3500.

From: Wayne Gorecki
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/28/2013 5:21:24 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Reference Case Number:
D.J. Ref. No. 90-5-1-1-10771

I would like the the ss badger to be able to put ash in the lake for two more years. It is a very good service, and the ash won't do as much damage as the government does daily. So please approve the Consent Decree. thanx

Wayne Gorecki
Director of Maintenance
WEL Companies Inc.
1625 S.Broadway
DePere Wi. 54115
920-339-0110 ext 2300
wayne.gorecki@welcompanies.com

CONFIDENTIALITY: This message is intended only for the addressee and may contain confidential, privileged information. If you are not the intended recipient, you may not use, copy or disclose any information contained in this message. If you have received this message in error, please notify the sender by reply e-mail and delete the message.

From: Alison Heiser
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/28/2013 5:43:34 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

I'm writing to express my support for the SS Badger Lake Ferry to continue to run. I have read conflicting reports about the environmental impact, but I am personally impressed as a regular ferry rider to see all the cars, trucks and other vehicles that are not consuming oil and creating emissions while we ride the ferry across Lake Michigan.

I support the approval of the Consent Decree.

Alison Heiser

Alison Heiser, Principal
Alison Heiser Associates, LLC
www.alisonheiserassociates.com
920-809-9008

From: John Brunner
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/28/2013 6:00:11 PM
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

To Whom This May Concern:

It's important to know just how much the SS Badger means to those of us who have businesses in Manitowoc. The Badger brings in tens of thousands of dollars each season, and for many of us, these dollars represent the little extra we need to stay viable. In addition, the Badger is not just a means of transportation, the Badger is a look back into a very important time here in Manitowoc. I time when ships of this type were constructed here and a time when dozens of large ships called ports like Manitowoc, home.

I believe that the consent degree is fair and just, and gives the operators of the Badger sufficient time to convert the discharge system so that the coal ash can be taken off the ship while docked and sent to a secure landfill facility. Please approve the consent decree and allow our Badger to continue sailing well into the future.

Thank you.

--

John Brunner

**The Fitness Store
1410 Dewey St
Manitowoc, WI 54220**

Serious Equipment for Serious Fitness!

From: Roger Rapoport
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 2:07:18 AM
Subject: Case D.J. Ref. No. 90-5-1-1-10771 Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Dear Department of Justice:

I am writing to support this consent decree.

Sincerely,

Roger Rapoport

--

Roger Rapoport
Michigan Blue Lake Production Group
1487 Glen Avenue
Muskegon, MI 49441
rogerdrapoport@gmail.com
231 720-0930
510 228-0300 (fax)

trailer: <https://vimeo.com/41629710>

website: www.waterwalkthemovie.com

www.facebook.com/waterwalkthemovie

<http://youtube.com/waterwalkmovie>

Hear Director Bob Cicchini and Author Steve Faulkner at

<http://tinyurl.com/78o6uc7>

From: Ed Piwonski
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 5:21:44 AM
Subject: why didn't you start this 2 years ago if you did it would be done

Best Regards,

Ed Piwonski
President
Global Refractory Installers & Suppliers
((920)562-4366
Fax (920)787-3866
**** ed.piwonski@globalrefractory.com***
8 www.globalrefractory.com

Winner of the Governor's 2010 Rising Star Award
Participant in the 2011 Green Bay Packer Mentor-Protégé Program

The preceding e-mail message (including any attachments) contains information that may be confidential, or constitute non-public information. It is intended only for the designated recipient. If you are not the named addressee, you should not disseminate, distribute or copy this e-mail. If you have received this e-mail by mistake, please notify the sender immediately by replying to this message and delete this e-mail from your system. Use, dissemination, distribution or reproduction of this message by unintended recipients is not authorized and may be unlawful.

From: Carl Freundl
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 11:47:24 AM
Subject: do not cancel the ss badger. it is a great resource for our economy
Attachments: image001.jpg

Best regards,

Carl F. Freundl President

Taking Service to the Next Level Since 1992

6172 Dixie Rd. Neenah, WI 54956

Phone: 920-722-2676

Fax: 920-232-1630

Re-inventing the great taste of popcorn

www.valleypopcorn.com



Flexible Packaging Professionals.

Perfect Packs of Popcorn Oil and Salt

From: Lisa
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 12:01:37 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

To: Assistant Attorney General, Environmental and Natural Resources Division

Re: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

From: Lisa Heisler 8614 Center Rd, Newton, WI 53063

I am writing you to tell you that I think the Consent Decree should be approved for the SS Badger. This vessel is an integral part of our community from a business perspective -- from employment to helping businesses who transport people and items across Lake Michigan; from a tourism perspective; from an environmental perspective as well as a historic and cultural perspective... it makes our community proud! We all feel good about all the good things the Badger does and stands for.

Thank you for your time and consideration.

A Proud user of the Badger and citizen of East Central Wisconsin

Lisa Heisler

Lisa Heisler, OTR, CAPS, CDCS
Guardian Angels C.S., LLC
8614 Center Rd, Newton, WI 53063
office: 920-726-4832
cell: 920-946-5571
GuardianAngels@Peoplepc.com

People may not remember exactly what you did, or what you said. However, they will always remember how you made them feel!

~Anonymous~

Confidentiality Notice: The information contained in this message may be privileged and confidential and is intended only for the use of the individual(s) or entity named above who have been specifically authorized to receive it. If the reader is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately.

From: Kurt Kreuter
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 12:24:44 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Hello, I am aware of the proposed 2 year deadline for the SS Badger to cease disposal of ash residue into Lake Michigan. My understanding is that the ash will be contained and disposed of on land after the two year window. This solution seems to be the only economically viable alternative.

I want to register my support for this reasonable compromise, given the economic and historical value of the Badger, along with the somewhat offsetting environmental value of reduced driving or air miles for vacationers, families separated by the lake, and people like myself who do business in both Wisconsin and Michigan. I live in Green Bay, Wisconsin and really enjoy the opportunity to do business in Michigan while experiencing the Lake from the deck of the SS Badger.

Thank you,

Kurt Kreuter

Kurt Kreuter

President, North America - Aromatic Inc.

Phone: (920) 639-0889

E-mail: kurt.kreuter@aromatic.eu

Skype: kurt.kreuter

From: Kevin Hackert
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: megan@ssbadger.com; tbrown@ssbadger.com
Sent: 3/29/2013 2:46:10 PM
Subject: SS Badger / Consent Decree
Attachments: image003.jpg

As a USCG Licensed Captain and a resident of Ludington Michigan, I would like to comment on the consent decree regarding the SS Badger.

Being Charter Fishing Captain on Lake Michigan, I am very concerned with the health of our lake, along with its ecosystem. Having lived in Ludington my entire life, I have seen the changes that have affected Lake Michigan ranging from invasive species, water levels, and water quality over the last 40 years. While the lake is in a state of constant change, the impact from the Badger has been proven by science to be a negligible factor among the threats to our air and water quality, and the overall health of the lake.

I have personally known the owners of the Badger for some time. They are men of integrity, and will certainly fulfill their obligations with regards to the consent decree. Ludington and Manitowoc both are recipients of the economic benefits resulting from the Badger and we hope to see this ship sailing for many years to come. Our local unemployment rate has hovered around 10% for several years now, and any jobs available are of great importance to our community.

We have much larger threats to Lake Michigan ranging from the uncontrolled discharge of raw sewage from Michigan and the surrounding States, the constant threat of invasive species that can cause severe impact to the ecosystem along with the economic impact to a Billion Dollar Sport Fishing Industry, as well as the discharge of water from Lake Michigan thru the Chicago Sanitary Canal. These threats are real and not just a Michigan issue, but also affect Indiana, Wisconsin and Illinois. All of the above have been proven by scientific studies as have the minimal effects of the SS Badgers discharge.

I would request that your decisions be based on irrefutable scientific data, and not on the emotion of groups with a personal, economic, or political agenda.

Sincerely,



Captain Kevin M. Hackert
FV Finlander
FinPower Charters, Inc
P.O. Box 487
Ludington, Michigan 49431
231-499-3009

From: Jason Ring
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 3:48:24 PM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: SS Badger Support Letter.pdf

Assistant Attorney General
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

Dear Assistant Attorney General,

This letter is in regards to case number: **D.J. Ref. No. 90-5-1-1-10771, Case Name:** United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

As President of the Manitowoc Area Visitor & Convention Bureau, representing Manitowoc and Two Rivers, WI I would like to share with you the importance of the S.S. Badger to the economy of our community, why we support the continued operation of the S.S. Badger and why you should too!

To put it simply, shutting down the S.S. Badger would be devastating to the economies of many communities in the upper Midwest, including the cities of Manitowoc & Two Rivers.

The S.S. Badger is an economic lifeline to Manitowoc, WI as well as many of the surrounding areas. It provides an overall economic impact of \$14 million for Manitowoc and its neighbors. Not only does the S.S. Badger drive tourism in our region but also provides critical transport and cargo shipping for Midwest businesses like Tower Tech Systems which provides components for the wind power industry, creating green energy.

Without the S.S. Badger transporting residents, tourists and cargo each year, thousands of cars and trucks would be forced to make the eight-hour trip around Lake Michigan, clogging already congested roadways and adding air pollution to the region. The Badger prevents the use of one million gallons of fuel each year and eliminates the emission of pollutants that would otherwise contribute to smog and climate change.

The owners of the S.S. Badger, Lake Michigan Carferry, are committed to designing and installing an ash retention system to end the discharge of ash into Lake Michigan.

I am not blindly supporting the S.S. Badger at the expense of Wisconsin's most important natural resource; the pristine coast of Lake Michigan is a huge part of our tourism product. As such it plays a key role in the brand which we promote to visitors and we would never support anything which might jeopardize that brand. We are strongly committed to protecting Lake Michigan. There must be a balance between the environmental impact of the S.S. Badger and the economic realities facing communities along Lake Michigan.

I urge you to support a balanced plan – one that supports the hardworking men and women of our community while ensuring the S.S. Badger has time to install an ash retention system.

Sincerely,

Jason Ring, President
Manitowoc Area Visitor & Convention Bureau
PO Box 966; 4221 Calumet Ave.
Manitowoc, WI 54221-0966
920-686-3071 Fax: 920-683-4876
www.manitowoc.info
Follow us on [Twitter](#) and [Facebook](#)

The mission of the Manitowoc Area Visitor & Convention Bureau is to promote, support and encourage development and implementation of tourism in the Greater Manitowoc Area.



VISITOR & CONVENTION BUREAU

Assistant Attorney General
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

Dear Assistant Attorney General,

This letter is in regards to case number: **D.J. Ref. No. 90-5-1-1-10771, Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger**

As President of the Manitowoc Area Visitor & Convention Bureau, representing Manitowoc and Two Rivers, WI I would like to share with you the importance of the S.S. Badger to the economy of our community, why we support the continued operation of the S.S. Badger and why you should too!

To put it simply, shutting down the S.S. Badger would be devastating to the economies of many communities in the upper Midwest, including the cities of Manitowoc & Two Rivers.

The S.S. Badger is an economic lifeline to Manitowoc, WI as well as many of the surrounding areas. It provides an overall economic impact of \$14 million for Manitowoc and its neighbors. Not only does the S.S. Badger drive tourism in our region but also provides critical transport and cargo shipping for Midwest businesses like Tower Tech Systems which provides components for the wind power industry, creating green energy.

Without the S.S. Badger transporting residents, tourists and cargo each year, thousands of cars and trucks would be forced to make the eight-hour trip around Lake Michigan, clogging already congested roadways and adding air pollution to the region. The Badger prevents the use of one million gallons of fuel each year and eliminates the emission of pollutants that would otherwise contribute to smog and climate change.

The owners of the S.S. Badger, Lake Michigan Carferry, are committed to designing and installing an ash retention system to end the discharge of ash into Lake Michigan.

I am not blindly supporting the S.S. Badger at the expense of Wisconsin's most important natural resource; the pristine coast of Lake Michigan is a huge part of our tourism product. As such it plays a key role in the brand which we promote to visitors and we would never support anything which might jeopardize that brand. We are strongly committed to protecting Lake Michigan. There must be a balance between the environmental impact of the S.S. Badger and the economic realities facing communities along Lake Michigan.

I urge you to support a balanced plan – one that supports the hardworking men and women of our community while ensuring the S.S. Badger has time to install an ash retention system.

Sincerely,

Jason Ring, President
Manitowoc Area Visitor & Convention Bureau

. COAST FOR A WHILE .

www.manitowoc.info

1-43 at US 151 | PO Box 966 | Manitowoc, WI 54221-0966
Phone 920-686-3070 | Toll Free 1-800-627-4896 | Fax 920-683-4876

From: Rob Bailey
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/29/2013 5:57:10 PM
Subject: Reference Case Number: 90-5-1-1-10771
Attachments: US EPA Certificate of Recognition - 2004.pdf

Dear Sir/Madam:

Please consider this notification to be of my approval of the Consent Decree in favor of the Lake Michigan Carferry Services and SS Badger.

As both a citizen of the lakeshore community of Manitowoc and as a small business, the SS Badger has greatly added to our quality of life and to my business travel, respectively.

As a professional within our very important manufacturing industry, I am also very active in ensuring balance between responsible management of a company and its environmental responsibilities. To borrow an old phrase "I am an active environmentalist, not an environmental activist". The balance that the SS Badger and its company's commitment to improve the situation for these issues when reconciled with the environmental benefits that its service allows (transportation of components to build wind turbines that otherwise would cause much greater environmental losses by overland transportation methods to assembly areas in Michigan, long – haul truck transport, etc.) is by far justification for the approval of this Consent Decree.

Short-sighted myopic activists that look only at the ash disposal aspect are not part of the solution but are a significant part of the problem. By attempting to micro-manage this very small part of the environmental challenges we face, they cause distraction for our government agencies from improving far greater environmental problems.

To back up the fact that I walk the walk and do not just talk the talk; please find attached the Certificate of Recognition that I have received as part of a team of American and Australian technical professionals that solved environmental balancing of manufacturing needs with environmental improvements, in concert with reducing manufacturing costs while reducing GWP emissions. Our efforts reduced over 200,000 tonnes per year of CO2 – equivalent GWP emissions in manufacturing plants without increasing operating costs for the business. Not in labs, not just speculation by activist journal articles but actual improvement in the environment with voluntary participation with industry.

I have participated in Germany on REACH environmental compliance groups for the magnesium industry and also spoken in China on reducing carbon footprint contribution within the magnesium industry. With that said, I firmly believe that the continued service of the SS Badger as our conduit to Michigan from Wisconsin is an environmental net positive versus not having it in service and therefore it is my opinion that the Consent Decree should most certainly be approved on these merits alone.

I can certainly go onto to other justifications regarding the fact that the SS Badger was one of the reasons that I relocated to Manitowoc in 2004 for both quality of life and stress – free access for my company to my Michigan and Ontario customer base but as I doubt that a single private citizen's view or a small business's needs would really matter in this decision, I will stick with this fact (the denial of the Consent Decree would be a negative step for our environment) as the major justification for approval.

Sincerely,

Rob Bailey
B. S. Metallurgy, Inc.
1601 Madison Street
Manitowoc, WI 54220

Mobile: +1 920 860-6015

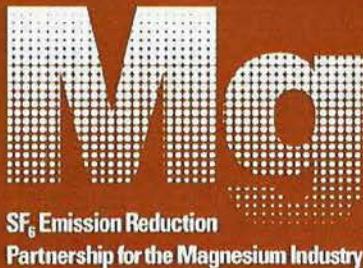
www.bsmetallurgy.com

3rd International Conference on
SF₆ and the Environment
Scottsdale, Arizona

Certificate of Recognition
is Awarded to

Advanced Magnesium Technologies
Cooperative Research Centre for
Cast Metal Manufacturing

For Outstanding Technical
Contributions to EPA's SF₆ Emission
Reduction Partnership



Awarded on
December 1, 2004

A handwritten signature in black ink, appearing to read "Scott Bartos".

Scott Bartos
EPA Program Manager

From: contact@cleanwateractioncouncil.org
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 3/30/2013 7:12:43 PM
Subject: Comment on LMC's consent decree
Attachments: sigimg0

Assistant Attorney General
Environment and Natural Resources Division

Dear Sir or Madam:

The Clean Water Action Council is opposed to the Consent Decree allowing the Lake Michigan Carferry to continue operating without making any immediate changes to their procedure of dumping coal ash into Lake Michigan adding to mercury levels in the lake environment and subsequent effects on the fishery. LMC's SS Badger has operated for many years without the company making any serious effort to meet current regulations which protect human health and the environment.

The Consent Decree is much too favorable to LMC in light of their lack of efforts to meet current standards. Please do not approve as currently written.

Sincerely,

Dean Hoegger



Dean Hoegger, President
cleanwateractioncouncil.org
P.O Box 9144
Green Bay, WI 54308
www.cleanwateractioncouncil.org

From: John Persson
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Susan Persson Persson; Me Persson
Sent: 4/2/2013 3:44:33 PM
Subject: DJ Ref. No. 90-5-1-1-10771; United States vs Lake MI Trans-Lake Shortcut, Inc. d/b/a Lake MI Carferry Services and SS Badger

Dear Sirs;

I am a resident and physician living in Ludington, and I write this letter to urge you to give the SS Badger time needed to convert from current power source to a more environmentally acceptable fuel source. The Badger is an important hub for those travelling to and from Michigan to the Wisconsin and further west/east, is an important employer in the area, and an extremely unique and timeless mode of transportation, which draws tourists/travellers from around the world. It would devastate the economies of both states, and place a heavy burden on the over taxed roadways of the Chicago area. Please consider this vital issue with appropriate insight and responsible conclusions.

Respectfully

John C. Persson, D.O., FACOI

From: Anne Rolecki
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/2/2013 5:04:39 PM
Subject: Carferry Decree

Hello,

Our dental office (9 staff members and 2 doctors) is in support of the Consent Decree regarding the Lake Michigan Carferry (SS Badger). Thank you for allowing a public comment period on this issue.

Sincerely,

Anne Rolecki, DDS
Michael Burgardt, DDS

410 E. Ludington Avenue
Ludington, MI 49431
(231) 843-9810

From: Gail M. Turluck
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/3/2013 11:34:25 AM
Subject: Badger Car Ferry

I'm a lifetime sailor of Lake Michigan and all the Great Lakes. Many times I've had a crossing with the Badger, or been in Ludington when she's come to the dock. I would like to see her continue to sail, but agree it's time to clean her up a little.

Seeing that there was an opportunity to change her over to diesel and it did not occur is disappointing (though I'm NOT a fan of diesel, either. There are LOTS of articles about it being very polluting, too).

Two additional years is an acceptable period for the owners to either find a way to power her up that is acceptable in today's ecological standards, or make the tough decision that it costs too much and sell her off to someone who will or to the scrap heap. I hope something is done so she may continue to sail.

Sincerely,

Gail

~~~/\~~(\~~/\)~~~~/\)~~~~/\)~~(\~~~/\)~~~~

**Gail M. Turluck**

*President*

Connective Marketing, LLC

*Director*

*ViSalus Sciences - The Body by Vi 90 Day Fitness Challenge*

<http://connectivemarketing.myvi.net>

Life | Health | Prosperity

*Senior Distributor*

*Send Out Cards*

[www.sendoutcards.com/95268](http://www.sendoutcards.com/95268)

1245 West Gull Lake Drive

Richland, MI 49083

Phone: 269.998.6353 | FAX: 786.358.3605

~~~/\~~(\~~/\)~~~~/\)~~~~/\)~~(\~~~/\)~~~~

From: Cartier Mansion
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/4/2013 10:22:30 AM
Subject: we support the Badger

To Whom It May Concern,

This letter is to let you know that we want the badger to be allowed to continue. As a B&B it would affect our business substantially if they were not allowed to sail. Please work with the Badger and we believe all parties can be happy. Thank you,

Gary and Sue Ann Schnitker (Owners and Innkeepers)
Cartier Mansion Bed & Breakfast and Event Center
409 East Ludington Avenue
Ludington, MI 49431
231-843-0101
www.cartiermansion.com

From: Peri Lundberg
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/4/2013 11:10:15 AM
Subject: Lake Michigan Car Ferry from Ludington

Please approve the Consent Decree for the Lake Michigan Car Ferry.
It is such a convenient necessity for several citizens of Michigan and Wisconsin, as well as novelty for our
tourism businesses.

Thank you
:)

Peri Lundberg - REALTOR :)

Century 21 Bayside

325 S. Brie Rd.

Ludington, MI. 49431

1-800-968-0962

231-590-0711 (cell)

231-843-1815 (fax)

peri.lundberg@century21.com

From: Bruce Hasenbank
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/7/2013 10:20:28 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Case Name:

United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Car ferry Services and S.S. Badger

As a small business owner in Manistee County and 40 year rider of the SS Badger I strongly support the Lake Michigan Car ferry and the Consent Decree agreement with the Department of Justice and the EPA. The tiny amounts of "toxic" materials discharged by the SS Badger compared to the massive amounts from the Illinois factories make this decision obvious.

Bruce

--

Bruce Hasenbank

BA, CIEC, CMRS, WRT, ASD, CBST

Vice President

Servpro of MLC

Office 877.350.4872

Fax 231.723.4870

Cell 231.510.8616

bruce@servproofmlc.com

Web servproofmlc.com

From: Frances Andrews
To: ENRD, PUBCOMMENT-EES (ENRD); ludingtondailynews@ldn.com
Sent: 4/6/2013 12:17:55 PM
Subject: Case Number D.J. Ref. No. 90-5-1-1-10771 Continuing operation of the Carferry Badger

Gentlemen and Ladies -

News of an agreement in this matter is welcomed as long overdue. It is difficult for me to understand the hue and cry over the operation of the one remaining coal fired boat providing passenger and freight service on the great lakes when the lakes were so served by more than 100 boats for and over a period of 100 years. The reduction in discharge volume occasioned by the natural evolution of transportation systems in the county has brought more results on the water than regulation. The potential adverse impact of this one remaining coal fired boat is infinitesimal when viewed with an historic perspective, and also when placed in perspective with the many other sources of pollution with which we live. Its continued existence is a drop in the ocean of our world of environmental concern and awareness. That common sense has prevailed and that a logical and appropriate common ground has been identified and occupied is a relief to my sense of proportion in the world.

It is my impression that much of the impetus for concern about the operation of this vessel, and its potentially adverse discharge activity, stems from motives less commendable than a genuine concern about the environment and the health of our country's midwestern population. This vessel has, in my opinion, a cultural and economic impact upon the area which it serves which greatly outweighs the risks associated with its operation. We are fortunate to have the service of two cross-lake means of transportation which complement each other in their schedules and their capabilities. They serve differing customer bases, and each provides an aspect of service and capability unmatched by the other. Our region would be adversely affected by the loss of either. That their customer bases both overlap and yet differ is, in my opinion, a great advantage to the transportation needs of our country. The loss of either operation would be substantially detrimental to the economies of the entire midwest region of the country, but particularly so for both out-state Michigan and up-state Wisconsin and southern Minnesota.

An additional aspect of the continuing operation of the Badger is the opportunity to continue seeing an evolutionary stage of basic transportation operating effectively in the modern world. Our history institutions and museums are challenged with keeping their displays interesting and relevant in an ever more technical world. The continuing opportunity to see in action and effective use an older technology is a teaching and learning experience which enhances interest in and understanding of the mechanical processes which enrich our lives and the very existence of the human race. Its presence in our lives provides confidence in the durability of our creations, our developments, our current production and the seeds of our vision and imagination. Creative minds and hands are stimulated by their observation and exploration of both the functions and the limitations of our existing technology. It is consequential to our continuing progress as a culture and as tenants of our world that we provide as much diversity of thought and technology as our society can tolerate to stimulate both scientific and cultural advancement. To do otherwise is both shortsighted and contrary to the philosophy upon which our country was founded.

It is your responsibility to consider the thoughts and prejudices which emanate from a wide range of knowledge and experience. You do not have the benefit of insight into the substance or depth of these current scattered comments, and we do not offer our credentials or our resumes with our communications. Thank you for your insight, your judgement and your determination to effectively balance the equities.

Respectfully,

Robert D. Andrews
Attorney at Law
Ludington, MI 49431

From: Linda Hartley
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/5/2013 10:43:47 AM
Subject: Consent decree for the Ludington Badger; case number D.J.Ref. No. 90-5-1-1-10771
Attachments: image001.jpg

TO: Assistant Attorney General, Environmental and Natural Resources Division:

I would like to express my opinion for the case: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger.

I would like the Consent Decree regarding this to be approved. This service is very essential in serving the public and our local community in Ludington, Michigan as well as the surrounding communities.

Thank you for your consideration.

Sincerely,

Linda Hartley,

Membership Officer/Safe Harbor Credit Union

Linda Hartley
Safe Harbor Credit Union
Membership Officer

231-843-2323 ext 226
lhartley@safeharborcu.org
www.safeharborcu.org

PO BOX 980
1200 E Tinkham Ave
Ludington, MI 49431
Fax: 231-845-7654



2349772

PHYSICAL DOCUMENT

ENV_ENFORCEMENT-n2349772-v1

PUBLIC COMMENTS ON THE PROPOSED CONSENT DECREE

Author: Maher, Robert

Document Type: LETTER

LSA(s): BDOUGLAS

Co-Counsel:

Counsel LSA(s):

Distribution List: ENRD, EESCaseManagement (ENRD); Lattin, Sue (ENRD); Rose, Robert (ENRD); Berman, Lisa (ENRD);Maher, Robert (ENRD);Douglas Jr., Belton H (ENRD)

Fileroom: EES - 6th Floor

DJ#: 90-5-1-1-10771

Case Name: U.S. V. LAKE MICHIGAN TRANS-LAKE SHORTCUT, INC., D/B/A LAKE MICHIGAN CARFERRY SERVICE AND S.S. BADGER

Court:

Notes:

Double-Sided:

Received Date: 4/8/2013

Urgent:

Oversize:

Bound Document:

MAHER, ROBERT

Vista Villa Motel

• Phone
• Air
• Cable TV
DEPT. OF JUSTICE - ENRD
ENVIRONMENT DIVISION

Dave & Georgene Horowski
916 E. Ludington Avenue
Ludington, Michigan 49431

(616) 843-9320
1-800-358-2402
FAX (616) 845-6699

13 APR -8 A9:52

Attorney General US DOJ-ENRD
PO Box 7611
Washington, DC 20044-7611

March 31, 2013

Dear Sir:

My husband and I were in business when the Badger stopped running for a time. So I know what an impact it has on business we had a very slow period.

The Badger is a beautiful ship and we are proud of her. In the summer you can find many of us on the dock watching her coming and going.

It is not only a pleasure ship but it also transports freight and travelers. It connects US highway 10 from Michigan to Wisconsin.

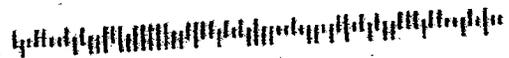
I've heard so many people say how grateful they were they didn't have to drive around Chicago

Save our Historic ship. The small amount of mercury it leaves behind is like a few drops of oil cars leave behind on the highway

Sincerely
Emma Horowski

CORR. 90-5-1-1-10711

20044761111



20044-7611

Washington, DC

Attorney General
PO. Box 7611

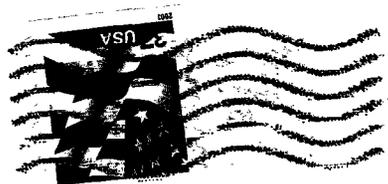
US DOT-ENRD

X-RAYED

APR 04 2013

DOJ MAILROOM

EMMA Horowski
916 E. Ludington Ave.
Ludington, MI 49431



POSTAGE WILL BE PAID BY ADDRESSEE
NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

From: Hessel, Jerry
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 9:21:02 AM
Subject: Badger Ship Ref. No. 90-5-1-1-10771
Attachments: image001.jpg

To Assistant Attorney General, Environment and natural Resources Division

I am writing to express my support of the SS Badger to continue sailing with current engine design, fuel type and disposal method. Certain environmental changes require action and I support a clean environment but requiring the badger organization which provides a vital link to upper Wisconsin and Michigan should not be on your change list. The consent decree should allow the SS Badger to continue to operate and provide economic growth to two states upper geographical territories hard hit by the latest recession. I appreciate your support of the SS Badger company.

Jerry Hessel, *Executive Vice President Business Development*
MENASHA PACKAGING COMPANY, LLC
1645 Bergstrom Road
Neenah, WI 54956
920-751-1259 Office
920-428-6168 Mobile
jerry.hessel@menasha.com
www.menashapackaging.com



This email contains client-specific, confidential and/or proprietary information intended only for the individual(s) named above. If you have received this message in error, destroy this original message and all copies. Please contact the Sender to advise of the incident.

From: VanDyke, Julie L
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 10:31:59 AM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image003.png

Dear Assistant Attorney General, Environmental and Natural Resources Division:

I am writing in regards to D.J. Ref. No. 90-5-1-1-1077: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger.

I would like to give my full support to the Lake Michigan Carferry Services and SS Badger, as they are a major employer and destination in our community. In regards to economic development in Mason County, this business plays an important role. Thousands of tourists are drawn to Mason County to ride the SS Badger each summer. These tourists eat, stay and entertain at our local establishments. Without this draw of consumers, the Ludington area businesses would not survive. It is these same businesses that employ our local residents. The trickle-down effect of losing the services of Lake Michigan Carferry Services and SS Badger would be detrimental to Mason County.

I strongly encourage you to agree to the Consent Decree and keep the Lake Michigan Carferry Services and SS Badger open and working for our community.

Thank you for your consideration.

Julie Van Dyke, Director
Business Opportunity Center
West Shore Community College
Ph & Fx 231.843.5903
ilvandyke@westshore.edu



From: Liz Starke
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 11:35:45 AM
Subject: SS Badger

Hello,

I would like to submit a comment in reference to United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771. As a Michigan citizen and recent college graduate, I fully support the EPA's effort to make the SS Badger stop dumping coal ash into Lake Michigan. It is unacceptable to continue to pollute our lake in this way, especially when it forms a part of the world's largest and best available freshwater source. This is an extremely significant resource not only in terms of fresh water, but in terms of it being my home! I grew up along the shore of Lake Michigan, and am outraged that the Badger is allowed to destroy it in this way.

Thank you,

Liz Starke
Michigan Student Sustainability Coalition Coordinator
National Wildlife Federation
w: 734-887-7139
c: 616-212-7443
@the_mssc

From: Carolyn Mack
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 11:49:25 AM
Subject: D. J. Ref. No. 90-5-1-1-10771

United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger
Consent Decree should be approved.

To take the Badger off the waters of Lake Michigan (might) solve one problem and create many more.
Think of the Fuel, air pollution, more frequent road repairs, not to mention safety issues involved, that would be created
without the Badger.

WE NEED THE BADGER!

Carolyn Mack

Carolyn Mack Tours, LLC
9712 Palmetto Ct.
Portage, MI 49002
269.327.4389
Fax: 269.327.4390
carolynmacktours@sbcglobal.net

From: GERALDINE CONRAD
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 2:04:03 PM
Subject: Lake Michigan Carferry, Inc., S.S. Badger
Attachments: IMG_0194.jpg

Please do not proceed with this approval of coal ash pollution in our beautiful lake. We should be ashamed of allowing garbage at a time when we appreciate how precious potable water is to our region.

A large, bold, black handwritten signature that reads "Ger".

Geraldine Conrad
Policy and Persuasion
773-404-9842
conradger@gmail.com
gerconrad@me.com

geraldineconrad.com

From: Reder, Russell L
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 2:29:30 PM
Subject: S.S. Badger
Attachments: image001.png

The rampant pollution of our drinking water supply for a “profit venture” has to stop now!

End the permits and stop that filthy ship.

Russell Reder
QA Project Manager
AbbVie

1 N. Waukegan Rd
AMJ23, D044T
North Chicago, IL 60064

Office +1 847 937 2563
Fax +1 847 937 3613
Cell +1 847 691 6572
russell.reder@abbvie.com

The logo for AbbVie, consisting of the word "abbvie" in a lowercase, sans-serif font.

The information contained in this communication is the property of AbbVie, is confidential, may constitute inside information, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication (or any part thereof) is strictly prohibited and may be unlawful. If you have received this communication in error, please notify AbbVie immediately by replying to this e-mail, and destroy this communication (or any copies thereof) including all attachments.

From: Duvall, Toni
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 3:35:23 PM
Subject: D. J. Ref. No. 90-5-1-1-10771

To Whom It May Concern:

Please keep the Lake Michigan Carferry (Badger) running. Our little city of Manitowoc totally depends on the customers you ride this ship. In these days of such hard times; please consider the impact of what this mean for us. The minuscule amount of coal ash that is omitted from the ship is just that minuscule.

Thank you,

Toni Duvall

Office Receptionist

tduvall@wisconsinmaritime.org

Wisconsin Maritime Museum

75 Maritime Drive

Manitowoc, WI 54220

P: 920-684-0218 ext. 102

F: 920-684-0219

Visit our website: wisconsinmaritime.org

From: Erica Karmeisool Reed
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/8/2013 4:41:37 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General, Environmental and Natural Resources Division-

I am writing in regards to case: *United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger* to express my **support for approval** of the signed Consent Decree agreement with the Department of Justice and EPA that will require the SS Badger to end the ash discharge within two years.

I urge the court to approve the decree, as it is in the public interest for the following reasons:

- The SS Badger is a significant, historic vessel and integral to the local culture of Ludington
- It is essential to the local economy - not just for the immediate jobs provided by the CarFerry, but the tourism impact it draws to our area
- We want to protect our waters, and feel this is an acceptable agreement, which considers the importance of BOTH the history and the environment

Please consider my comment for approval of the decree.

Sincerely,

Erica Karmeisool Reed
Executive Director
Ludington Area Center for the Arts
107 South Harrison Street
Ludington MI 49431
231-845-2787
director@ludingtonartscenter.org
www.ludingtonartscenter.org

From: Julia Miller
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/9/2013 11:40:23 AM
Subject: D. J. Ref. No. 90-5-1-1-10771

I feel as an owner of a trucking company that uses the SS Badger aot that the consent decree should be approved. I know that many driving hours, excess polution and the conjection of the highways around the southern end of Lake Michigan are diverted by the SS Badger in the summer time when we have loads in Wisconsin to deliver and pick up to bring back to Michigan. And the Lake Express out of Muskegon is out of the question because they do not service large vehicles.

This does not even include that if the Badger is shut dodwn the jobs that would be lost not just on the Badger, but also in Wisconsin and Michigan. I personally know a few people that this would affect.

Sincerely,

Julia Miller
Countyline Trucking LLC
Pentwater, MI



2351458

PHYSICAL DOCUMENT

ENV_ENFORCEMENT-n2351458-v1

PUBLIC COMMENTS ON PROPOSED CONSENT DECREE

Author: Maher, Robert

Document Type: PLEADING

LSA(s): BDOUGLAS

Co-Counsel: SMAJUMDAR

Counsel LSA(s): ICOVINGT

Distribution List: ENRD, EESCaseManagement (ENRD); Lattin, Sue (ENRD); Rose, Robert (ENRD); Berman, Lisa (ENRD);Maher, Robert (ENRD);Douglas Jr., Belton H (ENRD);Majumdar, Sumona (ENRD);Covington, Imogene (ENRD)

Fileroom: EES - 6th Floor

DJ#: 90-5-1-1-10771

Case Name: U.S. V. LAKE MICHIGAN TRANS-LAKE SHORTCUT, INC., D/B/A LAKE MICHIGAN CARFERRY SERVICE AND S.S. BADGER

Court: MI W.D. Mich.; 6th Cir.

Notes:

Double-Sided:

Received Date: 4/11/2013

Urgent:

Oversize:

Bound Document:

Maier, Robert

Jacobs & Associates
402 Center Street
North Muskegon, MI 49445-3186
231-720-0892

Sales Management • Product Marketing and Development • Sales and Distribution

April 8, 2013

Assistant Attorney General, Environment and Natural Resources Division
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

DEPT. OF JUSTICE - ENRD
ENVIRONMENT DIVISION
13 APR 11 P 3:01

Subject: D. J. Ref. No. 90-5-1-1-10771

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Dear Sirs:

I am writing to you to voice my opinion on the above case concerning the SS Badger Lake Michigan Carferry service. Please review the following opinions concerning this case.

- My family and I have used the SS Badger several times over the years to cross Lake Michigan to travel to Wisconsin destinations. We are able to avoid the dangerous traffic and congestion in the Chicago, IL area, and significantly reduce the driving miles to reach destinations including Appleton, Stevens Point, and others in WI.
- I have separately used the SS Badger for business reasons on several occasions to travel to WI on business trips to visit customers located in several WI cities. Again, I was able to reduce the driving miles, and avoid the traffic problems in the Chicago, IL area.
- The SS Badger is very important to the economy of W.MI and MI overall. Plus, it is equally important to the economy of E.WI and Wisconsin overall. Loss of the SS Badger service will further damage the fragile economies of MI and WI, and result in the loss of many jobs. It is important that the SS Badger service continue to operate.
- The Lake Express ferry service between Muskegon, MI and Milwaukee, WI is not a viable alternative cross lake service for me because:
 - It is expensive – more expensive than the SS Badger service.
 - It is a small ship – I do not feel safe using this service especially if the weather on Lake Michigan is not calm.

CORR. 90-5-1-1-10771

April 8, 2013

Page 2

D. J. Ref. No. 90-5-1-1-10771

United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan
Carferry Services and SS Badger

- The SS Badger is important because the large ship is able to carry buses, and large trucks – a service that the smaller Lake Express is unable to provide. Buses and large trucks heading to destinations east or west are able to avoid the traffic problems in the Chicago, IL area.

We strongly feel that the Consent Decree should be approved. If the SS Badger service does not continue it will be a loss for my family, and a loss to my business. It will be an economic loss to the economy of Ludington and W.MI. It will be an economic loss to the economy of Manitowoc and WI. MI and WI. The Midwest and the U.S. overall cannot afford more job losses that will result if the SS Badger is not allowed to sail in the future.

Thank you for this opportunity to submit our thoughts and reasons why we want the SS Badger service to continue in the future.

Sincerely,



Arthur E. Jacobs
Jacobs & Associates

POSTAGE WILL BE PAID BY ADDRESSEE

50-0763
MI 49445-1180
1180
1180

Jacobs & Associates
402 Center Street
North Muskegon, MI 49445

Assistant Attorney General
Environment and Natural Resources Division
U.S. DOJ-ENRD
P.O. Box 7611
Washington, DC 20044-7611



X-RAYED
APR 11 2013
DOJ MAILROOM



20044761111



From: Pam Prior
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/11/2013 1:13:06 PM
Subject: US v. Lake Michigan Trans-Lake Shortcut
Attachments: image001.jpg

Assistant Attorney General, Environment and Natural Resources Division

Reference Case Number: D.J. Ref. No. 90-5-1-1-10771 (must be included in subject line)

Case Name:

United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and S.S. Badger

I would like to express my opinion to continue the path to ending the discharge of coal ash into Lake Michigan and give the Lake Michigan Carferry Services time to work on another alternative plan. We should definitely allow the Lake Michigan Carferry Services and the SS Badger to operate and serve the public and local communities. It is a very important part of the Ludington community and many businesses here. I work at WMOM radio and our station is a huge supporter of the Lake Michigan Carferry Services. I personally have always promoted the Lake Michigan Carferry Services. It brings many visitors to our area and it is very beautiful to watch coming in and out of the channel.

Thank you.

Pamela Prior, Marketing Consultant
Bay View Broadcasting Station
231-690-3188 cell
231-845-9332 fax
pamela@wmom.fm



From: John Jones
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/11/2013 1:26:45 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General, Environment and Natural Resources Division
Regarding: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Car ferry Services
and S.S. Badger

Please Consider the Historical Value of A steamship on the Great Lakes. Once you eliminate this operation, it is gone forever. May seem like a good idea for the environment now and meet all political agendas however consider the possibility to future generations. Sure they can read about the "Olden Days" of transportation but to experience the actual trip may out weigh the minuscule effect on the Great Lakes' integrity. Thanks For taking a moment to consider your actions. Very Best Regards, Jack

Jack Jones Insurance
5792 us 10 west
Ludington, MI 49431
Office 231-843-1459
Cell 231-920-5586
Fax 231-843-7041

From: David F. Betz
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/11/2013 4:02:14 PM
Subject: D.J.Ref.No.90-5-1-1-10771

Dear Asst.Atty General

This email is sent re the case of US v Lake Michigan Translake Shortcut , Inc d/b/a Lake Michigan Carferry Services & S.S. Badger.

As a resident of Ludington since 1944 and owning & operating a law practice here since 1964 I fully support the terms of the recent Consent Degree to allow the S.S. Badger to continue its cross lake service while eliminating in 2 years the discharge of coal ash.

At one time 7 carferries ran from Ludington to 3 ports in Wisconsin. I sailed the Great Lakes for 6 years during the summer months in order to pursue & receive a college education and law degree--my last 3 years on the carferries. Had it not been for that job I would not have been able to attend law school as I did not come from wealthy parents. I went to undergraduate college @ Marquette Univ in Milwaukee with many of my high school grads & the carferries allowed us to see our families often. We did not have cars & thus could not drive around Lake Michigan

Many of my contemporaries were in the same position; work on the carferries, save money, get a college education & make the world a better place. Had it not been for that job, who knows what would have become of us. The same holds true for all the young people now employed for the summers.

Many, many people are still employed by Lake Michigan Carferry Service and they and their families are dependent on that income to provide the necessities of life. To end the carferry service will only increase those on welfare for which we all will have to support financially..

I personally know and/or represent many local business owners who depend on the cross lake carferry service passengers to support their businesses. Without that tourist income, many will fail which also add many to the welfare/public relief rolls.

We are basically a summer community in critical need of the continuation of the cross lake carferry system. I sincerely hope that DOJ and EPA will strongly support the Consent Degree.

David F.Betz, Attorney
101 S. James St., Suite 206
P.O. Box 417
Ludington, MI 49431-0417
231-845-7905
e-mail: dfbetz@t-one.net



2351458

PHYSICAL DOCUMENT

ENV_ENFORCEMENT-n2351458-v1

PUBLIC COMMENTS ON PROPOSED CONSENT DECREE

Author: Maher, Robert

Document Type: PLEADING

LSA(s): BDOUGLAS

Co-Counsel: SMAJUMDAR

Counsel LSA(s): ICOVINGT

Distribution List: ENRD, EESCaseManagement (ENRD); Lattin, Sue (ENRD); Rose, Robert (ENRD); Berman, Lisa (ENRD);Maher, Robert (ENRD);Douglas Jr., Belton H (ENRD);Majumdar, Sumona (ENRD);Covington, Imogene (ENRD)

Fileroom: EES - 6th Floor

DJ#: 90-5-1-1-10771

Case Name: U.S. V. LAKE MICHIGAN TRANS-LAKE SHORTCUT, INC., D/B/A LAKE MICHIGAN CARFERRY SERVICE AND S.S. BADGER

Court: MI W.D. Mich.; 6th Cir.

Notes:

Double-Sided:

Received Date: 4/11/2013

Urgent:

Oversize:

Bound Document:

Maier, Robert

Jacobs & Associates
402 Center Street
North Muskegon, MI 49445-3186
231-720-0892

Sales Management • Product Marketing and Development • Sales and Distribution

April 8, 2013

Assistant Attorney General, Environment and Natural Resources Division
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

DEPT. OF JUSTICE - ENRD
ENVIRONMENT DIVISION
13 APR 11 P 3:01

Subject: D. J. Ref. No. 90-5-1-1-10771

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Dear Sirs:

I am writing to you to voice my opinion on the above case concerning the SS Badger Lake Michigan Carferry service. Please review the following opinions concerning this case.

- My family and I have used the SS Badger several times over the years to cross Lake Michigan to travel to Wisconsin destinations. We are able to avoid the dangerous traffic and congestion in the Chicago, IL area, and significantly reduce the driving miles to reach destinations including Appleton, Stevens Point, and others in WI.
- I have separately used the SS Badger for business reasons on several occasions to travel to WI on business trips to visit customers located in several WI cities. Again, I was able to reduce the driving miles, and avoid the traffic problems in the Chicago, IL area.
- The SS Badger is very important to the economy of W.MI and MI overall. Plus, it is equally important to the economy of E.WI and Wisconsin overall. Loss of the SS Badger service will further damage the fragile economies of MI and WI, and result in the loss of many jobs. It is important that the SS Badger service continue to operate.
- The Lake Express ferry service between Muskegon, MI and Milwaukee, WI is not a viable alternative cross lake service for me because:
 - It is expensive – more expensive than the SS Badger service.
 - It is a small ship – I do not feel safe using this service especially if the weather on Lake Michigan is not calm.

CORR. 90-5-1-1-10771

April 8, 2013

Page 2

D. J. Ref. No. 90-5-1-1-10771

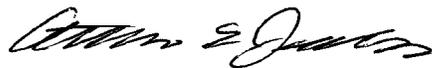
United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan
Carferry Services and SS Badger

- The SS Badger is important because the large ship is able to carry buses, and large trucks – a service that the smaller Lake Express is unable to provide. Buses and large trucks heading to destinations east or west are able to avoid the traffic problems in the Chicago, IL area.

We strongly feel that the Consent Decree should be approved. If the SS Badger service does not continue it will be a loss for my family, and a loss to my business. It will be an economic loss to the economy of Ludington and W.MI. It will be an economic loss to the economy of Manitowoc and WI. MI and WI. The Midwest and the U.S. overall cannot afford more job losses that will result if the SS Badger is not allowed to sail in the future.

Thank you for this opportunity to submit our thoughts and reasons why we want the SS Badger service to continue in the future.

Sincerely,



Arthur E. Jacobs
Jacobs & Associates

POSTAGE WILL BE PAID BY ADDRESSEE

50-0763
MI 49445-1180
1180
1180

Jacobs & Associates
402 Center Street
North Muskegon, MI 49445

Assistant Attorney General
Environment and Natural Resources Division
U.S. DOJ-ENRD
P.O. Box 7611
Washington, DC 20044-7611



X-RAYED
APR 11 2013
DOJ MAILROOM



20044761111



From: Dirk Racette
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 12:35:17 PM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image007.png; image008.png; image009.png

I am emailing you to encourage you to approve the consent decree. I have used the Car Ferry for business purposes to visit Wisconsin for almost 10 years and have found it an efficient and enjoyable way to visit our neighbors in Wisconsin.

Dirk Racette, CPA

Calder Investment Advisors

96 Monroe Center NW - Suite 305, Grand Rapids, MI 49503

Phone: 616-235-2442 or 888-235-0333 Fax: 616-235-2460 www.CalderAdvisors.com



From: Kim Henning
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 10:30:41 AM
Subject: D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General, Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

The Badger Car Ferry is a vital portion of our community's economy, and I hope you will be lenient as the owners of the Badger discern ways to become more environmentally friendly. To the best of my knowledge, the Badger is not subsidized by government funds and has not received any grants---as has the other ferry that crosses Lake Michigan. Our Manitowoc/Two Rivers community has suffered through a number of economic crises in recent years, and it is important to have the continued operation of the Badger Car Ferry.
Thank you.

Kim Henning
Pastor
Grace Congregational UCC
2801 Garfield Street
Two Rivers, WI 54241
920-553-1222
Fax: 920-553-1223
Email: khenning@lakefield.net

From: REV. SAM MORRISON
To: ENRD, PUBCOMMENT-EES (ENRD); Sam Pentwater; Jane Morrison
Sent: 4/15/2013 10:24:02 AM
Subject: D.J. Ref. No. 90-5-1-1-10771

TO: Assistant Attorney General, Environmental and Natural Resources
Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc.,
d/b/a Lake Michigan Carferry Services and SS Badger

I am writing to you in support of the approval of the Lake Michigan Carferry
Decree.

I used to live in Wisconsin and now live in Pentwater, Michigan--in a
beautiful resort village on Lake Michigan. I love both sides of Lake
Michigan!

I have taken the SS Badger many, many times and know it's a wonderful
service. Please--it must be allowed to continue! The SS Badger is a
reputable service.

While working diligently to meet commitments to end ash discharge, the SS
Badger should be provided the two-year period to continue operating. I
believe that they are working in good faith.

Please allow passage of the decree and continuation of the SS Badger.

Faithfully,
Rev. Sam Morrison
St. James Episcopal Church
Pentwater, Michigan

P.S. I will always remain a Green Bay Packers Football fan!

From: Demaray, Dennis
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 10:19:32 AM
Subject: D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General, Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

I am the Area Sales Manager for the Harris Corporation, with responsibility for Michigan and Wisconsin. I use the SS Badger and the Fast Ferry out of Muskegon to cover my assigned territory. I make over a dozen trips across the lake each season and support both ferries. I think the Consent Decree currently under consideration should be approved, so business people, vacationers, and other travelers can utilize the SS Badger.

Respectfully submitted,

Dennis L. Demaray

Harris Corporation, RF Communications

PS&PC - Area Sales Manager (MI & WI)

Office: 1-517-782-6868 or 800-578-6868 , direct 517-960-2235

Fax: 1-517-782-3969

Mobile: 1-517-331-7140

Email: DDemaray@harris.com

web: www.harris.com

"If you swing hard and often, you WILL hit a home run."

The road to achieving success is under construction, it is not straight. There are curves, there are loops, speed bumps, red lights, caution lights, and road blocks, but if you have faith, you will make it to a place called Success. People who share a common direction and sense of teamwork can get where they are going quicker and easier than those who try to go alone.

From: Caryn Gates
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 10:17:02 AM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.gif

Good Morning,

I am writing this e-mail in full support of the Lake Michigan Car Ferry and the agreement signed to end the ash discharge within two years. The S.S. Badger has worked very closely with the EPA and this Consent Decree should be approved! The Badger is a huge asset to both the Manitowoc and Ludington communities, and the state as well. The increased production of wind towers here in Manitowoc has also increased business on the Badger keeping this iconic ship on Lake Michigan! Being able to haul the towers on the ship cuts down the travel time for these oversize loads through Illinois, Indiana, and Michigan. It is a win win situation and a situation our economy needs right now. Thank you for your consideration in this matter and we hope that you find the Decree to be in favor of the S.S Badger. Thank you,

Caryn Gates

General Manager

Super 8 Manitowoc

4004 Calumet Avenue

Manitowoc, WI 54220

(D) (920) 684-4378

(P) (920) 684-7841

(F) (920) 684-8873

<http://www.facebook.com/ManitowocSuper8?ref=ts>

P Please consider the environment – think before you print.



From: Bill White
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 10:14:50 AM
Subject: Case # d.J.Ref.No. 90-5-1-1-10771

I'm writing to you to ask you to give the Badger 2 years to stop using cols as to power the Badger. The Badger has successfully been in business for many years and provided a service to many people and business through the country.

If they do not apply with the order to change in 2 years shut them down at that time

Thank you

Bill

Bill White

Harbor Yacht Sales
1866 Ottawa Beach Road
Holland, MI 49424

Phone: 616-836-1287
downeastyachting.com

From: Bill Keane
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 10:01:21 AM
Subject: Case Number: D.J. Ref. No. 90-5-1-1-10771
Attachments: Bill Keane.vcf

To: Assistant Attorney General, Environmental and Natural Resources Division

RE: Case Number: D.J. Ref. No. 90-5-1-1-10771

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

To Whom It May Concern,

I am fully in support of the continued operations of the Lake Michigan Car Ferry Service, as it provides the only alternative to an 8 hour drive around Lake Michigan.

Further, it is an invaluable economic engine for the cities of Ludington Michigan and Manitowoc Wisconsin, bringing in millions of tourism dollars into these communities.

The ferry also moves, millions of dollars of freight annually.

I feel the Grandfather rule should apply to this one kind historical ship on the great lakes, and continue service for generations to come.

Thank you for your time,

Best Regards,

Bill Keane

Bill Keane

Office# 231-946-5874

Cell# 231-499-8778

bkeane@gourdiefraser.com

<http://www.gourdiefraser.com/>

Phone 231.946.5874

Toll Free 800.900.5874

Fax 231.946.3703

Gourdie-Fraser, Inc.

123 West Front Street

Traverse City, Michigan 49684

<http://www.gourdiefraser.com>

Mission Statement:

"Gourdie-Fraser provides solutions for our clients' success."

From: Bill Payne
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 9:50:22 AM
Subject: RE: D.J. REF. NO. 90-1-1-10771; S.S BADGER



Assistant Attorney General, Environmental and Natural Resources Division,

I am writing to express my support for the continued operation of the S.S. Badger here in Ludington, MI. As a Ludington resident we cherish this iconic vessel and what it means to this community in terms of not only revenue but the enduring memories for so many who come to visit this charming little town on the shore of Lake Michigan. I have actually been meeting with the LMC leadership to show them how the spent ash can be safely off loaded from the vessel. It is a very viable technology and I believe the Badger can continue to operate in perpetuity once this next step has been taken.

I appreciate your consideration for keeping the S.S. Badger operational for the benefit of so many here in Michigan, Wisconsin and all who visit Ludington, MI.

Thank you,

Bill Payne

BHE, Inc. - Processing & Packaging Solutions

PH: (231) 843-4775

FX: (231) 843-9636

CP: (231) 343-7012

703 West Ludington Avenue

Ludington, MI 49431

bp@bhe4me.com

<http://www.bhe4me.com>

From: Gary Parker
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 9:55:40 AM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image003.jpg; image004.jpg; image005.jpg

Dear Assistant Attorney General, Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

I would like express my support in the continuing service of the Lake Michigan Carferry service. My company Dooge Veneers has at least 2 employees including myself that use the carferry once or twice a year.

I personally have customers in Two Rivers and love the fact that I can use the ferry and have my vehicle with me rather than drive the entire distance around the bottom of the lake.

Thanks for your time.

Best Regards,

Gary Parker

Director of Sales

Dooge Veneers, Inc.

Office - 616-698-6450

Direct - 616-871-3343

gary@doogeveneers.com

www.doogeveneers.com



From: John K. Latkovich
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 9:48:59 AM
Subject: Reference Case Number D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General

We are happy to learn you are working with the SS. Badger on their Ash control situation and have allowed them to continue to operate. As a tour company, we have used the SS Badger for our group tours with much success as our passengers have enjoyed the experience.

Please feel free to contact us should you have any questions about our support for the SS Badger.

John Latkovich
JKL TOURS LLC
4745 Highland Dr.
Willoughby, Ohio 44094
440.942.5350
jkl tours@aol.com

From: Tom Freund
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 9:46:50 AM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.jpg

Lake Michigan Carferry is essential for my business success. I am a salesrep living in Reedsville Wisconsin. My assigned territory includes Michigan. All summer long I can take the car ferry across the lake to call on clients in Michigan. The ferry allows me time to get work done while crossing all those miles instead of driving. This ferry is great for our economy.

Tom Freund
SPRUCE COMPUTER SYSTEMS

Regional Sales Manager
920-973-9780 – direct
800-777-8231 – ext 147

SPRUCEWARE  **NET** TM



From: Carole Grano
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 1:39:28 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General, Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

I think the Consent Decree should be approved. The Badger affects our small community in a good way. I am a small business owner and my restaurant depends a lot on the Badger. In the summer, it runs twice daily, bringing to Ludington many tourists. Those tourists eat at our restaurants, buy things from our shops and stay at our hotels.

If the Badger should stop running, it would cause a lot of us small business owner to suffer. We are already struggling in a rough economy. Please consider this when making your decision.

Thank You,
Carole Grano
Owner of James Street Station Restaurant

From: Matthew Schliesman
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 1:33:33 PM
Subject: Reference Case Number: D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General, Environmental and Natural Resources
Division

**RE: Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry
Services and SS Badger**

I am wholeheartedly in support of the CONSENT DECREE allowing the S.S. Badger to continue to operate while it continues to develop options to address the coal ash issue. Environmental concerns are certainly important. Efforts are being made to come up with a solution, and a solution will be found. But more time is needed. The S.S. Badger is critical to local/regional economies on two sides of Lake Michigan. My perspective is that of a business operator and property owner in Manitowoc, WI.

We love our lake... our lake shall be preserved. And so must the S.S. Badger.

Sincerely-- Matthew Schliesman, PO Box 607, Manitowoc, WI 54221

(Executive Director, Capitol Civic Centre, Inc. / cccshows.org / 920-686-6420)

From: Patricia Buchanan
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/15/2013 8:21:09 PM
Subject: Reference Case Number: D.J. Ref. No. 90-5-1-1-10771

Reference Case Number: D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General, Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a
Lake Michigan Carferry Services and SS Badger

Dear Sirs;

In reference to the above case, I would like to express my support for approval of the Consent Decree that has been submitted. The Lake Michigan Car Ferry is an integral part of our community as well as an important part of our local history since it is the last steam fired carferry of its kind operating on the Great Lakes. Its service provides jobs for many of our residents, delivers many visitors and vacationers to our beautiful West Michigan tourist attractions, and brings customers to the various businesses of our area as well as the communities surrounding Manistowic, Wisconsin. Discontinuation of the carferry service would have a significant negative impact on our local economy. Please allow the continued operation under the terms of the Consent Decree.

Sincerely

Thomas C. Buchanan
Lead Brewer/Production Manager
Jamesport Brewing Company
410 S. James Street
Ludington MI 49431

From: Bill Lang
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/17/2013 4:38:23 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General, Environmental and Natural Resources Division

RE: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Dear Sir:

My company performs contaminated soil remediation work throughout the Mid-West and occasionally in some of the Western States. We are based in Lower Michigan about 100 miles due east of Ludington. Whenever we work in Wisconsin, Minnesota, North Dakota, Montana, etc. we move our equipment fleet across Lake Michigan on the Badger. Using the Badger saves us time and money. We save on diesel fuel, permits, and labor costs. Most of our equipment is oversize and over the normal legal weight limits. Using the Badger saves wear and tear on the highways. Having the Badger running is a big benefit to our business.

Regards,

Bill Lang

Lang Tool Co.

2520 Glidden Rd.

Beaverton, MI 48612

Ph (989) 435-9864

Fax (989) 435-4311

Cell (989) 280-7006

www.langtool.com

From: Jim McInnis
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/19/2013 2:14:19 PM
Subject: Reference Case Number: D.J. Ref. No. 90-5-1-1-10771

On behalf of the Mason County Growth Alliance, I would like to voice our support for the Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger to continue operations on Lake Michigan.

Jim McInnis, Supervisor
Pere Marquette Charter Twp.
(231) 845-1277; Jim@pmtwp.org

From: Kathy Wagaman
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/20/2013 10:22:25 PM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image003.jpg

RE: Case Name United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger.

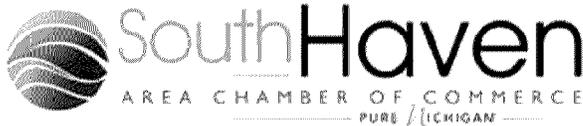
I am sending this in support of protecting the historic and valuable SS Badger. This vessel represents an integral piece of our Great Lakes History, but in addition, it creates an important mode of transportation, and creates jobs for Michigan and Wisconsin residents.

The concerns being raised by those against the SS Badger appear to be unsubstantiated from an environmental standpoint, and there are far more damaging concerns that should be given attention instead of this. I find it hard to imagine that some would want to prohibit this vessel from operation, yet will support destroying the Great Lakes with wind farms offshore.

I urge you to find more important causes to attack and to leave this important vessel alone.

Regards,

Kathy Wagaman
EXECUTIVE DIRECTOR



SERVING COMMUNITIES - LAKESIDE & COUNTRYSIDE

606 Phillips Street, South Haven, Michigan 49090
P: 269.637.5171 C: 269.214.6178 F: 269.639.1570
director@southhavenmi.com www.southhavenmi.com

From: Frank Bray
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/22/2013 10:12:45 AM
Subject: D.J. Ref. no. 90-5-1-1-10771

4/22/13

Assistant Attny. General
Environmental & Natural Resources Division
U.S. V. Lake Mi Trans-Lake Shortcut Inc d/b/a Lake Michigan Carferry & SS Badger

To Whom it May Concern,

I am writing to support the consent decree to end ash discharge from the Lake Michigan Car ferry The Badger.

As area business owners we feel the impact the Badger makes on not only Ludington, but the surrounding west Michigan area.

My husband and I own a boarding kennels, and throughout the Badger's season adjust our schedule to accommodate tourists using the Badger. We see tourists coming to our area specifically to experience the uniqueness of the Badger and have used her for dozens of trips ourselves over the years.

While there is another car ferry service further south in Muskegon, that ferry is much smaller and rough weather can unexpectedly cancels that boat from sailing. The Muskegon ferry can't accommodate big campers, trailers or semi trucks like the Badger can.

Please approve the consent decree and help Ludington and west Michigan keep a unique treasure running.

Thank You

Barb and Francis Bray
Owners, Applewood Kennels
6284 N. Oceana Drive
Hart, MI 49420

April 22, 2013

**Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.**

Via email: pubcomment-ees.enrd@usdoj.gov

Kenneth J. Szallai
President
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Addendum: LMC 2008 timeline and 2008-2012 efforts

April 22, 2013

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771.

Via email: pubcomment-ees.enrd@usdoj.gov

Kenneth J. Szallai
President
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

In 2008, LMC presented a timeline and made a commitment to end coal ash discharges .

- LMC made a commitment to end coal ash dumping by the vessel by May 2012 and provided a list of options to be pursued.
- EPA replied by offering an additional contingency year (until December 19, 2012 – effectively allowing until the May 2013 start of SS Badger sailing.

Instead of pursuing engineering solutions, LMC pursued permanent exemptions.

- LMC devised and began pursuing a “historic landmark” strategy in 2009, by hiring a “historical consultant.
- Early focus was winning protection from the EPA “federal undertaking” for “historic” SS Badger coal handling equipment.
- Through the effort, S.S. Badger was added to the National Register of Historic Places in 2009.
- LMC founded a “grassroots” lobbying arm to support permanent exemption efforts in 2011.
- A June 2011 letter from SS Badger owner Robert Manglitz conveys the urgency in seeking the National Historic Landmark designation as “invaluable when working with the EPA.”
- The November 2011 Petri-Huizenga-Benishkek amendment to USCG reauthorization reflects a 3-year – effort to gain permanent exemptions for S.S. Badger pollution.

Exhibits:

- June 2009 SS Badger statement regarding VGP requirements – posted to SSBadger.com
- 2008-2009 LMC timeline outlining steps to ending coal ash discharges by May 2012 – Coal Ash Problem for S.S. Badger, Ludington Daily News, Steve Begnoche, June 1, 2009.
- Chicago Tribune – Landmark status for polluting ship? Michael Hawthorne, November 7, 2011.
- Robert Manglitz, letter to Alexandra Lord, National Historic Landmark Program explaining need for Historic Landmark status to counter EPA, June 21, 2011.
- Yahoo Groups postings by William Worden, LMC historical consultant seeking support for exemptions for “historic” S.S. Badger coal ash handling equipment as a reply to EPA enforcement actions.
- SSBadger.com online auctions to raise funds and awareness for “a local charity” to be announced.
- May 23, 2011 press release announcing SOS Badger group formation and funding by LMC.
- SSBadger.com website promotion of SOSBadger.com website – July 7, 2012.
- 2012 SOSBadger.com issues overview page explaining the 2011-2012 effort to seek permanent exemptions for S.S. Badger discharges.
- June 2011 SOS Badger facebook postings urging supporters to contact local, state and federal representatives and urge their support for delayed enforcement of S.S. Badger coal ash discharge restrictions.
- SOS Badger facebook postings coordinating lobbying efforts in support of permanent exemptions for S.S. Badger coal ash discharges and urging supporters to contact Senator Dick Durbin.
- SSBadger.com website petition (branded SOS Badger) form that sent emails urging support of continued coal ash discharges by the S.S. Badger.

EPA UPDATE

Background: Since 1973, discharges that were part of a vessel's normal operation have been exempted from permitting requirements of the Clean Water Act. In 2008, the U.S. Environmental Protection Agency was required to begin regulating 26 specific vessel discharges, the result of a lawsuit originally aimed at preventing foreign ballast from being released in U.S. waters. The new Vessel General Permit (VGP), which took effect in December 2008, affects every commercial vessel operating today.

Current Status: The EPA's decision to include the SS Badger in the new Vessel General Permit has created questions regarding the impact of the discharge of our ash slurry. We understand and share the public's interest in protecting our Great Lakes, and we want everyone to know that the Badger is in full compliance with the EPA's Vessel General Permit.

We have voluntarily tested the ash several times over the years. An EPA certified laboratory recently confirmed once again that the ash is non-hazardous. The EPA considered those test results before they included the Badger in their GVP along with specific guidelines.

We all wish every element of our lives could be totally green. We have seen the greening process to be an evolution that blends an environmental ideal with economic realities to create long-term progress. 57 coal fired steam ships sailed the Great Lakes in the 1970's, and today the Badger is the only one of its kind in the United States. The American Society of Mechanical Engineers has recognized her unique steam engines as historic landmarks.

Our company President and the Badger's Senior Chief Engineer went to Washington twice to meet with EPA officials to explain the engineering and financial challenges associated with finding a solution to the Badger's unique ash discharge. There are no off the shelf solutions, and the EPA recognized that there was no practical way to eliminate the discharge immediately. The EPA's evaluation process was thorough and tough. They gave the Badger until December of 2012 to find a solution.

The Badger was given new life in 1992 when Charles Conrad used his own money to rescue her from bankruptcy. His goal was to continue the car ferry heritage for another 100 years. Our 250 plus employees, and the port cities we serve are dedicated to making that dream come true. We will meet the requirements of the Vessel General Permit with the same tenacity that we used to meet the other challenges we have faced while preserving hundreds of jobs and the life of this one-of-a-kind ship.

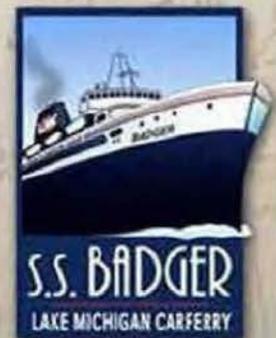
It has often been said that who ever owns the Badger is only the temporary custodian of a historic treasure. The car ferry legacy belongs to the communities it serves, and we feel a tremendous responsibility to our employees and the economies of both of our port cities.



*The S.S. Badger
at her 1952 launch
in Sturgeon Bay, WI*



*Charles Conrad rescued
the car ferry from
bankruptcy in 1992*



HERE ARE THE OPTIONS, TIMELINE

FROM LMC

LAKE MICHIGAN Carferry has some options it's researching to comply with the EPA deadline of 2012 to stop its ash discharge.

- 1. KEEP** the boilers, get a new fuel source.
- 2. REDESIGN** the engine area, capture ash and truck it to a landfill.
- 3. REMOVE** the boiler system and install diesel engines.

"**BECAUSE THE** Badger's propulsion system is the only one of its kind, meeting the new EPA requirements for vessel discharges cannot be accomplished with off-the-shelf existing technology in a short period of time," Lake Michigan Carferry Chief Engineer Chuck Cart wrote for a presentation as he and LMC President and CEO Bob Manglitz worked with state and federal regulators.

CART PROPOSES a timeline for converting the system:

WINTER 2008-09 - Retube boiler No. 4, begin engineering and design

SPRING/SUMMER/FALL 2009 - Finalize design and acquire approvals

WINTER 2009-10 - Ship dry dock inspection

WINTER 2010-11 - Approval of components by the ABS and U.S. Coast Guard

SPRING 2011 - Begin building

FALL/WINTER 2011 - Complete build phase

SPRING/SUMMER/FALL 2012 - Test and perfect system



Ludington Daily News



DISTRICTS!
LHS bow out

DEDICATED: *Judith Minty Writers HELP Ministries warehouse and o*

DOG MEETS FAWN: *Friendly enco*

MONDAY JUNE 1, 2009

www.ludingtondailynews.com

NOTABLE
SOMETHING TO KNOW

Today is last day for dog licenses

The last day to purchase 2009 Mason County dog licenses without a late fee is Monday, June 1. Beginning June 2, and thereafter, delinquent license fees will apply.

Michigan law requires that all dogs four months of age or older to be licensed. Persons acquiring a dog four months of age or older must obtain a license within 30 days of acquiring the dog. Licenses may be purchased at:

- Mason County Animal Control Office, 305 N. Meyers Road, 843-8644

- Mason County Treasurer's Office, Mason County Courthouse, 304 E. Ludington Ave., 843-8411

All 2009 licenses will expire on June 1, 2010.

The following fees are in effect for all 2009 licenses:

Male or female, \$15
Unsexed (spayed or neutered), \$7

Delinquent or unlicensed, \$30

If not on file, owners are reminded that a valid rabies vaccination certificate and/or spay/neuter certificate must be presented on the date the license is purchased.

For more information go online at www.masoncounty.net or contact either the Mason County Treasurer's Office or the Mason County Animal Control Office.

Do you know someone who has a good news story? Why not share the good news with our readers? Just give us a call at 231-843-1122, ext. 341. We'll spread the word in "Notable."

DEATHS

OBITUARIES, A5
Margaret Catherine Martin, 86, Midland
Cloyse Lidke, The Villages, Fla.

COMING UP
IN YOUR LUDINGTON DAILY NEWS



COURTESY OF LAKE MICHIGAN CARFERRY

A member of the SS Badger's engine room crew is shown here "pulling fires."

Ash problem for LMC

Badger must stop discharging ash by 2012

BY PATTI KLEVORN
NEWS EDITOR

It's a double-edged sword. On one side, Ludington's SS Badger is lauded, revered and adored for its uniqueness as the last operating coal-fired passenger ship in the United States.

On the other, it faces environmental regulation for that very reason — coal, or, in this case, a coal-burning waste product, ash.

With coal burning comes waste, emissions through the stack — specifically exempt from regulation by Wisconsin and Michigan state law — but also an ash slurry that is dumped daily into Lake Michigan. That ash discharge used to be considered normal operating procedure for coal-fired vessels. A 1973 portion of the U.S. Clean Water Act — when there were still more

than 50 coal-fired vessels operating — stated discharges like the Badger's, which are "incidental to normal operations," were allowed.

Not anymore come 2012. The U.S. EPA lost a ballast water lawsuit, affirmed on appeal last year, and was forced to begin making shipping companies seek permits for their discharges, and to do so quickly.

The court ruling could have effectively shut down thousands of ships — roughly 8,000 — operating from U.S. ports, including not only the Badger but Ludington's P.M. Shipping Co.'s tug and barge. In the end, P.M.'s discharge was one of 26 the EPA did allow through its new National Pollution Discharge Elimination System Vessel General Permit. The Badger's coal ash was not.

Lake Michigan Carferry is OK to operate as is after

bringing its case to Lansing and Washington, D.C. — but only for three more years.

Now the clock is ticking as LMC comes up with a plan and changes the boiler system or removes the boilers and goes to diesel engines.

There are options, and Lake Michigan Carferry President & CEO Bob Manglitz said there is time for LMC to get the job done to keep the May-October cross-lake carferry between Ludington and Manitowoc, Wis., in business.

Manglitz has no intention of letting the Badger stop sailing.

He took over operations of the carferry business from his father-in-law, the late Charles Conrad, who revived the cross-lake service in 1991. Conrad died in 1995.

"My father-in-law wanted the carferry service to run for another 100 years," he said.

SEE CARFERRY, A3

Lawsuit over ballast water led to new rules

The Badger's discharge of coal ash into Lake Michigan is being halted as a result of a lawsuit over ballast water, which is blamed for bringing invasive species into waters inside the United States.

Three environmental groups — Northwest Environmental Advocates, The Ocean Conservancy, and Baykeeper — sued the U.S. EPA over its handling of ballast water discharges. They won.

The resulting court ruling in 2006 found that the EPA had illegally exempted ships' ballast water discharges from Clean Water

SEE LAWSUIT, A3

CARFERRY: LMC says it will make changes to meet deadline

FROM PAGE A1

"I've only got 83 more to go before I've fulfilled my obligation."

"It has often been said that the owners of the Badger are only temporary custodians of a historic treasure," said Don Clingan, vice president and partner of Lake Michigan Carferry. "The carferry legacy belongs to the communities it serves, and we feel a tremendous responsibility to our 250-plus employees and the economies of both of our port cities."

But the ship could have ended service.

LMC hired a firm, Kirkpat-

'Having ash to deal with is just part of having coal-fired power in any form. It's inert, benign. Sand is all it really is. It's really not a harmful pollutant.'

Chuck Cart
LMC Chief Engineer

rick & Loekhart, Preston Gates Ellis, of Washington, D.C., to work on its behalf. The firm sent a document to the EPA in October 2008 stating, "Unless (LMC) can gain clarification soon that it will be permitted to operate next year until the Vessel General Permit or otherwise, it will shut down permanently this fall, rather than incur debt that it may not be able to repay."

THE OPTIONS

1. Keep the boilers, get a new fuel source.

Manglitz's first choice is to use the boiler system in place now and keep the Badger operating as a steamship, in part due to its historical significance and in part due to the \$1 million the company has spent on it, including \$250,000 in the last year.

He likes the idea of keeping the boilers and using a different fuel source, one that doesn't leave ash as a waste product. The company is looking into liquid coal and other options, working with engineers to find something that will work for the Badger.

2. Redesign the engine area, capture ash and truck it to a landfill.

The company could redesign the engine area to store the ash until it gets to shore and have it trucked to a landfill as power plants do with their ash, but Manglitz would just as soon get out of the business of producing ash at all, if possible.

3. Remove the boiler system and install diesel engines.

His last choice but still an option is to remove the boiler system and replace it with diesel engines.

There are issues there as well, from the cost of that process to the environmental concerns.

"You lose the historical aspect, you lose the investment, and the EPA is really changing the law on diesel," he said.

In the end, he thinks the carferry's own crew will find a solution.

"It's not technically impossible," said LMC Chief Engineer Chuck Cart. "It's going to be a challenge and an expense the company will have to bear forevermore. The equipment used now has long been paid for."

"We're looking at all our options," he said. "We have to look at everything."

THE STACK

Will the stack emissions change, too, as a result of the upcoming discharge change?

"I'm not going there today," Manglitz said. "That (exemption) is law."

THE DISCHARGE

"I sort of feel we're being held to a more stringent permit, it's going to expire," Man-



LMC President and CEO Bob Manglitz shows the area of the vessel where the discharge takes place. Here, he shows the location on the SS Badger's sister ship, the SS Spartan.

HERE ARE THE OPTIONS, TIMELINE

FROM LMC

LAKE MICHIGAN Carferry has some options it's researching to comply with the EPA deadline of 2012 to stop its ash discharge.

- 1. KEEP** the boilers, get a new fuel source.
- 2. REDESIGN** the engine area, capture ash and truck it to a landfill.
- 3. REMOVE** the boiler system and install diesel engines.

"**BECAUSE THE** Badger's propulsion system is the only one of its kind, meeting the new EPA requirements for vessel discharges cannot be accomplished with off-the-shelf existing technology in a short period of time," Lake Michigan Carferry Chief Engineer Chuck Cart wrote for a presentation as he and LMC President and CEO Bob Manglitz worked with state and federal regulators.

CART PROPOSES a timeline for converting the system:

- WINTER 2008-09** - Retube boiler No. 4, begin engineering and design
- SPRING/SUMMER/FALL 2009** - Finalize design and acquire approvals
- WINTER 2009-10** - Ship dry dock inspection
- WINTER 2010-11** - Approval of components by the ABS and U.S. Coast Guard
- SPRING 2011** - Begin building
- FALL/WINTER 2011** - Complete build phase
- SPRING/SUMMER/FALL 2012** - Test and perfect system

glitz said. "And that's not the case for others."

There are thousands of ships discharging materials into the water and will continue to do so in the long-term.

Manglitz acknowledged the EPA did work with the carferry company to at least grant enough time to make its changes.

"They didn't want to put us out of business," Manglitz said.

Manglitz believes few regulators are really familiar with coal-fired ships or the processes they've used, since the Badger is now unique in that category, and getting through the massive amount of work associated with the lawsuit aftermath — and short turnaround time to come up with a permit process — left them little time to adjust.

ENVIRONMENTAL/HEALTH COST OF DISCHARGE?

Manglitz said he wanted to know for himself what was in the waste the carferry was discharging into Lake Michigan and had the ash tested more than 10 years ago. They found it "non-hazardous," he said. "I felt comfortable with that."

An EPA-certified lab, which Manglitz said confirmed the original findings, should have satisfied the EPA, in Manglitz's opinion.

Manglitz said he believes if the EPA had more time to delve into the Lake Michigan Carferry case it would have allowed the discharge to continue.

The environmental group suing was specifically trying to keep invasive species, such as zebra mussels, round goby, Asian carp, etc., out of U.S. waterways, but the court ruling called for the halt to dozens of other discharges beyond ballast water without a permit.

Most of those other discharges can gain permits if the ship owners follow "best management practices" and paperwork seeking the permit is in order. But ash is not

one of them.

The EPA did listen and extended its deadline from this spring to 2012.

The carferry service did submit a Water Docket to the EPA about the contents of the ash, stating "at most there are four constituents of concern and none at levels that approach danger to human health or the environment."

The footnotes state, "pH is probably the constituent of greatest concern in ash, but given the manner in which the boiler effluent is discharged, it is unlikely that the effluent itself would present a problem, and dispersal — the same practice approved for boiler blowdown — would provide additional protection."

The DEQ and EPA, the state and federal government environmental arms, allowed the discharge through 2012. Representatives from those agencies could not be reached this morning.

Environmental groups haven't had a chance to weigh in on the issue yet. Those involved in the ballast water lawsuit, along with the Clean Water Fund, the Michigan Environmental Council and the Great Lakes Alliance could not be reached this morning either.

THE FIGHT TO STAY IN BUSINESS

Manglitz is more optimistic now than he was when he first learned of the court ruling against the EPA.

"I was surprised," he said. "Everybody thought they were going to win on appeal."

The process to get the EPA and the Michigan Department of Environmental Quality, which had to give its blessing as well, to understand the carferry's plight, was "a long road," Manglitz said. "Nothing was easy."

He and Cart took their story to Lansing and Washington, D.C., for repeated trips to politicians and bureaucrats, who worked with the carferry to give it time to adjust.

That was thanks in part to

the efforts of Congressmen Pete Hoekstra, R-Holland, and Tom Petri, a Republican representing the Manitowoc area in Wisconsin.

"They were both quick to put their arms around that situation, and they were very concerned about the viability of the Badger, about the economic impact not only on their communities but on their whole districts," Manglitz said.

Manglitz and Cart were able to get a meeting with about 20 people, many from the EPA, where the Badger could present its case and the need for a four-year extension.

"There just wasn't an off-the-shelf solution for us," Manglitz said.

Manglitz said he believes part of the reason for the original 1970s Clean Water Act rule allowing "incidental" discharges was because of coal-fired ships and the desire to keep them in business. Just because there's only one left doesn't mean that rule should subside, he said. "I didn't want that to get lost in all of this."

Hoekstra could not be reached late this morning.

'SHOOTING ASHES'

The Badger's crew mixes the ash waste with water and dumps the slurry into Lake Michigan during each sailing, as the carferry is at least five miles out, 100 feet deep and traveling at at least 6 knots, not in the same location each time, in part because the carferry changes its course depending on the weather. It's the system the carferry was designed with, as it features a pipe and hole on both its port and starboard sides for the discharge.

Other coal-fired ships, when there were still others, have historically dumped their ash in the same way. The Badger is the only one left dumping in the Great Lakes because it's the only coal-fired ship left operating here.

That process, called "shooting ashes," can continue, now sanctioned by the DEQ and EPA as best management practices, until 2012.

"Having ash to deal with is just part of having coal-fired power in any form," Cart said.

"It's been tested," Cart said of the Badger's ash. "It's inert, benign. Sand is all it really is. It's really not a harmful pollutant."

"I'm kind of irked," he said. "We put a lot of time and effort into trying to educate the EPA on how we feel it's not an issue."

Still, he said he appreciated the EPA listening and giving the four years to find a way to keep from discharging.

ECONOMY/TOURISM

The carferry employs more than 250 people and is responsible for a big portion of the summer income for restaurants, hotels and other tourism-related businesses.

Without the new permit needed to operate, there would be no Badger cross-



ANDY KLEVORN | DAILY NEWS

The SS Badger leaves Ludington Sunday morning on its way to Manitowoc, Wis. Once the Badger gets out at least five miles, 100 feet deep and is traveling at 6 knots or more it may discharge its coal ash slurry into Lake Michigan. The federal government began permitting discharges after a Clean Water Act lawsuit over ships' ballast water discharges because of invasive species. The carferry has a permit until 2012, then will have to stop its discharges.

THE ALLURE

OF A COAL-FIRED STEAMSHIP

ing Lake Michigan this year, meaning a loss of potentially more than 1,000 passengers/tourists a day during double sailings — more than 100,000 a year, the company has stated in the past — into both communities during the carferry season.

Thanks to a study done by West Shore Community College in 2003, the community can put a dollar figure on the economic impact of the Badger, \$20 million a year to Ludington and the same for its Wisconsin port, Manitowoc.

"So many of our businesses, not just hotels, but restaurants and downtown businesses rely on it," said Kathy Maclean, president and CEO

'We have time. The economy certainly is going to be improving. We had a decent year last year. ... It's going to be a challenge, but I've been pleasantly surprised (by the number of passengers this year so far).'

Bob Manglitz
Lake Michigan Carferry
President, CEO

of the Ludington & Scottville Chamber of Commerce. "Losing the Badger) would be devastating."

"Where else are you going to get something that puts that many tourists on your doorstep?" she said.

Is the economic impact worth some possible environmental risk?

"The carferry's not the only thing you could ask that question of," Maclean said. "All things have to be weighed. I trust them to make the right decisions. They're going to be good stewards of the waters."

LMC also is important for the number of people it employs in an area with almost 13 percent unemployment.

"The Lake Michigan Carferry has such a large effect on tourism in our area, on our community through the summer months that we would really feel that impact (of losing its service)," said Julie Van Dyke, Mason County Growth Alliance President and CEO.

"I know LMC is taking this very seriously and they will have other options worked out based on the EPA timeline," she said. "They will conform to what's necessary."

Ludington Mayor John Henderson wrote a letter of support of the Badger, which LMC included in its information to the EPA, calling it "critical to Ludington's economic health."

Can LMC afford to make the changes to the Badger, given the state of economy and loss of passengers you may have as a result?

"We have time," Manglitz said. "The economy certainly is going to be improving. We had a decent year last year. We had a decent year with the

SOME CELEBRATE the coal-fired steamship experience, as the Badger has received accolades from the state, engineering groups and possibly the federal government this summer.

THE BADGER has received the following designations and recognition:

1996

THE BADGER'S propulsion system designated a mechanical engineering landmark by the American Society of Mechanical Engineers

1997

THE BADGER officially named a Registered Michigan Historic Site by the Michigan Historical Commission

1997

THE BADGER officially named a Registered Wisconsin Historic Site by the Wisconsin Historical Commission

1997

LAKE MICHIGAN Carferry designated a Michigan Centennial Business by the Historical Society of Michigan

2002

THE BADGER is named Ship of the Year by the Steamship Historical Society of America

2009

THE BADGER nominated unanimously by the Michigan State Historical Commission to be listed on the National Register of Historic Places. Announcement to be made in July if it is accepted.

THE BADGER was included as a destination of historic importance in the new Heritage Travel Program, part of the National Trust for Historic Preservation.

tug-barge (P.M. Shipping Co.). It's going to be a challenge, but I've been pleasantly surprised (by the number of passengers this year so far).

"Anybody operating in the Midwest is going to have a challenge."

patti@ludingtondailynews.com
843-1122 x341

ON Q BILHARDS
Casual & League Play

TUESDAY'S FREE POOL

4-8 PM
with purchase from snack bar
Across from Scotty's, Ludington
(231) 425-4700

DLP Digital Cinemas®
in all Auditoriums

Carmike Cinemas

THE HARBOR
3857 West U.S. - 10
231-843-9310

May 29th thru June 4th

FOR 3D MOVIES: A SURCHARGE, SPECIAL PRICING, NO PASSES, OR NO DISCOUNT TICKETS MAY APPLY

VISIT US AT WWW.FANDANGO.COM AND PURCHASE YOUR TICKETS ON LINE, FOR A CHANCE TO WIN FREE MOVIE TICKETS

*UP 3D PG
12:15 2:40 5:05 7:30 9:55
DRAG ME TO HELL PG13
1:15 4:15 7:00 9:45

Instead of pursuing engineering solutions, LMC pursued permanent exemptions.

- LMC devised and began pursuing a “historic landmark” strategy in 2009, by hiring a “historical consultant.
- Early focus was winning protection from the EPA “federal undertaking” for “historic” SS Badger coal handling equipment.
- Through the effort, S.S. Badger was added to the National Register of Historic Places in 2009.
- LMC founded a “grassroots” lobbying arm to support permanent exemption efforts in 2011.
- A June 2011 letter from SS Badger owner Robert Manglitz conveys the urgency in seeking the National Historic Landmark designation as “invaluable when working with the EPA.”
- The November 2011 Petri-Huizenga-Benishek amendment to USCG reauthorization reflects a 3-year + effort to gain permanent exemptions for S.S. Badger pollution.

Exhibits:

- Chicago Tribune – Landmark status for polluting ship? November 7, 2011.
- Robert Manglitz, letter to Alexandra Lord, National Historic Landmark Program, June 21, 2011.
- Yahoo Groups postings by William Worden, LMC historical consultant seeking support for exemptions for “historic” S.S. Badger coal ash handling equipment.
- SSBadger.com online auctions to raise funds and awareness for “a local charity” to be announced.
- May 23, 2011 press release announcing SOS Badger group formation and funding by LMC.
- SSBadger.com website promotion of SOSBadger.com website – July 7, 2012.
- 2012 SOSBadger.com issues overview page explaining the 2011-2012 effort to seek permanent exemptions for S.S. Badger discharges.
- June 2011 SOS Badger facebook postings urging supporters to contact local, state and federal representatives and urge their support for delayed enforcement of S.S. Badger coal ash discharge restrictions.
- SOS Badger facebook postings coordinating lobbying efforts in support of permanent exemptions for S.S. Badger coal ash discharges and urging supporters to contact Senator Dick Durbin.
- SSBadger.com website petition (branded SOS Badger) form that sent emails urging support of continued coal ash discharges by the S.S. Badger.

Chicago Tribune



QUOTED CALL 1-800-737-6229

MONDAY, NOVEMBER 7, 2011

ISSUE PRICE: \$5.00 (CASH/STREET SALES)



Ship's history—The Dodge Street Marquette, Wis., for Michigan in September. The ferry ships about a ton of toxic ash into Lake Michigan on every trip.

TRIBUNE WATCHDOG UPDATE

Landmark status for polluting ship?

Owners say coal-burning ferry's historical significance should allow it to continue dumping tons of toxic ash into lake

By MICHAEL HAWTHORNE
Tribune reporter

Facing a deadline to stop dumping toxic ash into Lake Michigan, owners of the last and largest steamship on the Great Lakes are pushing for it to gain historic status. Lawler's boat and Marie Louise long 55' lengthwise as a protected

national historic landmark.

Even if the budget fails to make the list of the nation's historic and cultural treasures, the U.S. Environmental Protection Agency may be unable to force the aging boat to stop dumping the nearly a ton of waste it dumps in the lake every three to six days. An amendment added to a budget bill by Republican congressmen from Michigan

and Wisconsin would prevent the EPA from imposing more stringent pollution limits on one ship that is "so old and maintained for inclusion on" the list of landmarks.

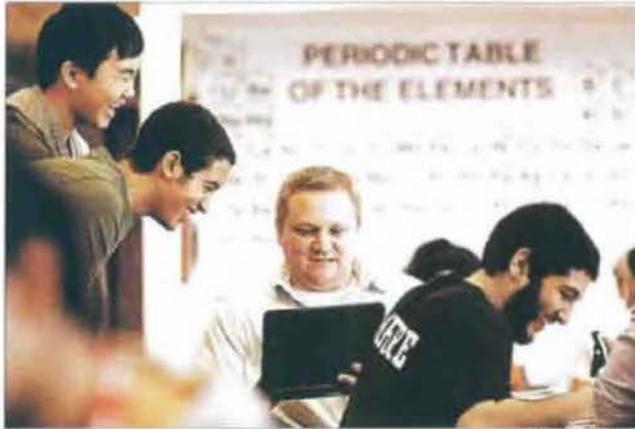
In documents obtained by the Tribune, the six ferry's owners plead for the National Park Service to grant the Dodge special protection from the EPA, which in 2008 gave them four years to find a solution to the ship's pollution problem.

"This designation could play a

Maritime national historic landmarks

The Colfax: A 1930s steamship, located in Milwaukee, Wis.
The PortMiami: Located in Miami, Fla., located in Dade County, Fla.
The Harriet Lane: The world's first rubber-gummed submarine, located in Queenstown, Calif.

SCHOOL REPORT CARD



Social studies teacher Matt Warner, center, spends his free periods working at home West High School in Easton. According to the state's newly released School Report Card, West's school district has more than \$22,000 in operating expenses per student.

School funding gap still vast

Wealthy districts spend up to three times more than poorer districts per student, report shows

By LISA BLAIR
Tribune reporter

The kids at Tall Elementary School in Evanston enjoy small class sizes and a strong focus on sports, but it offers no arts, language or technology classes, and the building's heating system hasn't been replaced since 1988.

Evans Elementary School, near Lake Forest, offers Spanish to every grade, beginning with kindergarten. Most students are second learners, and they can join the band or chorus and study art, drama or dance.

The schools are built in the Chicago area, but they're miles apart in funding because of the

state's heavy reliance on property taxes to finance education. Tall spent \$2,027 in operating costs per student in 2010, while Evanston spent more than three times that much — a whopping \$54,219 — for each child.

"It is just not a very well-balanced representation in terms of what all the kids deserve," said David Bergstadt, superintendent for Tall's district 60. "I wish we had more office opportunities."

Property wealth may not guar-

antee equity. For 11 "wealthy" districts, the state's property tax system provides more opportunities, said Tom Skilling, executive director of the Illinois Association of School Boards, who notes that Illinois relies more heavily on property taxes to fund schools than any other state.

"If you look at the aggregate spending, about 60 to 65 percent comes from local property taxes," he said.

Please turn to Page 8

TRIBUNE WATCHDOG UPDATE

Police cite 3 cops over fake tickets; man cleared



JON YATES
What's Your Problem?

For years, Mark Gendrony has steadfastly maintained that the accusations of parking tickets that accrued to his mother were bogus.

Years ago, the Chicago Police Department accused Gendrony's mother of more than 100 fake tickets. More than two years after the tickets were first issued about Gendrony's car, superintendent Gary McCarthy has agreed to let three police officers file charges against the 74-year-old Park resident for the tickets.

Officers Myron Robinson, Hans Haggwald and Paul Boger have been suspended without pay pending a hearing before the Police Board, which will determine if they should be reinstated.

Gendrony, who accused some of the tickets even after he sold his 61-year-old Prius to her, was cleared by the court.

"This," he said, "appears to be this administration — the city and the Police Department — aren't going to try to correct an

Sometime Simple is no easy task

Complex legislation, when reworded by the Tribune's literary police, do take time to become simple. How many times have you seen other articles in the Chicago Tribune? **Page 4-B**

Slain officer 'never give up' on teen

The family of Officer Henry is coming to grips with her death and that her grand son, Nicholas, is still alive. **Page 7**



Relief for some Pace commuters

Pace buses have the bus-to-bus transfer program Monday on certain lines of the Millennium Expressway. **Page 9**

Tom Skilling's forecast 103-61 Low 50 Chicago Weather Center Complete forecast on back page of A-B section 800-355-5000

Price is what you pay. Value is what you get. ONLY NETJETS.

Badger ferry owners seek landmark status for coal-burning ship

Badger's backers say its historical significance should allow it to continue to dump tons of toxic coal ash into Lake Michigan

✉ Comments 2 Share 19 +1 1 Tweet 11 Recommend <11



The Badger leaves Ludington, Mich., for Manitowish, Wis. The coal-powered ferry dumps 4 tons of toxic ash into Lake Michigan every time it sails. (Denise Stocker, Photo for the Chicago Tribune / August 4, 2011)

By [Michael Hawthorne](#), Chicago Tribune reporter

November 7, 2011

Facing a deadline to stop dumping toxic coal ash into Lake Michigan, owners of the last coal-powered steamship on the Great Lakes are pushing for it to join [Mount Vernon](#), [Lincoln's Tomb](#) and [Martin Luther King Jr.'s birthplace](#) as a protected national historic landmark.

Even if the Badger fails to make the list of the nation's historic and cultural treasures, the U.S.

[Environmental Protection Agency](#) may be unable to force the aging coal burner to eliminate the nearly 4 tons of waste it dumps in the lake every time it sails. An amendment added to a budget bill by Republican congressmen from Michigan and Wisconsin would prevent the EPA from imposing more stringent pollution limits on any ship that is "on, or nominated

for inclusion on" the list of landmarks.

Related



STORY: On Lake Michigan, a coal-burning steamship gets a pass

Topics

Coal
U.S. Environmental Protection Agency
Environmental Pollution

[See more topics >](#)

Maps

701 Maritime Dr, Ludington, MI 49431, USA

In documents obtained by the Tribune, the car ferry's owners plead for the National Park Service to grant the Badger special protection from the EPA, which in 2008 gave them four years to find a solution to the ship's pollution problems.

"This designation could play a critical role in the survival of this one-of-a-kind historical asset," Bob Manglitz, president and chief executive of the Lake Michigan Car Ferry Service, the Badger's owner, wrote in a letter to the Park Service. Landmark status, Manglitz wrote, would be "invaluable" during negotiations with the EPA about a new Clean Water Act permit for the ship.

In their application for landmark status, the Badger's owners say the ship's "historic propulsion system" is "under threat" by the EPA.

It describes the Badger as "the final stage of development of the Great Lakes rail and auto passenger ferry," making it worthy for protection as an example of once-innovative technology to move goods across the nation. Its massive coal-fired boilers were the last of their kind built for U.S. ships, according to documents filed with the Park Service.

Converting the ship from coal to oil "would destroy part of the historic coal-delivery system and significantly increase operating costs," the application states. Adding diesel engines would leave "the historic machinery intact but unused."

Most existing maritime national historic landmarks are museum exhibits, including the Cobia, a **World War II** submarine docked in Manitowoc, Wis.; the Potomac, a yacht used by President **Franklin D. Roosevelt**; and the Nautilus, the world's first nuclear-powered submarine.

The Park Service already has cleared the ferry for consideration by a federal advisory panel that meets Tuesday in Washington. The panel is reviewing about a dozen other properties, including a 19th century Boston church, a Native American village in Iowa and a disabled veterans home in Ohio.

If the advisory committee approves the Badger's nomination, it will be sent to Interior Secretary **Ken Salazar** for a final decision.

Company officials did not return calls or emails from the Tribune. Backers of the Badger have organized a public relations campaign that portrays the ship as a nostalgic vacation shortcut across Lake Michigan and cites the ferry's role in promoting tourism and its 250 full-time and seasonal jobs, most of which are held by high school and college students.

The Badger's coal-burning technology was becoming obsolete when the 410-foot ferry began operating on Lake Michigan. By the time it started carrying freight cars for the Chesapeake and Ohio Railway in 1953, dozens of other coal-burning ships were being retired or converted to cleaner-burning diesel fuel. Consolidation of railroads and skyrocketing operating costs forced other Great Lakes ferries to shut down during the 1970s.

Based on its 134-day operating schedule, the ship discharges about 509 tons of coal ash each year as it travels between Manitowoc and Ludington, Mich. By contrast, all 125 freighters plying the Great Lakes collectively dump about 89 tons of coal, limestone and iron waste into the lake annually, according to U.S. Coast Guard records.

Coal ash contains arsenic, lead, mercury and other toxic metals. The pollutant drew national attention in 2008 after a coal ash holding pond ruptured at a Kingston, Tenn., power plant and fouled an Ohio River tributary. On Oct. 31, a bluff collapsed next to another power plant south of Milwaukee and sent a torrent of mud and coal ash into Lake Michigan.

The EPA has been mulling more stringent rules to ensure safe disposal of coal ash, which the agency says poses "significant public health concerns." The Republican-controlled U.S. House recently voted to strip the EPA of its authority to regulate the toxic waste, but the measure likely will not clear the Democratic-controlled U.S. Senate.

On Friday, Republican Reps. Bill Huizenga and Dan Benishek, of Michigan, and Tom Petri, of Wisconsin, added an amendment to the U.S. Coast Guard budget that would shield the Badger from EPA scrutiny. It doesn't mention the ferry by name, but the Badger is the only vessel that fits the criteria outlined in the measure pending on the House floor.

"This is a stunning example of special interest legislation flying under the radar," said Thomas Cmar, an attorney in the Midwest office of the Natural Resources Defense Council.

Exempting the Badger by law or designating it as a national landmark could be its latest pass from environmental laws that other ships, including a competing car ferry that runs between Milwaukee and Muskegon, Mich., have complied with for years.

Investors who saved the Badger from the scrap yard in the 1980s won special exemptions from Michigan and Wisconsin air quality laws that kept the ferry's noxious coal smoke legal while other polluters cleaned up. A permit issued by the EPA in 2008 gave its current owners four years to clean up the ship's water pollution, by overhauling its engines or storing its coal ash for safe disposal onshore.

After vowing to find a solution, the owners have been seeking an exemption from the Clean Water Act that would delay a fix until at least 2017.

The move to secure landmark status comes less than a year after the Badger's owners unsuccessfully sought a \$14 million federal stimulus grant to convert the ferry to diesel. More recently, they have urged the EPA to give them more time to study whether the ship can be fueled by natural gas, a switch the Badger's owners and backers say would make it the "greenest" commercial vessel on the Great Lakes.

Such a project appears to be far from reality. During the summer, brochures handed out on board the Badger and at community festivals proclaimed that DTE Energy, a Michigan utility, had approached the ferry's owners about overhauling the ship.

"They were quick to announce our participation," said John Austerberry, a DTE spokesman. "But we are not in any kind of agreement with the Badger and are not involved in any project with them."

mhawthorne@tribune.com

Twitter @scribeguy

Copyright © 2011. Chicago Tribune



6/21/11

Alexandra Lord, PhD, Chief
National Park Service
National Historic Landmark Program
1201 Eye Street, NW (2280)
Washington, DC 20005



Reference: National Historic Landmark Designation for the S.S. *Badger*

Dear Ms. Lord:

The S.S. *Badger* has received several historic designations over the years including being placed on the **National Register of Historic Places by the U.S. Department of the Interior** in 2009. (See attachment) **The *Badger* is the last large coal-fired steam powered passenger vessel operating in the United States.**

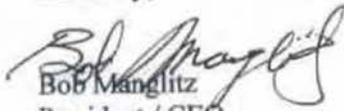
Our consultant, William M. Worden, has been working with NHL staff for about a year and has submitted a completed digital version of the National Historic Landmark form; photos and other supporting materials are to be sent as soon as they are available. We were told earlier this year that the *Badger* was on the fall agenda for Landmark designation. Just recently our consultant informed our company that the *Badger* is no longer on the fall agenda. This change occurred without notification or explanation.

This news was very disturbing for our company and the port cities of Ludington, MI and Manitowoc WI. Not only is the *Badger* worthy of Landmark Status, this designation could play a critical role in the survival of this one of a kind historical asset. Landmark status would be invaluable when working with the EPA to find a solution for meeting the requirements of the agency's General Vessel Permit that is due to expire in December of 2012

The *Badger* is much more than an irreplaceable historic vessel. The ship is an icon for both port cities and provides them with \$35,000,000 of economic impact annually. **Two-hundred direct jobs and 500 related jobs depend on the vessel remaining in service.**

We have a strong application for National Historic Landmark Status. We ask that you insure that the *Badger* is on your fall agenda. Your support will mean a great deal to the *Badger's* employees, the port cities, and **millions of people throughout the United States who have sailed on this historic ship.**

Sincerely,


Bob Manglitz
President / CEO

He admits
has that
status is a
delaying
factor

Over-
stimulation

Hi, Aaron Sign Out Help

Preview Mail w/ Toolbar

Yahoo!

Mail

YAHOO! GROUPS

Search

Web Search

jimcheyboygan · jim.cheyguy@gmail.com | Group Member - Edit Membership

Start a Group | My Groups

FerriesOutsideEurope · Worldwide ferry news and views. Search for other groups...

Search

- Home
- Messages
 - Post
 - Attachments
- Files
- Photos
- Links
- Database
- Polls
- Calendar

Promote

- Groups Labs (Beta)
 - Applications
 - Chat

Info Settings

Group Information

Members: 321
 Category: Ferries
 Founded: Jan 16, 2001
 Language: English

Yahoo! Groups Tips

Did you know...
 Message search is now enhanced, find messages faster. Take it for a spin.

Best of Y! Groups



Check them out and nominate your group.



Click here for the latest updates on Groups Message search

Messages

Messages Help

Message # Go Search: Search Advanced

Start Topic

S.S. Badger and coal firing

Message List

Reply

Message #12053 of 13045 < Prev | Next >

I have been doing some consulting for the owners of Lake Michigan's Badger and hope members of the list might be able to respond to a couple of questions:

Thu Jun 11, 2009 12:57 pm

Show Message Option

1. Alistair Deayton and I believe that she is not only the largest coal-fired passenger steamer in the world, but probably the largest coal-fired steamer of any variety. Comments? (She's 410.5' long and 4244 gross tons.)

"William Worden"
 <bworden@...>
 wmwworden
 Offline
 Send Email

2. Badger is equipped with coal crushers, conveyors, and mechanical stokers. Are there any other coal-fired steamers left in the world with equipment of that type?

Thanks.

Bill Worden

Reply

Message #12053 of 13045 < Prev | Next >

Expand Messages

S.S. Badger and coal firing
 I have been doing some consulting for the owners of Lake Michigan's Badger and hope members of the list might be able to respond to a couple of questions: 1....

| | |
|-----------------------------|--------------------------|
| Author | Sort by Date |
| William Worden
wmwworden | Jun 11, 2009
12:58 pm |

< Prev Topic | Next Topic >

Hi, Aaron Sign Out Help

Preview Mail w/ Toolbar

Yahoo!

Mail

YAHOO! GROUPS

Search

Web Search

jimcheyboygan · jim.cheyguy@gmail.com | Group Member - Edit Membership

Start a Group | My Groups

FerriesOutsideEurope · Worldwide ferry news and views. Search for other groups...

Search

- Home
- Messages
- Post
- Attachments
- Files
- Photos
- Links
- Database
- Polls
- Calendar

Promote

- Groups Labs
- (Beta)
- Applications
- Chat

Info Settings

Group Information

Members: 321
 Category: Ferries
 Founded: Jan 16, 2001
 Language: English

Yahoo! Groups Tips

Did you know...
 Message search is now enhanced, find messages faster. Take it for a spin.

Best of Y! Groups



Check them out and nominate your group.



Click here for the latest updates on Groups Message search

Messages

Messages Help

Message # Go Search: Search Advanced

Start Topic

NEWS: Why a ferry gets to dump coal waste in Lake Michigan Message List

Reply

Message #12573 of 13045 < Prev | Next >

Re: NEWS: Why a ferry gets to dump coal waste in Lake Michigan

Sun Jul 18, 2010 8:21 pm

Show Message Options

Please note that this is from the Milwaukee paper. Milwaukee is the Wisconsin port served by the Lake Express and the Milwaukee paper has consistently painted as negative a picture as possible about the Badger.

"wmworden"
 <bworden@...>
 wmworden
 Offline
 Send Email

Badger did not exactly get permission to "keep dumping" ash in the lake. She, and every other coal burning steamer in lakes service have been doing it since wood fuel gave way to coal over 150 years ago. If EPA had ordered an immediate stop to the practice, it would have put Badger out of business as options are not that easy to achieve. I suppose that would have been nice for Lake Express and the port of Milwaukee, but it wouldn't have been right or fair.

No one, not EPA or any other authoritative source, has claimed that the Badger's coal ash is harmful. Testing has shown it to be essentially inert. Like most substances in this world, it does contain traces of nasty things, in amounts too small to be of concern. Asked at the time of EPA's order, one representative of an environmental nonprofit was unable to come up with anything more damaging than something like "I think it's just best not to put anything in the lake." He's right; when will they do something about acid rain, which unquestionably does more environmental damage to Lake Michigan than the Badger does? What about the untold stuff that pleasure boaters throw in the lake. In aggregate, that's way more serious than one surviving coal burner.

This situation faces the Badger with difficult options. Oil firing would probably be the cheapest way to comply in terms of capital investment, but fuel costs would soar as compared to coal, especially with the new regulations on types of oil permitted to be burned. Retention of the ash on board for land disposal is difficult to achieve because the ash is, of course, red-hot when it comes out of the boilers and space in the boiler room is limited. Diesels or the most expensive alternative, it would seem.

Badger was recently listed on the National Register of Historic Places in part because of her machinery, now unique in the world. No one, including EPA, has considered the effect this ruling may have on that historic and unique power plant.

Bill Worden

— In FerriesOutsideEurope@yahoo.com, "Gary Andrews" <andrewsgar@...> wrote:

- >
- > Why a ferry gets to dump coal waste in Lake Michigan
- > June 15, 2010 Our Stories 4 Comments E-mail This Post
- > By Matt Hrodey
- >
- > <http://www.milwaukeebuzz.com/?p=120105>
- > The S.S. Badger bills itself as "the largest car ferry ever to sail Lake Michigan." It's also the last coal-fired ferry still crossing the lake, and
- > its lobbyist helped it win permission to continue dumping coal ash on its
- > journeys. One competitor estimates the ferry dumps more than seven tons into
- > the lake every day. The ferry must finally end this practice by 2012, the
- > EPA has ruled.
- >
- > Lake Michigan Carferry, owner of the S.S. Badger, says it's the only
- > coal-fired steamship still operating in North America. Just as old-fashioned
- > is its method of disposing the hot coal ash produced in its furnaces -
- > mixing it with water and dumping the slurry into the lake.
- >
- >
- > the s.s. badger
- > Federal Environmental Protection Agency tests have shown the ash contains
- > potentially dangerous levels of lead, arsenic and selenium. But the Badger

New User? Register Sign In Help

Preview Mail w/ Toolbar

Yahoo!

Mail

YAHOO! GROUPS

Search

Web Search



newsmax.com

Surprising Video . . .

Economist Warns . . .

carferry · This list concerns the railroad carferries that operated on the Great Lakes. Specifically, the list covers the remaining ferri

Search for other groups...

Search

Home Messages



Click here for the latest updates on Groups Message search

Members Only

- Post
- Files
- Photos
- Links
- Database
- Polls
- Members
- Calendar
- Promote
- Groups Labs (Beta)
- Chat

Messages

Messages Help

Message #

Go

Search:

Search

Advanced

Question on Badger Refit

Message List

Reply

Message #6120 of 6421 < Prev | Next >

Re: Question on Badger Refit

Sat Sep 11, 2010 12:04 pm

Show Message Option

"ooo" <bworden@...>

bworden...

Offline

Send Email

The Badger has been listed on the National Register of Historic Places. That listing does not involve any restrictions on the private owners' activities carried out with their own money.

The reviews associated with the National Register are triggered when there is a "Federal undertaking." In other words, the program is meant to have the federal government review its own activities so as to avoid harm to historic resources.

The TIGER grant being applied for is a federal undertaking because it's federal money. The grant will be reviewed by federal historic preservation agencies to determine if there is a "negative impact" on a historic resource (Badger.) If there is determined to be a negative impact (and it should be) the review will move to the need for the activity and if the activity is unavoidable, whether there is a way to offset the negative impact. The proposal to leave the historic power plant in place greatly reduces the negative impact on Badger and given that there are practical problems with retianing coal ash on board I think the preservation agencies would give the grant the green light. It's worth noting that the same grant program could have been approached to find a

Info Settings

Group Information

Members: 410
Category: By Subject
Founded: Jan 25, 1999
Language: English

Already a member? Sign in to Yahoo!

Yahoo! Groups Tips

Did you know... Hear how Yahoo! Groups has changed the lives of others. Take me there.

Best of Y! Groups



Check them out and nominate your group.

solution to the coal ash dumping; management has chosen this alternative approach, apparently in the face of considerable technical difficulty in retaining ash on board for on land disposal.

There are preservation grants available but they are funded at very low levels; any amount available would be a drop in the bucket.

Bill Worden

— In carferry@yahoogroups.com, "Allan Bigelow" <allanbigelow@...> wrote:
 >
 > Seeing the news LMC is seeking the grant to get diesel engines.
 > With the Badger having obtained all the historical designations over the years, wouldn't there be restrictions as to how it could be modified?
 >
 > Also, because of its historical status wouldn't there be grants available to fix the coal ash disposal problem and it still remain coal fired and steam.
 >

Reply

Message #6120 of 6421 < Prev | Next >

Expand Messages

| | Author | Sort by Date |
|---|------------------------------|-------------------------|
| Question on Badger Refit
Seeing the news LMC is seeking the grant to get diesel engines. With the Badger having obtained all the historical designations over the years, wouldn't there... | Allan Bigelow
amb3573
 | Sep 10, 2010
4:04 am |
| Re: Question on Badger Refit
Hi Allan, I don't know about the restrictions to modifications. Many things that have received ASME landmark status, as well as recognition from other... | dcramer02
 | Sep 10, 2010
3:30 pm |
| Re: Question on Badger Refit
I agree that if there is a choice between no operational carferry on the lake and a diesel Badger. I will take the diesel Badger. How bad is the condition of... | Allan Bigelow
amb3573
 | Sep 11, 2010
3:50 am |
| Re: Question on Badger Refit
There is another option. The Viking is in mechanical operating condition and is for sale from K&K Logistics in Menominee. Last I heard, the price was \$2.2M.... | Mike
atsf1014me
 | Sep 11, 2010
5:42 pm |
| Re: Question on Badger Refit
Yeah \$16 million would go far in rebuilding the cabins and floor plan of the Viking as well. It is an operational ship. The | Allan Bigelow
amb3573
 | Sep 12, 2010
5:50 pm |



S.S. BADGER AUCTION ITEMS

[Click on the item listing to view details](#)

Powered by [ESP Sales](#) Subscribe

53 Item(s)

Show All per page

View as Grid List

Sort By Position



[Original brass table from the City of Midland](#)



\$85.00

jcerry11

[One-of-a-kind S.S. Badger stateroom key holder](#)



\$130.00

DebbieBluebird

[Sound Powered Telephone](#)



\$80.00

dylanb

[S.S. Badger Life Ring](#)



\$175.00

winebagobue

[Herman Miller Fiberglass Chair](#)



\$25.55

sandlune_sh@yahoo.com

[Padded youth chair](#)



\$25.00

mike

[One-of-a-kind Wall Paneling From City of Midland Dining Hall](#)



\$300.00

E

[Little Wizard Oil Lantern Stenciled S.S. Badger](#)



\$65.00

CaptainMatt

[Youth Hitchhiker](#)



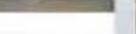
[Oil Painting of The City of Midland](#)



[Framed Photograph From 1903 Showing S.S. Badger](#)



[Framed S.S. Spartan Photograph](#)



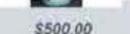
\$133.00

dylanb



\$650.00

CaptainMatt



\$500.00

BlisShip



\$100.00

jcerry11

[Porcelain Vase Cover From City of Midland - 750s](#)



\$62.00

Boss

53 Item(s)

Show All per page

View as Grid List

Sort By Position

AUCTION INFORMATION

Proceeds from this auction will be donated to a local charity to be named in a press release on May 23rd

Thank you to the following for their personal contributions to this auction: The family of Charles Conrad, Jim and Eleanor Anderson, Don Clingan, Camille Shepler, Chuck Carl, and Bill Kulka

Certificates of authenticity will be available with each item. Please pay close attention to shipping requirements. Unless a shipping price is listed, all items must be picked up at 701 Maritime Drive, Ludington, Michigan, 49431. For additional information on an item or to schedule a personal viewing, please contact Linda Matson, Vice President of Customer Service and Marketing, Linda@ssbadger.com or 231-843-7235.

All sales are final, no refunds or exchanges

Payment must be submitted by 5:00pm on May 30, 2011 or the next highest bidder will be contacted

Items are being sold for their historical/antique value only. Items (such as life jackets and lanterns) are no longer suitable for their original purpose



FOR IMMEDIATE RELEASE

Contact: Brandy Henderson
brandy@ludington.org
231.845.0324

Grassroots Effort to Build Awareness of S.S. Badger Future

May 23, 2011, LUDINGTON, Mich. - In an effort to build awareness and support of the continued operation of the S.S. Badger beyond the 2012 EPA deadline, 7 members of community have joined together to begin a grassroots effort- Save Our Ship!

Mayor John Henderson, Dr. Bill Anderson, Brandy Henderson, Barry Neal, Brad Reed, Todd Reed and Heather Venzke have come together to spread the message that the Ludington Area needs the S.S. Badger to continue operations beyond 2012 in order to remain a competitive player in the region's tourism and manufacturing industries.

"There is a real possibility that the S.S. Badger may have to cease operations in December 2012, but we are hopeful that the S.O.S. campaign will help demonstrate that our communities need the S.S. Badger and influence Lake Michigan Carferry and the federal government to come to an acceptable solution to continue operations", John Henderson, Mayor of Ludington said.

The S.O.S. Task Force has teamed up with Mayor Justin Nickels from the City of Manitowoc and other members of the community to take on this issue together, as the S.S. Badger's operations affect both communities.

"The S.S. Badger is an important asset to both of our communities and surrounding regions," Mayor Henderson said. "We look forward to working together with Manitowoc and bringing light to the issue at hand".

"The S.S. Badger really is the anchor of our community; it is the cultural, historical and economic centerpiece of Ludington" Brad Reed, SOS Task Force member and co-owner of Todd & Brad Reed Photography said.

"The Save Our Ship campaign is focused on informing the public of the issue and gathering the community together to make sure that in the end, the S.S. Badger remains in service", Todd Reed, co-owner of Todd & Brad Reed Photography added.

Save Our Ship is the beneficiary of the online auction of authentic S.S. Badger and carferry artifacts taking place now through May 26th 6pm ET at www.ssbadgerstore.com/auction. Items include a life ring, rare photographs, captain's jackets, a chadburn and many more historic artifacts.

The community is encouraged to get involved and join the S.O.S. Team help SAVE OUR SHIP by visiting the S.O.S. website, www.sosbadger.com.

###



BIG SHIP, MORE FUN!

The 410' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



- Home
- Schedules & Fares
- Big Ship, More Fun!
- History
- Vacation Ideas
- Contact Us



Big Ship, More Fun, Best Value!

Cruise News SHARE

[S.S. Badger EPA permit application available to the public](#)

[Read the press release about the EPA permit application](#)

[Visit the SOS Badger site!](#)

[Badger news and updates](#)

[Check out the latest edition of Crossings!](#)

[Shop our online store](#)

[Sign up for our SailMail email newsletter](#)
Privacy by EPFSafeSubscriber™

Quick Trip Plan

Depart Date:

Time: Important!

Adults: Seniors (65+): Children (5-15):

Vehicle 1: Vehicle 2:

Are any tickets Round Trip?

[Continue](#)

The S.S. Badger recommends the following hotels and attractions:

Ludington:

PURE MICHIGAN™

Marquette:

travelwisconsin.com



Issues

Why We Support the Coast Guard Reauthorization Bill (H.R. 2838)

The owners of the SS Badger, Lake Michigan Carferry, are committed to retrofitting the vessel to run on cleaner fuel and have already spent hundreds of thousands of dollars exploring the best options.

The SS Badger is currently working with the Great Lakes Maritime Research Institute on a pilot project to evaluate conversion to natural gas fuel—one of the cleanest fuels available. In anticipation of this conversion, chief engineers for the Badger have already undergone comprehensive training on the use of natural gas fuel and received full certification in December 2011. However, because conversion to a new, cleaner fuel is so complex and costly, it cannot be realistically completed by December 2012. More time is needed to make the transition to natural gas.

The Coast Guard Reauthorization Bill (H.R. 2838), supported by Congressmen Huizenga (MI), Benishek (WI) and Petri (WI), passed through the House of Representatives on December 9, 2011. Now, it will move to the Senate for vote. Will you help ensure that our voice is heard in the Senate? [Click here](#) to email Senate Commerce Committee Chairman Rockefeller and let him know that the Badger is important to our states and deserves the appropriate time to be retrofitted to run on cleaner fuel.

Why We Want to Make the SS Badger a National Historic Landmark

To put it simply, the Badger is a national treasure. It links us to an earlier time when a sea voyage was the ultimate travel and vacation adventure.

As the only coal-fired steamship in operation in the United States, the Badger has a unique propulsion system that has been designated as a national mechanical engineering landmark. The vessel has also earned historical awards and designations from the American Society of Mechanical Engineers, Michigan Historical Commission, Wisconsin Historical Commission, Historical Society of Michigan, Steamship Historical Society of America and has been placed on the National Register of Historic Places by the U.S. Department of the Interior.

We urge you to [click here](#) and tell Secretary Salazar that the Department of the Interior should acknowledge the century-old tradition of car ferry service on Lake Michigan by granting the SS Badger National Historic Landmark status.

RECENT POSTS

- Muskegon Chronical Article
- S.O.S. Lights the S.S. Badger Boiler
- S.O.S. Campaign Announcement
- Support from Madison WI

ARCHIVES

- June 2011
- May 2011

CATEGORIES

- No categories

META

- Log In
- Entries RSS
- Comments RSS
- WordPress.org



www.SOSBadger.com

Wall

Info

Friend Activity

Photos

1,635

like this

13

talking about this

Likes

See All



Best Choice Market



Senator Dick Durbin



Brenda's Harbor Cafe



Jamesport Brewing Company



The Blu Moon Bistro

Create a Page

Get Updates via SMS

Get Updates via RSS

Unlike

Report Page

Share

Save Our Ship: S.S. Badger

Community



Wall

Save Our Ship: S.S. Badger · Everyone (Top Post)

Share: [Post](#) [Photo](#) [Link](#) [Video](#)

Write something...



Save Our Ship: S.S. Badger

VOTE YES!

mychannel957.com



Should Ludington's S.S. Badger Be Allowed To Dump Coal In Lake Michigan? – Poll Of The Day - channel mychannel957.com

We can all agree on the importance of our Great Lakes and the need to take care of them, but sometimes the environment and business clash. New, cleaner

Like · Comment · Share · 21 minutes ago ·

Karen Clark likes this.



Jacqueline Buttigieg yesssss keep our ship running!

16 minutes ago · Like



Karen Clark I voted, keep it going

9 minutes ago · Like

Write a comment...



Save Our Ship: S.S. Badger

Show your appreciation for the support of our US House of Representatives. You can contact them using these links:

mychannel957.com

Please show your support for the Coast Guard Reauthorization bill by thanking Congressman Huizenga, Berishek and Petri for their hardwork.

Huizenga contact link: <http://huizenga.house.gov/Contact/>

...

See More



Contact | Congressman Bill Huizenga

huizenga.house.gov

I am happy to hear your ideas or concerns about issues pertaining to the federal government, the 2nd District, the Financial Services Committee, or the news of the day in Congress. You can send me an e-mail through the form above. If you don't know your ZIP+4 code, you can find it at the US Postal...

Like · Comment · Share · 21 hours ago ·

7 people like this.



Nate Price Are there any other Wisconsin official in addition to Tom that are working on this?

17 hours ago · Like

Write a comment...



Save Our Ship: S.S. Badger

Contact Senator Dick Durbin using this link!

mychannel957.com



Contact Dick Durbin - U.S. Senator Dick Durbin

durbin.senate.gov

I hope you'll take a moment to share your thoughts so that I may continue to serve and represent your interests and concerns. An email form has been provided below for your convenience.

Like · Comment · Share · 21 hours ago ·

5 people like this.

Write a comment...



Save Our Ship: S.S. Badger

Supporters we need your help! Please contact your US Senators and ask them to support the passage of the Coast Guard funding bill that would allow the S.S. Badger: Lake Michigan Carferry to continue operations beyond Dec. 2012 AS IS! Senator Dick Durbin of IL is not in support of this and very vocal about his opinion....please also send letters to him explaining the impact the ship has on our communities---Economically, Culturally and Historically! Save our Ship!

Like · Comment · Share · 22 hours ago ·

9 people like this.

1 share



Dawn Carmichael Braack S.O.S.!!!!!!!

21 hours ago · Like

Write a comment...

Delicious Bookmarks Tag http://www.facebook.com/pages/Save-Our-Ship-S5-Badger/191631954206079

Search

Forms View Source Tools Resize MeasureIt Outline

ms... YouTube - c... Amazon.co... Great Lakes... Great Lakes... BGSU :: Cen... HUBBARD, ... Baltimore &

Veronica Pyatt What a great picture!!!
June 25 at 9:27pm

Art Kelsey keep it coal fired, history lesson for kids!
June 25 at 9:37pm

Jill Seyfred Love this picture!
June 25 at 10:01pm

Save Our Ship: S.S. Badger
Please write your local, state, and federal representatives about the issue between the Badger and the EPA. The Badger needs more time beyond the December 2012 deadline to convert to natural gas and become the greenest powered vessel on the Great Lakes. Details at www.sosbadger.com
June 23 at 12:58pm via iPhone

3 people like this.

Art Kelsey It should remain coal fired, our youth needs to see how things were done before. It is an Icon!
June 23 at 1:43pm

Caleb Kitzerow ^ thats wat tv is for
June 23 at 3:35pm

Jackie Russell Grassroots word of mouth is always a great way to get your point across. I do agree with Art that the Badger should remain coal fired, especially since utility companies were "grandfathered" in and produce more pollution than one historic ship. However, if compressed gas will be the absolute only way to allow the Badger to continue her reign as Queen of the Great Lakes, I'll lobby til Lake Michigan runs dry. Dear Badger, we love you.
June 23 at 9:29pm 1 person



BIG SHIP, MORE FUN!

The 410' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



Home

Schedules & Fares

Big Ship, More Fun!

History

Vacation Ideas

Contact Us

SHARE   



SEND A LETTER TO HELP US SAVE OUR SHIP

** Please put your first name, last name and valid email address below to send this support email to key politicians who will have an impact on the future of the S.S. Badger

First Name: Last Name: Email:

Today we submit this letter to you in support of the historic S.S. Badger. The S.S. Badger is the only coal-fired passenger vessel operating in regular service in the United States and in her almost 60 years of service has carried millions of passengers and countless amounts of cargo between Michigan and Wisconsin. The Badger is listed on the National Register of Historic Places and has numerous other awards and designations indicative of her proud service on Lake Michigan.

We are aware of the environmental concerns. The BADGER does discharge the ash that remains from burning coal in its boilers during the course of its 60 mile voyage between Ludington, Michigan and Manitowoc, Wisconsin. Multiple tests by independent, E.P.A. certified laboratories of the residue have proven there is no harm to the environment. Please view the following link to the Environmental Protection Agency website with the Badger's permit application. www.epa.gov/5water/npdestek/badger

The Badger provides services that have a positive impact on the environment in several ways. Since 2011 the Badger has moved over 100 million pounds of wind energy cargo, saving the transportation companies thousands of miles and eliminating the large trucks from the congestion of the regional highway systems. The cars, motorcycles, RV's and commercial trucks carried by the Badger each season would require over 1,000,000 gallons of fuel to drive the distance saved by crossing Lake Michigan. Click the link to see the details of the fuel savings in the Badger's EPA permit application. <http://www.epa.gov/5water/npdestek/badger/pdfs/application/badger-app.pdf>

The BADGER's owners have taken multiple steps to reduce the amount of ash that is discharged. Lake Michigan Carferry is actively exploring alternate fuels, including natural gas. Engineering was recently completed on converting the boilers to burn Liquefied Natural Gas instead of coal, and the Badger is the model of a study by the Great Lakes Maritime Research Institute on clean energy use in the maritime industry. While natural gas appears to be the fuel of the future, more time is needed to develop this as a long-term solution.

Your commitment for the environment is matched only by your commitment to keep Americans working. The BADGER employees over 200 people and has a combined impact of \$35,000,000 to the port cities of Ludington and Manitowoc. Whatever repowering solution is chosen, the work will be done in an American shipyard by American welders, electricians and other skilled tradesmen. Please ask the U.S. EPA to issue the BADGER their individual permit as soon as possible. The uncertainty is making finding a solution even more difficult. Lake Michigan is a precious natural resource and it deserves our respect and protection but it is not necessary to banish the BADGER. The steamship has plied these waters since 1953 and there is no reason our children's children can't enjoy an experience on this historic vessel.

Very Respectfully,

Home = <http://www.ssbadger.com/content.aspx?Page=Schedule> > Schedule & Fares | [Big Ship, More Fun!](#) | [History](#) | [Contact Us](#) | [Book Now!](#)
[Compare Prices](#) | [Media Kit](#) | [Group Travel](#) | [Commercial Trucks](#) | [Employment](#)

© Lake Michigan Carferry 2011 · 800-841-4243 · www.ssbadger.com · mailto:info@ssbadger.com

April 22, 2013

**Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.**

Via email: pubcomment-ees.enrd@usdoj.gov

Kenneth J. Szallai
President
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Addendum: LMC coal usage 2008-2012.

Source documentation: <http://www.scribd.com/collections/4231083/SS-Badger-Coal-Invoices-via-MPU-Manitowoc-Public-Utility>

SS Badger 2012 Coal Burn, Ash Totals and MPU Coal Supply Overview

| Type | SS Badger Operating Dates (by Invoice) | | | Scheduled Crossings* | SS Badger 2012 Coal Usage - total | | | Coal Ash Generated by SS Badger in 2012 | | |
|---------------------|--|--------------------|------------|----------------------|-----------------------------------|-----------------------|----------------|---|-----------------------|-----------------------------------|
| | Start Date | End Date | Days | | Tons Burned | Cost** | Cost per Ton** | Ash Content (%)*** | Ash per day (in tons) | Total Ash Generated (in tons)**** |
| 2012 C Reiss Stoker | May 24, 2012 | May 31, 2012 | 8 | 16 | 380.8 | \$ 53,293.0 | \$ 140.0 | 8.46% | 4.03 | 32.21568 |
| 2012 - Westridge | May 24, 2012 | May 31, 2012 | 8 | 16 | 95.2 | \$ 10,904.4 | \$ 114.5 | 8.46% | 1.01 | 8.05392 |
| 2012 C Reiss Stoker | June 1, 2012 | June 30, 2012 | 30 | 104 | 1456 | \$ 204,768.2 | \$ 140.6 | 8.46% | 4.11 | 123.1776 |
| 2012 - Westridge | June 1, 2012 | June 30, 2012 | 30 | 104 | 364 | \$ 40,098.0 | \$ 110.2 | 8.46% | 1.03 | 30.7944 |
| 2012 C Reiss Stoker | July 1, 2012 | July 31, 2012 | 31 | 122 | 1635.2 | \$ 228,846.2 | \$ 140.0 | 8.46% | 4.46 | 138.33792 |
| 2012 - Westridge | July 1, 2012 | July 31, 2012 | 31 | 122 | 408.8 | \$ 45,003.6 | \$ 110.1 | 8.46% | 1.12 | 34.58448 |
| 2012 C Reiss Stoker | August 1, 2012 | August 30, 2012 | 30 | 120 | 1831.2 | \$ 256,276.4 | \$ 140.0 | 8.46% | 5.16 | 154.91952 |
| 2012 - Westridge | August 1, 2012 | August 30, 2012 | 30 | 120 | 296.8 | \$ 32,739.6 | \$ 110.3 | 8.46% | 0.84 | 25.10928 |
| 2012 C Reiss Stoker | September 1, 2012 | September 30, 2012 | 30 | 66 | 1528.8 | \$ 214,275.6 | \$ 140.2 | 8.46% | 4.31 | 129.33648 |
| 2012 - Westridge | September 1, 2012 | September 30, 2012 | 30 | 66 | 95.2 | \$ 10,424.4 | \$ 109.5 | 8.46% | 0.27 | 8.05392 |
| 2012 C Reiss Stoker | October 1, 2012 | November 2, 2012 | 33 | 66 | 930.66 | \$ 130,245.9 | \$ 140.0 | 8.46% | 2.39 | 78.733836 |
| 2012 - Westridge | October 1, 2012 | November 2, 2012 | 33 | 66 | 140 | \$ 15,810.0 | \$ 112.9 | 8.46% | 0.36 | 11.844 |
| 2011 Totals | | | 162 | 494 | 9,163 | \$ 1,242,685.3 | 135.62 | | 4.84 | 775.16 |

Source: MPU invoices (coal totals), coal vendor analytical reports (ash content), SSBadger.com (count of operating days and crossing totals)

Note: Ash per trip/per day totals are calculated using total coal burned (per MPU invoices) and ash content of coal (per MPU spec sheets) and assume complete combustion.

Actual ash/waste totals may be higher and consist of fly and bottom ash.

* Scheduled trips. 2 crossings (1 roundtrip) per day May 24-June 9, September 4 - November 2. 4 crossings daily (2 roundtrips) June 10-September 3, 2012. Does not include cancelled trips.

As a result, actual coal ash total generated per crossing totals are slightly higher.

** Reflects cost for coal including fuel surcharge, btu premium, dock charge and fuel carrying(sic) charge.

*** 2011 Ash content figure - actual total may vary slightly. 2012 coal was carried over from 2011 delivery. Delivered coal is tested for moisture content and includes percent ash content for coal with moisture and dry coal without moisture. Figures reflect coal with moisture.

**** Total Ash Generation calculation reflects total tons burned multiplied by percentage ash per spec. Actual ash generated will exceed this due to incomplete combustion.

LMC coal purchases financed by MPU/City of Manitowoc

MPU carried LMC coal (est. 7560.05 tons) from 2011 order for 2012 use.

11/6/2012 invoicing makes note of "Remaining stoker tonnage due MPU" - 930.66 tons.

LMC Invoice amounts for 2012.

| Invoice number | Invoice Date | Tons of Coal Used | Dates Used | Amount | Payment Due |
|-----------------------|--------------|-------------------|--------------|-----------------------|-------------|
| s0018832 | 7-Jun-12 | 476 | May 2012 | \$64,197.36 | 7-Jul-12 |
| s0018868 | 3-Jul-12 | 1,820 | June 2012 | \$243,865.20 | 2-Aug-12 |
| s0018927 | 7-Aug-12 | 2,044 | July 2012 | \$273,849.84 | 6-Sep-12 |
| s0018964 | 7-Sep-12 | 2,128 | August 2012 | \$289,016.04 | 7-Oct-12 |
| s0019005 | 3-Oct-12 | 1,624 | Sept 2012 | \$224,699.96 | 2-Nov-12 |
| s0019065 | 12-Nov-12 | 1,071 | Oct/Nov 2012 | \$146,055.87 | 12-Dec-12 |
| Total invoiced | | 9,163 | | \$1,241,684.27 | |

SS Badger 2011 Coal Burn, Ash Totals and MPU Coal Supply Overview

| SS Badger Operating Dates (by Invoice) | | | | SS Badger 2011 Coal Usage - total | | | Coal Ash Generated by SS Badger in 2011 | | |
|--|-----------------|------------|------------|-----------------------------------|---------------------|------------------|---|-----------------------|-------------------------------|
| Start Date | End Date | Days | Crossings* | Tons Burned | Cost** | Cost per Ton** | Ash Content (%)*** | Ash per day (in tons) | Total Ash Generated (in tons) |
| May 26, 2011 | June 30, 2011 | 34 | 108 | 2520 | \$ 257,796.0 | \$ 102.3 | 8.46% | 6.27 | 213.192 |
| July 1, 2011 | July 31, 2011 | 31 | 124 | 1950 | \$ 199,485.0 | \$ 102.3 | 8.46% | 5.32 | 164.97 |
| August 1, 2011 | August 31, 2011 | | | 1410 | \$ 144,243.0 | \$ 102.3 | 8.46% | 119.29 | <-- calc not tot |
| total of two August line items below | | | | 630 | \$ 82,246.5 | \$ 130.6 | 8.49% | 53.49 | <-- calc not tot |
| August Total | | 31 | 118 | 2040 | \$ 226,489.5 | \$ 111.0 | | 5.57 | 172.773 |
| September 1, 2011 | October 9, 2011 | 39 | 78 | 1992 | \$ 260,055.6 | \$ 130.6 | 8.49% | 4.34 | 169.1208 |
| 2011 Totals | | 135 | 428 | 8,502 | \$ 943,826.1 | \$ 111.01 | 8.47% | 5.33 | 720.06 |

Source: MPU invoices (coal totals), coal vendor analytical reports (ash content), SSBadger.com (count of operating days and crossing totals)

Note: Ash per trip/per day totals are calculated using total coal burned (per MPU invoices) and ash content of coal (per MPU spec sheets) and assume complete combustion.

Actual ash/waste totals may be higher and consist of fly and bottom ash.

* Scheduled trips. 2 crossings (1 roundtrip) per day May 26-June 9, August 29 - October 9. 4 crossings daily (2 roundtrips) June 10-August 28, 2011. Does not include cancelled trips. As a result, actual coal ash total generated per crossing totals are slightly higher.

** Reflects cost for coal alone - Invoices also include fuel surcharge, btu premium, dock charge and fuel carrying(sic) charge.

*** Delivered coal is tested for moisture content and includes percent ash content for coal with moisture and dry coal without moisture. Figures reflect coal with moisture.

LMC coal purchases financed by MPU/City of Manitowoc

2010 MPU coal purchase remaining for LMC use: 5,872.75 tons @ \$102.30 per ton + \$8.27/ton of additional cost - \$649,934.96 total est value, unbilled to LMC until 2011.

Remainder from 10,018.75 nt invoiced June 24, 2010 by C Reiss to MPU - \$1,048,143 total value - Invoice # CRCC38984.

2011 MPU purchase for LMC usage: 10,189.3 nt delivered @ \$130.55 per ton + \$3.45/ton of surcharges - \$1,365,366.21 total order value.

\$ 2,015,301.17 total value of coal purchased by MPU for LMC including 2010 carryover inventory (unbilled purchases) and 2011 purchases.

\$ 1,018,300.50 total value of invoices to LMC from MPU in 2011.

\$ 997,000.67 Approximate total value of LMC coal (est. 7560.05 tons) remaining purchased and financed by MPU (publicly owned utility) for future use by SS Badger.

LMC Invoice amounts for 2011.

| Invoice number | Invoice Date | Tons of | Dates Used | Amount | Payment Due |
|----------------|--------------|---------|-------------|--------|-------------|
| s0018336 | 6-Jul-11 | 2,520 | May/June 20 | ##### | 5-Aug-11 |
| s0018384 | 5-Aug-11 | 1,950 | July 2011 | ##### | 4-Sep-11 |
| s0018425 | 7-Sep-11 | 2,040 | August 2011 | ##### | 7-Oct-11 |
| s0018499 | 12-Oct-11 | 1,992 | September/O | ##### | 11-Nov-11 |
| Total invoiced | | 8,502 | | ##### | |

| SS Badger Operating Dates (by Invoice) | | | | SS Badger 2010 Coal Usage - total | | | Coal Ash Generated by SS Badger in 2010 | | |
|--|-----------------|------------|------|-----------------------------------|---------------------|------------------|---|-----------------------|-------------------------------|
| Start Date | End Date | Days | Type | Tons Burned | Cost** | Cost per Ton** | Ash Content (%)*** | Ash per day (in tons) | Total Ash Generated (in tons) |
| August 31, 2010 | October 3, 2010 | 33 | 2010 | 1920 | \$ 196,416.0 | \$ 102.3 | 7.09% | 4.125090909 | 136.128 |
| August 1, 2010 | August 31, 2010 | 31 | 2010 | 1566 | \$ 160,201.8 | \$ 102.3 | 7.09% | 3.581593548 | 111.0294 |
| August 1, 2010 | August 31, 2010 | 31 | 2009 | 408 | \$ 46,512.0 | \$ 114.0 | 6.14% | 0.808103226 | 25.0512 |
| July 1, 2010 | July 31, 2010 | 31 | 2009 | 1290 | \$ 147,060.0 | \$ 114.0 | 6.14% | 2.555032258 | 79.206 |
| July 1, 2010 | July 31, 2010 | 31 | 2010 | 660 | \$ 67,518.0 | \$ 102.3 | 7.09% | 1.509483871 | 46.794 |
| May 28, 2010 | June 30, 2010 | 34 | 2009 | 1860 | \$ 212,040.0 | \$ 114.0 | 6.14% | 3.358941176 | 114.204 |
| | | 129 | | 7,704 | \$ 829,747.8 | \$ 107.70 | 6.65% | 5.2287 | 512.41 |

***2010 coal spec unknown - % reflects est (average of last 3 orders)

| SS Badger Operating Dates (by Invoice) | | | | SS Badger 2009 Coal Usage - total | | | Coal Ash Generated by SS Badger in 2009 | | |
|--|--------------------|------------|------|-----------------------------------|---------------------|------------------|---|-----------------------|-------------------------------|
| Start Date | End Date | Days | Type | Tons Burned | Cost** | Cost per Ton** | Ash Content (%)*** | Ash per day (in tons) | Total Ash Generated (in tons) |
| September 1, 2009 | September 27, 2009 | 27 | 2009 | 720 | \$ 82,080.0 | \$ 114.0 | 6.14% | 1.637333333 | 44.208 |
| September 1, 2009 | September 27, 2009 | 27 | 2008 | 600 | \$ 49,380.0 | \$ 82.3 | 9.47% | 2.104444444 | 56.82 |
| August 1, 2009 | August 31, 2009 | 31 | 2009 | 1920 | \$ 218,880.0 | \$ 114.0 | 6.14% | 3.80283871 | 117.888 |
| July 1, 2009 | July 31, 2009 | 31 | 2009 | 1800 | \$ 205,200.0 | \$ 114.0 | 6.14% | 3.56516129 | 110.52 |
| June 1, 2009 | June 30, 2009 | 30 | 2009 | 1650 | \$ 188,100.0 | \$ 114.0 | 6.14% | 3.377 | 101.31 |
| May 22, 2009 | May 31, 2009 | 9 | 2009 | 510 | \$ 58,140.0 | \$ 114.0 | 6.14% | 3.479333333 | 31.314 |
| | | 128 | | 7,200 | \$ 801,780.0 | \$ 111.36 | 6.42% | 4.574851485 | 462.06 |

| SS Badger Operating Dates (by Invoice) | | | | SS Badger 2008 Coal Usage - total | | | Coal Ash Generated by SS Badger in 2008 | | |
|--|------------------|------------|-----------|-----------------------------------|---------------------|-----------------|---|-----------------------|-------------------------------|
| Start Date | End Date | Days | Type | Tons Burned | Cost** | Cost per Ton** | Ash Content (%)*** | Ash per day (in tons) | Total Ash Generated (in tons) |
| September 1, 2008 | October 12, 2008 | 42 | 08 blend | 1770 | \$ 168,415.5 | \$ 95.2 | 7.44% | 3.133742857 | 131.6172 |
| September 1, 2008 | October 12, 2008 | 42 | 08 stoker | 240 | \$ 19,752.0 | \$ 82.3 | 6.42% | 0.366857143 | 15.408 |
| August 1, 2008 | August 31, 2008 | 31 | 08 blend | 1620 | \$ 154,143.0 | \$ 95.2 | 7.44% | 3.885909677 | 120.4632 |
| July 1, 2008 | July 31, 2008 | 31 | 08 blend | 1950 | \$ 183,144.0 | \$ 93.9 | 7.44% | 4.677483871 | 145.002 |
| June 1, 2008 | June 30, 2008 | 30 | 08 blend | 1860 | \$ 174,691.2 | \$ 93.9 | 7.44% | 4.61032 | 138.3096 |
| May 9, 2008 | May 31, 2008 | 22 | 08 blend | 1170 | \$ 109,886.4 | \$ 93.9 | 7.44% | 3.9546 | 87.0012 |
| | | 156 | | 8,610 | \$ 810,032.1 | \$ 94.08 | 7.41% | 5.594747368 | 637.80 |

April 22, 2013

**Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.**

Via email: pubcomment-ees.enrd@usdoj.gov

Kenneth J. Szallai
President
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611

Addendum: LMC price-based competitive efforts vs. Lake Express 2008-2012

Beginning in 2008, LMC has engaged in aggressive price-focused marketing aimed at Lake Express. Exemptions and extensions have market-altering competitive impacts.

Exhibits:

- **2013 Google search “best prices” directed at Lake Express home markets and regional audiences.**
- **2012 SSBadger.com website price comparison page.**
- **2009-2012 “Best Price” billboard posted in Muskegon Michigan.**
- **2012 “Over \$65 less than Lake Express ad” directed at Google users seeking “Lake Express” information.**
- **2012 “Save big” online advertisement run on Milwaukee Journal Sentinel website and on other Milwaukee media outlets.**
- **2009-2010 “SS Badger Lower Fares” advertising – run through SS Badger accounts and with utilization of State of Michigan taxpayer funds through Travel Michigan matching funds programs.**
- **Ludington Daily News – June 11, 2009 article detailing use of federal and state taxpayer funds to run price-based advertising vs. Lake Express.**
- **2010 SSBadger.com price comparison page demonstrating price-based advertising efforts and competitive overlap.**
- **2009 SSBadger price comparison page demonstrating long-running price-based competitive advertising efforts directed at Lake Express. (Note: price comparisons were posted 5/6/2008)**

milwaukee ferry - Google Search - Windows Internet Explorer

http://www.google.com/#hl=en&gs_l=9&gs_rj=psy-ab&qp=michigan%20ferry&cp=12&gs_id=53&chr=t&q=milwaukee+ferry&es...

milwaukee ferry - Google ...

File Edit View Favorites Tools Help

+You Search Images Maps Play YouTube News Gmail Drive Calendar More -

Google milwaukee ferry

Web Images Maps Shopping Videos More - Search tools

About 6,350,000 results (0.23 seconds)

Ad related to milwaukee ferry ⓘ

SS Badger-lowest fares 1 (877) 300 5076
www.ssbadger.com
 \$60 special on passengers and autos to celebrate our 60th anniversary!
 Schedule and Fares - Book Now

Lake Express - Home
www.lake-express.com/
 CONTACT US. Lake Express Corporate; 2330 S. Lincoln Memorial Dr. Milwaukee, WI 53207; Phone: 866-914-1010. Milwaukee Terminal; 2330 S. Lincoln ...
 Score: 12 / 30 - 14 Google reviews - Write a review

1918 Lakeshore Dr Muskegon, MI 49441
 (866) 914-1010

Ferries operating in Wisconsin - Wisconsin Department of ...
www.dot.wisconsin.gov > Travel > Travel by > Water
 Apr 11, 2012 - Located in southeastern Wisconsin on Lake Michigan. Connects Milwaukee, Wisconsin, with Muskegon, Michigan. Ferry fee for passengers ...

Grand Trunk Milwaukee Car Ferry Company - Wikipedia, the free ...
en.wikipedia.org/ /Grand_Trunk_Milwaukee_Car_Ferry_Company
 The Grand Trunk Milwaukee Car Ferry Company was the Grand Trunk Western Railroad's subsidiary company operating its Lake Michigan railroad car ferry



Lake E

Directions

Address: 1918
 Phone: (866) 9
 Hours: Friday |

Reviews

SCORE OVER 12

muskegon ferry - Google Search - Windows Internet Explorer

http://www.google.com/#hl=en&gs_l=9&gs_rj=psy-ab&qp=milwaukee%20ferry&cp=10&gs_id=60&chr=t&q=muskegon+ferry&e...

muskegon ferry - Google ...

File Edit View Favorites Tools Help

+You Search Images Maps Play YouTube News Gmail Drive Calendar More -

Google muskegon ferry

Web Images Maps Shopping Videos More - Search tools

About 1,490,000 results (0.18 seconds)

Ad related to muskegon ferry ⓘ

SS Badger-lowest fares 1 (877) 300 5076
www.ssbadger.com
 \$60 special on passengers and autos to celebrate our 60th anniversary!
 Schedule and Fares - Book Now

Lake Express - Home
www.lake-express.com/
 Muskegon Terminal; 1918 Lakeshore Drive; Muskegon, MI 49441; Driving Directions.
 NEWSLETTER. Newsletter. Signup to receive email updates on specials ...
 Score: 12 / 30 - 14 Google reviews - Write a review

1918 Lakeshore Dr Muskegon, MI 49441
 (866) 914-1010

Milwaukee (WI)-Muskegon (MI) - Ferry Service - FindTheData
ferry-service.findthedata.org > Transportation > Ferry Service
 25+ items - Find and compare Milwaukee (WI)-Muskegon (MI) ferry services ...
 Ferry Service. A unique numeric identifier assigned to each ferry route segment Operator. ID of the Operator that provides service for the terminal

Muskegon Ferry - City of Muskegon
www.muskegon-mi.gov > Services > Services for Individuals
 Muskegon Ferry by Lake Express from Muskegon to Milwaukee



Lake E

Directions

Address: 1918
 Phone: (866) 9
 Hours: Friday |

Reviews

SCORE OVER 12

lake michigan ferry - Google Search - Windows Internet Explorer

http://www.google.com/#hl=en&gs_l=9&gs_r=psy-ab&gs_mss=wisconsin%20ferry&pg=wisconsin%20ferry&cp=14&gs_id=ba&...

lake michigan ferry - Goo... X

File Edit View Favorites Tools Help

+You Search Images Maps Play YouTube News Gmail Drive Calendar More -

Google lake michigan ferry

Web Images Maps Shopping Videos More + Search tools

About 2,180,000 results (0.19 seconds)

Ad related to lake michigan ferry ⓘ

[SS Badger-lowest fares](#) 1 (877) 300 5076
www.ssbadger.com/
 \$60 special on passengers and autos to celebrate our 60th anniversary!
 Schedule and Fares - Book Now

[Lake Express - Home](#)
www.lake-express.com/
 Lake Express 10th Anniversary. Special Offers. Lake Express Fast Forward. Read More. Lake Express Travel Green ... Take a ride on the Lake Express ...

[SS Badger Home](#)
www.ssbadger.com/
 Michigan Partners & Destinations. Best Western Splash Park ... the Badger Crew - Help Wanted. © Lake Michigan Carferry | 800-841-4243 | info@ssbadger.com.

[Lake Michigan ferry fracas heats up over stimulus application](#)
www.jsonline.com > News > Wisconsin
 Aug 25, 2010 - Several years ago, the folks who operate the SS Badger cried foul over Lake Express's government-backed loan guarantees. Now that the SS ...

[Grand Trunk Milwaukee Car Ferry Company - Wikipedia, the free ...](#)
en.wikipedia.org/wiki/Grand_Trunk_Milwaukee_Car_Ferry_Company

See result 

michigan ferry - Google Search - Windows Internet Explorer

http://www.google.com/#hl=en&gs_l=9&gs_r=psy-ab&gs_mss=wisconsin%20ferry&pg=wisconsin%20ferry&cp=3&gs_id=e4&sh...

michigan ferry - Google S... X

File Edit View Favorites Tools Help

+You Search Images Maps Play YouTube News Gmail Drive Calendar More -

Google michigan ferry

Web Images Maps Shopping News More + Search tools

About 16,600,000 results (0.15 seconds)

Ad related to michigan ferry ⓘ

[SS Badger-lowest fares](#) 1 (877) 300 5076
www.ssbadger.com/
 \$60 special on passengers and autos to celebrate our 60th anniversary!
 Schedule and Fares - Book Now

[Lake Express - Home](#)
www.lake-express.com/
 Buy Tickets Now - Gift Cards - Car Rental - Visit Wisconsin - Visit Michigan - Contact ... Muskegon Terminal, 1918 Lakeshore Drive, Muskegon, MI 49441; Driving ...

[Ferry Township, Michigan - Wikipedia, the free encyclopedia](#)
en.wikipedia.org/wiki/Ferry_Township_Michigan
 Ferry Township is a civil township of Oceana County in the U.S. state of Michigan. The population was 1,296 at the 2000 census. Ferry Township was ...

[SS Badger Home](#)
www.ssbadger.com/
 Michigan Partners & Destinations. Best Western Splash Park - Holiday Inn Express - Holland CVB - Ludington Area CVB - Traverse City CVB - West Michigan ...

[Ferries operating in Wisconsin - Wisconsin Department of ...](#)

See results 



BIG SHIP, MORE FUN!

The 410' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



Home Schedules & Fares Big Ship, More Fun! History Vacation Ideas Contact Us



PRICE COMPARISONS

In addition to the best fares across Lake Michigan, S.S. BADGER offers low-cost WiFi, free movies and satellite TV, free entertainment, personalized service, kids' activities, restaurant and snack bar, gift shop, staterooms, and spacious outside decks for walking or lounging!

| | S.S. BADGER
<small>(not weekly fare)</small> | Lake Express
<small>(not fuel, port & security fees)</small> | What you'll SAVE
<small>choosing an S.S. Badger</small> |
|------------------------------|---|---|--|
| ONE WAY | | | |
| 2 adults, 2 children, 1 auto | \$231.95 | \$341.50 | 47% |
| 2 adults, 1 auto | \$231.95 | \$274.50 | 18% |
| 2 seniors, 1 auto | \$217.95 | \$257.50 | 18% |
| ROUND TRIP | | | |
| 2 adults, 2 children, 1 auto | \$413.95 | \$590.00 | 43% |
| 2 adults, 1 auto | \$413.95 | \$480.00 | 15% |
| 2 seniors, 1 auto | \$391.95 | \$454.00 | 16% |

Prices reflect rates listed at www.lake-express.com as of 3/12/2012. Prices also reflect the "Kids Go Free" promotion for Lake Michigan Carferry; this promotion is subject to use or change without advance notice.

BOOK NOW AND SAVE!

[Home](#) [Schedule & Fares](#) [Big Ship, More Fun!](#) [History](#) [Contact Us](#) [Book Now](#)
[Compare Prices](#) [Media Kit](#) [Group Travel](#) [Commercial Trucks](#) [Employment](#)
 © Lake Michigan Carferry 2010 • 800-841-4243 • www.ssbadger.com • <mailto:info@ssbadger.com>

2012 SSBadger.com website price comparison landing page.



**BEST PRICE,
MORE FUN!**

ssbadger.com

Ludington • Manitowoc

Billboard placed in Muskegon Michigan outside Lake Express terminal.

Spring/Summer 2012 "Best prices" campaign aimed directed at Google users seeking information on "Lake Express."

The screenshot shows a Google search results page for the query "lake express". At the top, the navigation bar includes links for "Search", "Images", "Maps", "Play", "YouTube", "News", "Gmail", "Documents", "Calendar", and "More". The search bar contains the text "lake express". Below the search bar, it indicates "About 357,000,000 results (0.23 seconds)".

The left sidebar contains navigation options: "Web", "Images", "Maps", "Videos", "News", "Shopping", "More", "Milwaukee, WI", "Change location", and "Show search tools".

The main content area features several results:

- Ads related to lake express** (Why these ads?)
 - SS Badger - \$199 special | ssbadger.com**
www.ssbadger.com/
2 adults and auto for \$199 Over \$65 less than **Lake Express**
+ Schedule and Fares - Book Now - Maps and Directions
 - Lake Express - Lake Michigan's High Speed Ferry**
www.lake-express.com/
America's first high speed auto ferry has delighted travelers on **Lake Michigan** with its unique blend of modern comfort and speed since 2004.
+ View Rates & Fares - Schedule - Contact Us - FAQ's
- Places for lake express near Milwaukee, WI**
 - Lake Express**
www.lake-express.com
2 Google reviews
A 2330 South Lincoln Memorial Drive
Milwaukee
(866) 914-1010
 - Lake Express LLC**
www.lake-express.com
Google+ page
B 2330 S Lincoln Memorial Dr
Milwaukee
(866) 914-1010
- Driving Directions - Lake Express - High Speed Car Ferry crossing ...**
www.lake-express.com/about/directions.aspx
Driving Directions. Muskegon Terminal 1918 Lakeshore Drive Muskegon, MI 49441.
Driving Directions. PLEASE NOTE: Reservations and reservation changes ...
+ Show map of 1918 Lakeshore Drive, Muskegon, MI 49441
- Schedule - Lake Express - High Speed Car Ferry crossing Lake ...**
www.lake-express.com/schedule/index.aspx
Offering the most prime time sailings on Lake Michigan, the Lake Express provides daily roundtrip service from Spring through Fall - crossing between ...

Book today and save **BIG** during the 2012 sailing season!

S.S. BADGER
LAKE MICHIGAN CARFERRY

BIG size has yet to be surpassed

ALERT! We've revised our Privacy Policy and TOU. Click here for information.

JS Everywhere Subscription: Login | Subscribe | Manage Subscription | Help . . . Public Profile: Logout | bugzy...

Online
MILWAUKEE-WISCONSIN
JOURNAL SENTINEL
110, 2008 Pulitzer Prize Winner

WEATHER WATCH

Thursday, June 21, 2012

76° Feels Like 76°
High 83°
Low 63°

SPONSORED BY



Wisconsin Weather | 7 Day | Doppler Radar

LOCAL CARS.
WELL, SOME FOREIGN.

CarSoup.com

Watchdog | Opinion | Sports | Business | Food | Entertainment | Lifestyle | Photo/Video | Moms

Classified Jobs | Cars | Homes | Rentals | MJs List

NewsWatch | Weather | Blogs | Obituaries | AP Wires | Mobile | Contact Us | RSS | Corrections | Traffic Times | Gas Prices | Tickets

Sandusky trial | Public Art | 'Wild Night' | Public art | Diet busters

leads Senate field in poll; 25% undecided



Tommy Thompson holds more than a 2-1 lead over the closest of three party rivals in the state's GOP Senate primary race, according to a new poll by Marquette Law School. However, "undecided" is in second place. From left are candidates Tommy Thompson, Mark Neumann, Jeff Fitzgerald and Eric Hovde. **STORY**

MICHAEL HUNT

PHOTO GALLERY

GOT A TIP?

PHOTO GALLERY

Building collapses in near west side blaze

Two walls collapsed during a major fire that gutted a three-story building just west of I-43 at N. 12th and W. Vliet streets. **(34)**

PHOTOS: Fire blazes near downtown

RAW VIDEO: Five-alarm fire

State says it will not approve Milwaukee conditions on Waukesha water deal **(214)**

GOP House panel holds Holder in contempt **(203)**

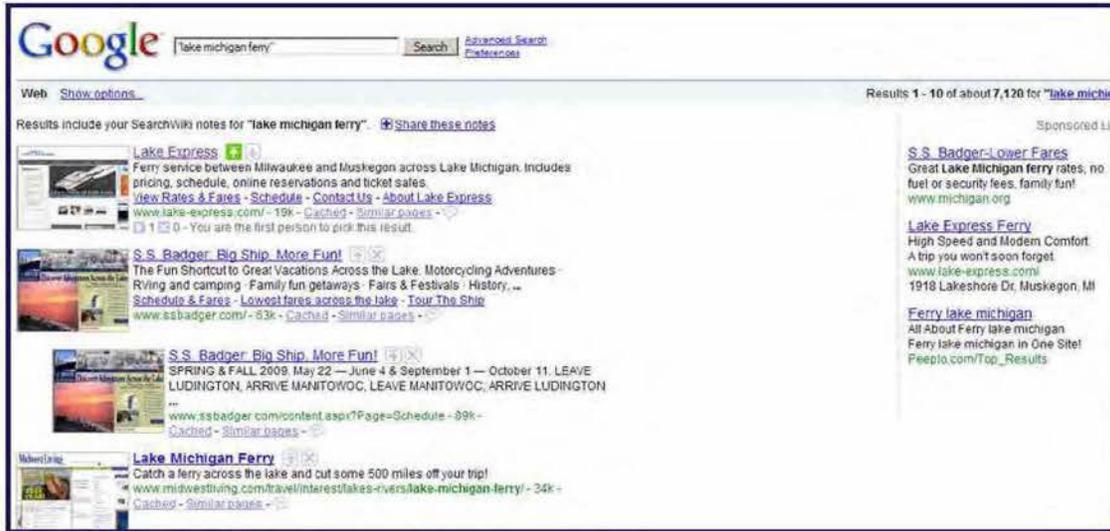
Follow @NewsHub 7.5k

JOURNAL SENTINEL
New iPad app **NOW AVAILABLE!**
FREE TRIAL DOWNLOAD NOW!

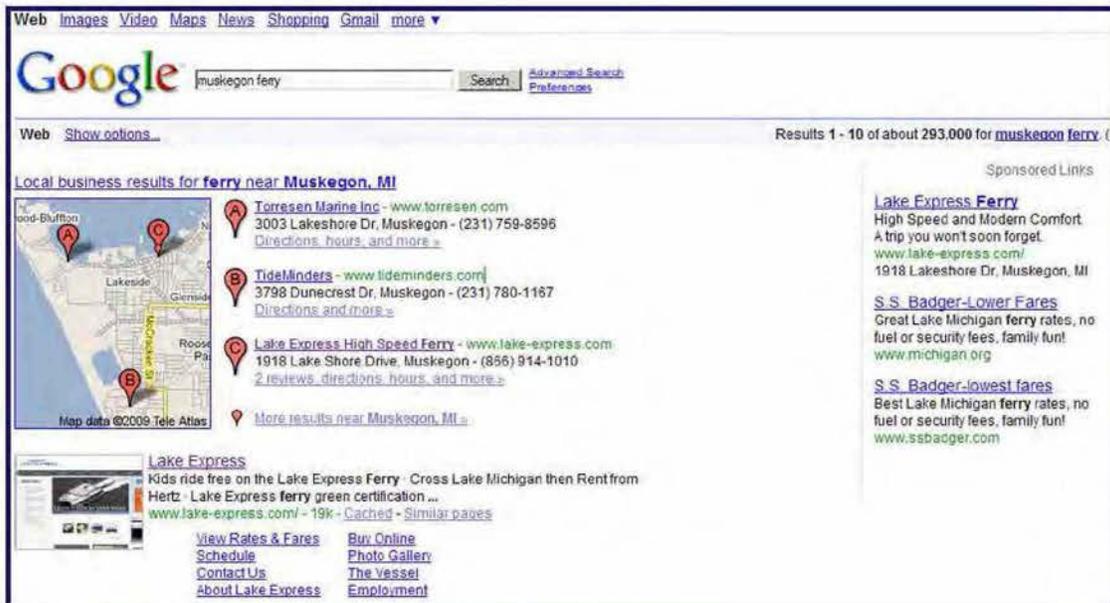
NEWSWATCH

LAND THE BIG GIG!

- 7:00 a.m. Harbor Pointe Apartments sold for \$27 million
- 6:12 a.m. Forecast: Slight chance of rain, then a bit cooler
- 5:30 a.m. On Tap: A new beat in the park
- Yesterday 11:56 p.m. Building collapses in near west side blaze
- 8:32 p.m. Beloit College professor falls, dies while on research trip



Use of State of Michigan Pure Michigan funds to run price based advertising to Google users seeking information on Lake Express. Some Lake Michigan carferry marketing efforts have been funded with Federal HUD grants and leveraged against hotel room taxes collected in Ludington, Two Rivers and Manitowoc.



Comment Email Print Text Text

Promotion includes Ludington features

MELISSA MCGUIRE - DAILY NEWS STAFF WRITER

Thursday, June 11, 2009

Promotion

includes

Ludington features

By Melissa McGuire

Daily News Staff Writer

Lake Michigan Carferry has used Federal and State tax money to market against Lake Express and to fund "best prices" campaigns running in Milwaukee and Muskegon and using the "Lake Express" trade name.

Two local businesses have teamed up to bring attention to the community, partnering with the Pure Michigan campaign, making actor and Michigan native Tim Allen the voice for Ludington in Wisconsin.

Lake Michigan Carferry and House of Flavors worked with the Ludington Area Convention and Visitors Bureau and together paid for advertising the SS Badger and Ludington community on the Pure Michigan Web site and on radio advertisements played in Wisconsin.

The campaign cost \$60,000. The local entities gave a combined \$30,000 and the Pure Michigan campaign matched it.

"A \$60,000 radio ad campaign was launched in the Green Bay area for the next 11 weeks," said Kirsten Borgstrom, media relations manager for Travel Michigan.

Ludington's spot as one of Pure Michigan's destination areas will stay on the Travel Michigan Web site until about Labor Day, until the cooler tour season, according to Borgstrom. She also said the Ludington CVB is able to update the information on Pure Michigan's site at any time.

"It is fantastic to be a part of this collaborative group that is bringing such a spotlight to the Ludington area," said Amy Seng, executive director of the Ludington CVB. "This partnership makes me proud to be a part of our community and happy to know potential tourists will have an opportunity to experience everything our area has to offer."

Marketing Director for Lake Michigan Carferry Kari Karr said this is exciting for the SS Badger as well.

She said the current partnership began in 2007 with money Manitowoc, Wis., received more than \$400,000 from the U.S. Department of Housing and Urban Development.

See PURE MICHIGAN, A6

PURE MICHIGAN

From page A1

"Manitowoc received more than \$400,000 to promote the Badger and gave half of it to Ludington," Karr said.

The ads featuring Tim Allen aired on Green Bay stations in 2007, those same ads will be used for this campaign, Karr said.

"We are really excited for the opportunity to be a part of this," she said. "This is a great example of how partnerships on the local and state level work. Without this partnership, none of this would have worked."

Karr said from 2006 to 2007 the traffic for Lake Michigan Carferry had raised more than 400 percent.

Karr said House of Flavors and the Ludington Area Convention and Visitors Bureau both gave \$5,000 toward the partnership and the Lake Michigan Carferry gave \$10,000 upfront and pledged to raise the other \$10,000.

"Tourism is a true economic driver for the Ludington Area — the extra publicity and coverage that our community will receive from this partnership will undoubtedly help with developing and strengthening our region," said Seng.

Seng and Borgstrom both highlight the national draw of the Pure Michigan campaign.

"Pure Michigan is a national campaign for the first time," said Borgstrom. "There have been inquiries from all over the U.S. with folks looking for more information on Michigan. Inquiries to our site have gone up over 200 percent. People are interested in traveling here."

Barry Neal of House of Flavors restaurant said the company is taking part because it is the right thing for the community.

"Tourism plays such an important role in the economic recovery for our state — and, more importantly, is such a key factor for Ludington's success — that we felt it important to be a leader in promoting the whole community not just our business," said Neal.

Neal said House of Flavors is not featured in the ads.

"This isn't at all something that benefits House of Flavors directly," said Neal. "It benefits the community. If the community wins, House of Flavors does too."



BIG SHIP, MORE FUN!

The 410' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



- [Home](#)
- [Schedules & Fares](#)
- [Big Ship, More Fun!](#)
- [History](#)
- [Vacation Ideas](#)
- [Contact Us](#)



PRICE COMPARISONS

In addition to the best fares across Lake Michigan, S.S. BADGER offers low-cost WiFi, free movies and satellite TV, live entertainment, personalized service, kids' activities, restaurant and snack bar, gift shop, staterooms, and spacious outside decks for walking or lounging!

| | S.S. BADGER
<small>(incl. security fee)</small> | Lake Express
<small>(incl. fuel, port & security fees)</small> | <i>When you'll SAVE
cruising on S.S. Badger</i> |
|------------------------------|--|---|---|
| ONE WAY | | | |
| 2 adults, 2 children, 1 auto | \$231.95 | \$341.50 | 32% |
| 2 adults, 1 auto | \$231.95 | \$274.50 | 16% |
| 2 seniors, 1 auto | \$217.95 | \$257.50 | 15% |
| ROUND TRIP | | | |
| 2 adults, 2 children, 1 auto | \$413.95 | \$590.00 | 30% |
| 2 adults, 1 auto | \$413.95 | \$480.00 | 14% |
| 2 seniors, 1 auto | \$391.95 | \$454.00 | 14% |

Prices reflect rates listed at www.lake-express.com as of 3/12/2012. Prices also reflect the "Kids Go Free" promotion for Lake Michigan Carferry; this promotion is subject to end or change without advance notice.

BOOK NOW AND SAVE!

- [Home](#)
- [Schedule & Fares](#)
- [Big Ship, More Fun!](#)
- [History](#)
- [Contact Us](#)
- [Book Now!](#)
- [Compare Prices](#)
- [Media Kit](#)
- [Group Travel](#)
- [Commercial Trucks](#)
- [Employment](#)

© Lake Michigan Carferry 2010 · 800-841-4243 · www.ssbadger.com · <mailto:info@ssbadger.com>

2010 "best prices" landing page from SSBadger.com



The S.S. Badger has the best car ferry fares across Lake Michigan. We are working hard to reduce operating expenses to keep fares as low as possible for our customers, with **no fuel surcharges or other fees added on to our published prices**. Fares are subject to change.

| | One-Way | Round-Trip |
|--|-----------------|-----------------|
| • Two adults, two children and auto | | |
| Competitor's price (with added charges) | \$372.50 | \$635.00 |
| S.S. Badger 2008 total price | 258.00 | 448.00 |
| SAVINGS | \$114.50 | \$187.00 |
| • Two seniors and auto | | |
| Competitor's price (with added charges) | \$255.50 | \$435.00 |
| S.S. Badger 2008 total price | 192.00 | 338.00 |
| SAVINGS | \$ 63.50 | \$ 97.00 |
| • One adult and motorcycle | | |
| Competitor's price (with added charges) | \$149.00 | \$250.00 |
| S.S. Badger 2008 total price | 101.00 | 178.00 |
| SAVINGS | \$ 48.00 | \$ 72.00 |

Based on competitor's price as of 5/6/08

Beginning of "best price" campaign in 2008.

April 22, 2013

**Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.**

Via email: pubcomment-ees.enrd@usdoj.gov

Kenneth J. Szallai
President
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Addendum: Additional documentation – footnoted references

Baltimore - May 17, 1970

Mr. C. R. Zarfoss:

To bring my 4/29 memo re cross-lake ferries up to date in view of today's information re pollution control for lake steamers (up to \$500,000 estimated) --

It was precisely this kind of major "repair" I had in mind in (1) -- which could "slip by during the debates";

I still think that step #1 is the firm decision that we will get out of the cross-lake business. How and when now has only the added dimensions of:

- (6) The estimated half million for pollution control.
- (7) The possibility that taking the step with P-C may be better than trying to be "next-to-last" man out!

It seems to me that you and CVC should decide your next step vis-a-vis GSD.

Wm. Bamert

STATE OF MICHIGAN



Reply to: 3446 Plainfield, N. E.
Grand Rapids, MI 49505
PH: (616) 364-9464

WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF NATURAL RESOURCES

STEVENS T. MASON BUILDING, LANSING, MICHIGAN 48926
HOWARD A. TANNER, Director

RESOURCES COMMISSION

T. JOHNSON
L. TALALA
R. BRIDGEON
F. SNELL
H. WHITELEY
L. WOLFE
S. G. YOUNGLOVE

August 24, 1976

Mr. Lee Rosenberg
Environmental Affairs Staff
Interstate Commerce Commission
Room 3379
Constitution Ave. & 12th Street
Washington, D. C. 20423

Dear Mr. Rosenberg:

I am enclosing a copy of the rules and regulations of the Michigan Air Pollution Control Commission that you requested during our August 23, 1976 conversation.

During this conversation I pointed out that we presently consider the Chesapeake and Ohio car ferries that operate out of Ludington to be in violation of the standards for density of emissions. For your information this is covered under Rule 41 on page 22 of the rules of the Commission.

Thank you for your interest and cooperation. If you have any questions, please feel free to contact me.

Very truly yours,

L. J. Holmes, Regional Supervisor
Air Quality Division

LJH:d1w
Enclosure



WISCONSIN

— DEPARTMENT OF TOURISM —

June 16, 2011

The Honorable Tom Petri
U.S. House of Representatives
2462 Rayburn Building
Washington, DC 20515

Dear Congressman Petri:

As Wisconsin's chief tourism officer, I am writing to let you know we appreciate your ongoing efforts to help the S.S. Badger continue its operation. My job is to promote tourism because of the vital role it plays in the economic development of Wisconsin, and the S.S. Badger is a key part of the tourism industry in the Manitowoc area.

I can tell you that losing the Badger would have an adverse impact on the Manitowoc economy and tourism. Our tourism development efforts would be negatively affected as the ship transports visitors who exchange goods, services and dollars when they pass through this gateway to Wisconsin. The Badger plays a critical role in opening our state to thousands of visitors who come by car, motorcycle, bicycle and on foot to experience the wonderful joys offered in Wisconsin – our lakeside parks, inland fishing, rustic roads and friendly people. The Badger makes it easy and accessible for people to travel to our state.

I encourage your continued effort to work with Michigan Congressman Bill Huizenga toward finding a solution that will allow the Badger to operate after the 2012 season. It is important that we work together to help the Environmental Protection Agency find an appropriate solution that will provide the Badger the permit it needs to continue its service beyond 2012.

Please let me know if there is anything else I can do to help aid this process. Again, I appreciate your efforts, and I look forward to working with you on this issue.

Sincerely,



Stephanie Klett
Secretary
Wisconsin Department of Tourism

Governor Scott Walker
Secretary Stephanie Klett

201 West Washington Avenue P.O. Box 8690 Madison, WI 53708-8690 Telephone: 608.266.7621 FAX: 608.266.3403

TRAVELWISCONSIN.COM

TRANS-LAKE-LMTLS-COMMENTS002889



Mark Mather, assistant operations manager for Pere Marquette Shipping, takes a photo on his phone as the Pere Marquette 41 passes by the SS Badger Monday early evening.



Season opener

for Pere Marquette 41



STEVE BEGNOCHE | DAILY NEWS

The Pere Marquette 41, pushed by the tug Undaunted using its new Cummins engines, passes through the Ludington channel Monday on its way to Burns Harbor, Indiana. It's expected to return to Ludington Wednesday mid-morning with a load of slag.

April 9, 2013 Powered by
TECNAVIA

Copyright © 2013 [Shoreline Media, Inc.](#) • [Privacy Policy](#) •
04/09/2013 6:18 pm

BY STEVE BEGNOCHE
MANAGING EDITOR

The barge Pere Marquette 41 pushed by the tug Undaunted — powered with a pair of new Cummins diesel engines providing a total of 2,000 horsepower — left Ludington Monday to get a load of slag at Burns Harbor, Indiana. It marked the start of the 2013 shipping season for Pere Marquette Shipping.

After about a 15-hour trip, the tug-barge arrived in Burns Harbor this morning. The slag will be brought back to Ludington to be unloaded at the Rieth-Riley dock. According to Mark Mather, Pere Marquette Shipping Company assistant operations manager, the P.M. 41 should return to Ludington around mid-morning Wednesday.

Don Clingan, vice president of Lake Michigan Carferry, and Mather watched Monday evening on the Coast Guard walkway across from the Ludington Municipal Marina as the P.M. 41 was backed out of its slip south and east of the SS Badger dock, turned and pushed through the Ludington channel out into Lake Michigan where it turned south to head to Burns Harbor.

Clingan said it was good to see “the first wake of the season” as the P.M. 41’s bow pushed through Pere Marquette Lake toward the channel as the Undaunted in-



creased speed.

The tug-barge has a crew of 10 and operates at about 10 mph, Clingan said.

The P.M. 41 is the former SS City of Midland carferry, which was converted to a barge in 1997.

Low Great Lakes water levels are a concern to almost all Great Lakes shipping interests, Clingan said. However, because the PM 41 doesn’t draft as much depth as lower lakers it is less of a problem.

Down at the Loomis Street boat launch, Robert Manglitz, president and CEO of Lake Michigan Carferry and parent company to PM Shipping Co., sat in his vehicle and watched the P.M. 41 pushed by the Undaunted pass through the harbor entrance. He, too, said it was good to see the tug-barge on the lake again.

Manglitz also noted he believes there has been good support for the proposed consent decree between LMC and the U.S. Environmental Protection Agency concerning the SS Badger to keep the Badger operating.



Don Clingan waves to the crew as the tug-barge passes by.

April 9, 2013 Powered by
TECNAVIA

Copyright © 2013 [Shoreline Media, Inc.](#) • [Privacy Policy](#) • 04/09/2013 6:20 pm



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

431741

July 10, 2006

Mr. Kevin Montgomery
Commandant (G-PSR-1)
United States Coast Guard
Room 1400
2100 2nd Street SW
Washington DC 20593

USCG - 2004-19621-30

Dear Mr. Montgomery:

We are in receipt of Mr. Anthony Homan's letter of April 24, 2006, to Mr. Ken DeBeaussiaert, Director, Michigan's Office of the Great Lakes, regarding the development of regulations governing the discharge of dry bulk cargo residue into the Great Lakes. The Office of the Great Lakes has referred your letter to the Department of Environmental Quality (DEQ), Water Bureau, for response. The Federal Register requested public comments on this matter by July 31, 2006.

The DEQ was not aware of the historical practice of discharging dry cargo residue/litter into the Great Lakes from bulk-carrier vessels. Such discharges appear to be in violation of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and not consistent with the provisions of the federal Clean Water Act. The discharge of litter from water craft or commercial vessels is prohibited under Part 95, Watercraft Pollution Control, of the NREPA. The Act defines litter in part, as waste material, debris, or other foreign substance of every kind and description.

The DEQ also has some additional questions:

- Where are the United States Coast Guard (USCG) approved debris disposal areas in the Great Lakes?
- Do the other Great Lakes states have environmental protection laws similar to Michigan that may prohibit the discharge of cargo residue into the Great Lakes?
- What is the estimated number of vessels conducting the subject disposal method?
- If there are existing laws in place that prohibit such discharges, is an Environmental Impact Statement necessary?

Mr. Kevin Montgomery
Page 2
July 10, 2006

We suggest the USCG initiate a stake holder's collaboration on the vessel discharges in question and include regulatory agencies from all the Great Lake states. The workgroup would provide input to assist the USCG in making a determination on the appropriate action to take in regulating the debris that is currently being discharged into the Great Lakes from dry cargo vessels.

Thank you for bringing the above issue to our attention and the opportunity to comment. Should you require further information, please contact Mr. William Creal, Chief, Permits, Section, Water Bureau, at 517-335-4114, or you may contact me.

Sincerely,



Richard A. Powers, Chief
Water Bureau
517-335-4176

cc: Mr. Ken DeBeaussaert, Director, Office of the Great Lakes
Mr. Stanley F. Pruss, Deputy Director, DEQ
Mr. William Creal, DEQ

CARL LEVIN
MICHIGAN

RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2202
(202) 224-6221

COMMITTEES:
ARMED SERVICES
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2202

September 30, 2010

Mr. Robert A. Manglitz
Lake Michigan Carferry
701 Maritime Drive
P.O. Box 708
Ludington, MI 49431

Dear Mr. Manglitz:

I am writing to express my appreciation for Lake Michigan Carferry which is important to both Ludington and to Michigan.

The Badger has a place in our state's history. When she began operating on Lake Michigan more than 50 years ago, she was one of many coal-fired steam ships still in use. Today she stands alone as the last of her kind operating in the United States. The Badger's historic significance was recognized by the U.S. Department of the Interior in 2009 when it was placed on the National Register of Historic Places.

The Badger is also a critical part of our economy. She has transported an average of 124,000 passengers, 39,000 cars, and 1050 commercial trucks annually. She provides hundreds of direct and indirect jobs in the area. Economic impact studies show that the Badger contributes \$21 million annually to the Ludington economy. In addition, the Badger has long represented part of U.S. 10 as a floating link to a federal highway between Michigan and Wisconsin.

The Badger is a valuable economic and cultural asset and I support your efforts to keep her operating well into the future.

Sincerely,



Carl Levin

CL/pt

STATE OFFICES

ALPENA
FEDERAL BUILDING
ROOM 102
145 WATER STREET
ALPENA, MI 49707
(889) 954-5520

DETROIT
477 MICHIGAN AVENUE
SUITE 1860
DETROIT, MI 48226
(313) 226-6020

ESCANABA
524 LUDINGTON STREET
SUITE LL103
ESCANABA, MI 49829
(506) 789-0052

GRAND RAPIDS
FEDERAL BUILDING
SUITE 720
110 MICHIGAN AVENUE, N.W.
GRAND RAPIDS, MI 49503
(616) 456-2531

LANSING
124 WEST ALLEGAN
SUITE 1810
LANSING, MI 48933
(517) 377 1508

SAGINAW
515 NORTH WASHINGTON
SUITE 4E
SAGINAW, MI 48607
(989) 754-2494

WARREN
30500 VAN DYKE
SUITE 208
WARREN, MI 48093
(586) 573-9145



April 22, 2013

**Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.**

Via email: pubcomment-ees.enrd@usdoj.gov

Kenneth J. Szallai
President
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Argument to Amend Proposed LMC Consent Decree

As an affected party, we are writing to provide comment on the Lake Michigan Trans-Lake Shortcut, Inc. (doing business as Lake Michigan Carferry Service (hereinafter "LMC" and "'S.S. Badger'")) Consent Decree, under which Lake Michigan Carferry undertakes to end its dumping of coal ash into the waters of the United States (specifically Lake Michigan) on or before the commencement of its 2015 sailing season.

It is our opinion, for the reasons set out herein, that the proposed Consent Decree is neither fair, reasonable nor in the public interest.

We ask the Department of Justice and the EPA on behalf of the United States to either amend the Consent Decree as outlined; or, if that is not within their power and discretion, to set the Decree aside and end the Lake Michigan Carferry operation until such time as the company can demonstrate that its operations have been altered to eliminate its discharges and/or deposits of coal ash into United States waters.

Lake Express LLC operates a modern, environmentally and regulatory compliant high-speed auto/passenger ferry on a 68.5 nautical mile route across Lake Michigan between the ports of Milwaukee, WI and Muskegon, MI. Lake Express was the first high-speed

Lake Express, LLC
Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

auto/passenger ferry designed, built and placed into operation in the United States. As such, the vessel itself represented the standard of “best available technology” when it entered service in 2004. It still is in the forefront of that technology.

Built in 2004, the vessel Lake Express meets or exceeds all applicable regulations for operations in US waters for a vessel of its kind and type. The vessel was built to minimize its environmental footprint and therefore was equipped with the latest diesel engines; handles no ballast; is of shallow draft to reduce dredging needs; and collects and retains its black and gray water for pumping ashore to approved sewage disposal facilities. Lake Express operates under the 2008 VGP (Vessel General Permit) administered by the EPA. The VGP does not contain any specifically tailored provisions for Lake Express, unlike the S.S. Badger. Section 5.3 of the 2008 VGP only applies to the S.S. Badger and allowed it to dump coal ash through December 19, 2012, thus prompting the S.S. Badger’s NPDES permit application which in turn led to the filing of this lawsuit and proposed consent decree¹.

Lake Express has a major economic impact on both the Michigan and Wisconsin economies and transports in excess of 100,000 people and automobiles per season across the lake. LMC characterizes Lake Express as a “competitor” and acts accordingly in their marketing campaigns. Passengers are drawn to the Lake Express ferry service from Wisconsin, Michigan, and Illinois, as well as from points throughout the United States.

Lake Express LLC has at least five interests in and/or concerns with the proposed LMC Consent Decree:

(1) **Fairness:** It is unfair to other businesses, both existing and under consideration, that a competitor or potential competitor receives dispensations from environmental laws thereby giving that competitor an economic and/or operational advantage in the market place. In the LMC Consent Decree, the EPA has extended to the S.S. Badger just such advantages, in violation of its own stated policy.²

(2) **Market Altering Impacts:** LMC has a proven history of using the economic advantage gained by either not complying with the modern standards envisioned by environmental laws and regulations or acquiring exemptions from or leniency in the application of environmental laws and regulations, to both directly market against perceived competitors and to attempt to perpetuate a monopoly advantage in northern Lake Michigan waters. LMC has used that economic advantage, indeed has highlighted that advantage, in sales campaigns aimed at diminishing Lake Express.³ Moreover, that advantage has been used to lobby against, and frustrate others, whom have an interest in

¹ United States Environmental Protection Agency (EPA) National Pollution Discharge Elimination System, Vessel General Permit for Discharges Incidental to the Operation of Vessels (VGP), Version 2/5/2009, Section 5.3 (Large Ferries).

² EPA Science Advisory Board, An Advisory of the Illegal Competitive Advantage (ICA) Economic Benefit (EB) Advisory Panel of the EPA Science Advisory Board, September 7, 2005, EPA-SAB-ADV-05-003. http://www.epa.gov/sab/pdf/ica_eb_sab-adv-05-003.pdf

³ See attachment titled “competitive overview best price” – attached filed:competitive-overview-bestprice.pdf

developing a competing service.⁴ This Consent Decree enables LMC to continue these past practices unimpeded in any significant way.

(3) Unequal Application of Law and Regulations: The EPA is allowing the S.S. Badger to yet again accumulate an unwarranted extension in complying with generally applicable environmental law and regulations that have been in effect for decades. Moreover, the special treatment that the S.S. Badger has, and will continue to receive if the Consent Decree is upheld, follows the S.S. Badger's inability to act in good faith to fulfill past promises to address and end pollution generated by the vessel's operation. Again, the EPA fails to uphold the law and its own policies and therefore fails in its obligation to protect the public interest.

(4) Violation of Stated Agency Policy: Despite long stated agency policies of imposing fines that seek to recover economic benefit from noncompliance (or delayed and avoided compliance), to both disincentivize polluters and protect lawful operators the proposed Consent Decree instead presents a "sweetheart deal" that not only rewards continued S.S. Badger pollution, but protects and extends associated financial benefits for another two years. The civil forfeiture and forfeiture schedule in the proposed Consent Decree pales in comparison to the environmental damage that the S.S. Badger willfully perpetuates every time it crosses Lake Michigan and thus, the proposed monetary penalties amounts to mere pennies per LMC transaction and serves only to encourage noncompliance due to the miniscule impact of the financial outlay. The simple fact of the matter is that the minimal penalties under this Consent Decree perversely encourage the S.S. Badger to not comply with the law because the penalties represent only a mere percentage of the cost it would take for the S.S. Badger to fully comply with the law. Specifically, we reference the following statement of EPA policy in making this objection:

"The EPA has made the recovery of a violator's economic benefit from violating the law the basis of its calculation of civil penalties."⁵ "Enforcement protects companies and individuals who comply with the law... To assure that complying companies are not put at an economic disadvantage by companies violating the law..." Further, and again by their own stated policy, the EPA has an obligation of recouping any economic benefit that the non-complying party gained from violating the law."⁶

This proposed Consent Decree fails miserably in upholding the EPA's responsibility to compliant businesses and the general public.

⁴ Mark Ruge (counsel for Lake Michigan Carferry, Letter to Michael Gordon (Department of Transportation, opposing Maritime Administration(MARAD) cross-lake corridor designations, February 6, 2009, Docket No. MARAD-2008-0096 <http://www.regulations.gov/#!documentDetail:D=MARAD-2008-0096-0045>

⁵ EPA Science Advisory Board, An Advisory of the Illegal Competitive Advantage (ICA) Economic Benefit (EB) Advisory Panel of the EPA Science Advisory Board, September 7, 2005, EPA-SAB-ADV-05-003. http://www.epa.gov/sab/pdf/ica_eb_sab-adv-05-003.pdf

⁶ John C Cruden, James W Rubin, US Department of Justice, Environmental Compliance and Enforcement at the United States Department of Justice and the Role of Enforcement in Good Domestic Governance, Sixth International Conference on Environmental Compliance and Enforcement, International Network for Environmental Compliance and Enforcement, April 15-19, 2002. <http://www.inece.org/conf/proceedings2/18-Env.%20Compliance.pdf>

(5) **Environmental Stewardship:** As a company who operates on Lake Michigan and whose employees likewise make their livings on or about this waterway, Lake Express has a distinct interest that all who use the waterway do so in an environmentally sound and responsible way, so as to preserve the health of both the waterway and those who use it. This proposed Consent Decree falls well short in the EPA's obligation to protect public health.

1) Fairness:

For more than twenty years, Lake Michigan Carferry has operated the S.S. Badger on a route across Lake Michigan, between the ports of Manitowoc, WI and Ludington, MI. The S.S. Badger, built in 1953, is a coal burning steamship, the last of its kind in the U.S. (indeed, one of the last operating in the world) and is allowed to operate only by the accumulation of exemptions from a number of antipollution laws and/or regulations including:

(1) Two exemptions from air pollution regulations, one each by the states of Wisconsin⁷ and Michigan.⁸ Note the S.S. Badger operates an aged coal powered boiler with absolutely no stack emission controls; and produces significantly more particulate matter than the vehicles it carries would produce driving around Lake Michigan.⁹

(2) Since 2008, the S.S. Badger has operated outside of the generally accepted limits imposed by the Clean Water Act, due to a special provision included by the EPA after the public comment period and without review or certification by the State of Michigan, in the 2008 VGP. This special provision, referenced above, allowed a grace period to the S.S. Badger for the dumping of coal ash/coal ash slurry into US waters while it (the S.S. Badger) developed and implemented an alternative to end the dumping. The provision effectively covers only the S.S. Badger operation and it expired this past December 19, 2012 (this sunset is what the S.S. Badger now seeks to avoid) without the S.S. Badger having come into compliance. It is now not legal to dump coal ash in US waters under the VGP.

(3) The US Coast Guard has declined to apply the Marpol Treaty Annex on air pollution regulations to the S.S. Badger, such terms of which are certainly applied by them to all (cleaner than the S.S. Badger) heavy oil and diesel fuel burning vessels. The Coast Guard cites the S.S. Badger's outmoded (for ships) fuel source, i.e. coal, as not specifically mentioned in the Annex for their reason not to pursue the S.S. Badger's air pollution. This ignores the Annex's clear intent, which is to lessen air pollution generated by ship traffic.

⁷ Wisconsin Statute 285.30(4) <https://docs.legis.wisconsin.gov/statutes/statutes/285/IV/30/4>

⁸ MCL 324.5513 <http://legislature.mi.gov/doc.aspx?mcl-324-5513>

⁹ James J. Corbett, PhD., University of Delaware James J. Winebrake, PhD, Rochester Institute of Technology, Heather Thomson, University of Delaware Arindam Ghosh, Rochester Institute of Technology, A Comparative Analysis of Ships v. Trucks to Transport Cargo along the Great Lakes September 2102, <http://www.glmri.org/downloads/2012Reports/affiliatesMtg/WinebrakeandCorbett.pdf>

Lake Express, LLC

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

(4) Apparently unbeknownst to the Michigan regulating agency (DEQ) until the 2008 registration of certain ship discharges by the EPA under the VGP, the S.S. Badger has, since at least 1992, operated in contravention of MI environmental statutes against dumping from watercraft into state waters.¹⁰

Clearly, LMC is able to operate this vessel only because of these exemptions, special deals and regulatory ignorance. Far from the “level playing field” stressed by EPA policy, the playing field on which the S.S. Badger plays is heavily, and intentionally, tilted in its favor. This proposed Consent Decree should act to level the field in a substantive way. As written, it does not and therefore is not a reasonable settlement under the law. The proposed Consent Decree is not in the public interest in that it does not protect the public health, nor does it, in the words of the EPA, “assure that complying companies are not put at an economic disadvantage by companies violating the law.” Additionally the proposed Consent Decree does not (again in the words of the EPA) provide “Uniform, fair and comprehensive environmental enforcement (to) protect companies and individuals who comply with the law.” The proposed Consent Decree presents a lopsided cost-of-compliance/benefit-from-noncompliance dichotomy that encourages LMC to delay available and feasible technological upgrades and incentivizes them to pollute. The proposed Consent Decree unfairly obviates the force of the market in compelling technical innovation by making old and obsolete technology key to marketplace advantages via special favors that protect and prolong its use despite its inability to operated within prevailing regulatory and legal requirements.

LMC and the S.S. Badger’s previous owners have a long history of avoiding upgrading the vessel to modern environmental standards.

Prior to the enactment of the S.S. Badger’s air pollution exemptions, previous owners, the C&O Railroad admitted air pollution violations by the ship,¹¹ which were well-documented by the State of Michigan.¹² The S.S. Badger was also charged with violations of air pollution standards in Wisconsin¹³ and a C&O employee testified that the Ludington based ferries (with no distinction between S.S. Badger and other C&O coal burners), were in daily violation of Federal Air Act.¹⁴ *Engineering studies were*

¹⁰ State of Michigan Natural Resources and Environmental Protection Act, Part 95, Watercraft Pollution Control Act, <http://legislature.mi.gov/doc.aspx?mcl-451-1994-11-2-WATERCRAFT-POLLUTION-95>

¹¹ Wm. Bamert, memo to C.R. Zarfoss, Chesapeake and Ohio Railway Company, May 12, 1970. ICC carferry abandonment dockets, National Archives, College Park, MD.

¹² L.J. Holmes, Regional Supervisor Air Quality Division, Michigan DNR, letter to Lee Rosenberg, Environmental Affairs Staff Interstate Commerce Commission, August 24, 1976. ICC carferry abandonment dockets, National Archives, College Park, MD.

¹³ Paul Peterson, Abandonment, Ludington Daily News, June 29, 2006, <http://www.scribd.com/doc/45466891/2006-Recap-of-1970s-pollution-issues-with-Lake-Michigan-ferries-Abandonment-hearings-for-C-O>

¹⁴ Daniel M. O'Donoghue; Interstate Commerce Commission, Memorandum in support of motions to strike testimony and exhibit 6 of applicant C&O witness W.F. Liebenow, Chesapeake and Ohio Railway Company abandonment of car ferry service across Lake Michigan between Ludington, Michigan and Kewaunee, Milwaukee and Manitowoc,

completed in 1970, outlining the steps to install diesel engines into the S.S. Badger and bring it into compliance with then applicable Michigan air pollution control standards.¹⁵ Several more similar studies and evaluations to modernize the S.S. Badger's propulsion systems have been done since then. But more than 40 years after the initial study, no work has been started, nor have other air pollution controls been added. Smoke and particulate emissions from the S.S. Badger, under the protection of exemptions, continue to draw complaints in port communities and from passengers, including incidents of "more than usual complaints of customers with fly ash in their eyes."¹⁶ Additionally, air and particulate pollution have drawn complaints from marinas both Manitowoc and Ludington.¹⁷ Fallout from carferry air emissions has been noted as a persistent problem throughout the tenure of the current ownership of the S.S. Badger.¹⁸

Simply put, there has been a long term pattern of demonstrated disdain, on the part of the S.S. Badger, for air quality regulations that is now only too apparent in meeting water quality requirements as well.

LMC has also benefitted from, and was incentivized to continue burning coal by long-term coal-supply deals with the City of Manitowoc's publically owned utility, Manitowoc Public Utility (MPU). The terms of the deal were described as "below market cost" in 1994.¹⁹ That "below market cost" coal supply agreement was renewed in 2006²⁰ and ran concurrent with the period of time during which the owners of the S.S. Badger had purportedly committed to end coal ash discharges. For the S.S. Badger, the burning of coal was and is a simple economic evaluation, the efficacy of which is supported by the terms of the proposed Consent Decree.

The preponderance of evidence demonstrates that the conduct of the owners and operators of the S.S. Badger have been motivated by their desires to extend financial benefits provided by environmental noncompliance. Owners of the S.S. Badger have long stated that they have no desire to make necessary investments to reduce pollution

Wisconsin, February 10, 1978, Interstate Commerce Commission Washington, D.C., Docket AB-18 (sub. no. 21), February 10, 1978. <http://www.scribd.com/doc/45012067/1978-Lake-Michigan-Ferry-air-pollution-motion-to-strike-testimony-regarding-C-O-ships>

¹⁵ R.A. Stearn, Inc., Propulsion Plant Analysis of C & O Carferries for Chesapeake & Ohio Railway Company, Ludington, Michigan., Job #1379-2, December 31, 1970: <http://www.scribd.com/doc/44940327/1970-refire-and-dieselization-report-SS-Badger-Lake-Michigan-Carferry>

¹⁶ James Anderson, EVP, Lake Michigan Carferry, memo to Dale Koch, Manitowoc Public Utilities, August 7, 2002. <http://www.scribd.com/doc/32922631/MPU-SS-Badger-coal-ash-complaints-2002-correspondence>

¹⁷ Dale Koch (MPU) email to Nilaksh Kothari (MPU), August 23, 2002. <http://www.scribd.com/doc/32922631/MPU-SS-Badger-coal-ash-complaints-2002-correspondence>

¹⁸ (City of) Manitowoc (WI) Harbor Commission Meeting Minutes, September 13, 2007.

<http://www.scribd.com/doc/33045149/Manitowoc-Harbor-Commission-09-13-07-Minutes-SS-Badger-Coal-Dust-Complaints>

¹⁹ Patrick Wills, Manitowoc City Attorney, Letter to Robert Manglitz, Lake Michigan Carferry, February 1, 1994, <http://www.scribd.com/doc/32936453/City-of-Manitowoc-re-SS-Badger-Coal-Costs-1994>

²⁰ Coal Acquisition and Storage Agreement, Manitowoc Public Utility and Lake Michigan Trans-Lake Shortcut, May 2006, <http://www.scribd.com/doc/32936215/SS-Badger-coal-buying-agreement-with-City-of-Manitowoc-and-Manitowoc-Public-Utility>

Lake Express, LLC

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

from the ship and will run it “as-is,” that is until it can no longer operate. To support this proposition, we direct your attention to statements made to the Ludington newspaper:

Ludington Daily News (MI), August 22, 2003, Carferry refuses federal grant...

He (S.S. Badger owner Robert Manglitz) does not foresee the Badger changing its engines, a \$12 million investment, to do away with the coal-burning emissions. “I also don’t expect to see the million or so (older diesel) trucks changing over either. They go until eventually those trucks will get old and get retired.

“At one time there were a lot of coal-burning vessels on the Great Lakes,” Manglitz said. “We’re the last one running.”

We believe that continued efforts at prolonging delays in compliance and concurrent efforts to remove compliance requirements all reflect competitive efforts that warrant close re-examination and analysis of the market impact of the proposed Consent Decree, stronger civil penalties for past infractions to recoup the benefits gained, and more stringent checks and reporting requirements as well as more decisive penalties for failures to comply with the terms of the proposed Consent Decree.

LMC made promises in 2008 to end coal ash discharges by May 2012²¹ and supplied a timeline to be followed to that end. Instead of seeking progress, the company instead sought permanent exemptions under the premise of “historical significance” and the notion of “grandfathering.” This suggests that nothing has changed in the vessel operator’s working philosophy toward pollution since the 2003 quote above.

Further extensions are unwarranted following failure of S.S. Badger owners to act in good faith to fulfill past promises to address pollution despite the availability of feasible, available and viable solutions.

The S.S. Badger has a lengthy history of pollution issues that pre-date the current action by decades, and the LMC was founded as a result of a below market cost purchase of vessels and assets (including the S.S. Badger) from the predecessor company due to the associated environmental liability. The owners of the vessel have acknowledged pollution issues with the vessel along with associated local impacts since the founding of LMC, yet have done nothing to permanently eliminate them or come into full regulatory and legal compliance.

Evidence of bad-faith in fulfilling promises made in exchange for 2008-2012 VGP includes:

²¹ Proposed VGP: EPA response to public comments US EPA – December 19, 2008 – 6-556, 6-558, <http://www.epa.gov/region5/water/npdestek/badger/pdfs/application/badger-appl.pdf>

From 2008-2012, instead of compliance, Lake Michigan sought actively to nullify EPA and State jurisdiction over water pollution generated by the S.S. Badger.

Instead of pursuing the remedies outlined, the owners of the S.S. Badger sought instead to engineer a permanent legislative fix through an effort centered on “historic preservation.” The historical preservation title was critical because a few congressional representatives in 2011 sponsored an amendment to the Coast Guard Reauthorization Bill of 2012 that would have allowed those ships with such a title, namely the S.S. Badger, to never comply with environmental laws and/or regulations. The amendment was not part of the bill that passed Congress and the President signed but this attempted legislative fix started when the owners of the S.S. Badger hired a “historical consultant,” who was familiar with the S.S. Badger from his working a decade earlier helping noted carferry historian George Hilton create a historical overview of the S.S. Badger. That article branded the S.S. Badger the “dirtiest” of the carferries. Shortly thereafter, the S.S. Badger was nominated to be a vessel of “historic preservation.” S.S. Badger owner Robert Manglitz stated quite clearly while participating in the nomination process that the intent of the “historic preservation” designation effort was based in a desire to negate existing environmental protections that applied to the S.S. Badger.²²

LMC representatives actively spearheaded the effort to designate the S.S. Badger coal handling equipment as “historical” at the same time that S.S. Badger lobbyists laid the groundwork for a legislative earmark described above that would protect coal burning vessels (a class of one) from EPA water pollution enforcement actions. This effort began in 2008 and continued with apparent knowledge of state and federal legislators in 2010²³ until ultimately being introduced in 2011²⁴ and finally defeated in 2012. The ultimate failure of LMC to engineer permanent exemptions from Clean Water Act protections and EPA authority through legislative earmarks left LMC only the pursuit of additional time through the NPDES individual permit process. In recognition of the S.S. Badger’s 2008/2009 timeline promise that coal ash discharges would be halted by May 2012, the NPDES permit application was accompanied with a request for more time to “explore” use of natural gas²⁵ **despite the clear lack of regulatory, technical or fuel supply infrastructure to allow it to be feasible or possible.** LMC’s expressed hope was that this talk and promise of the “fuel of the future” would provide cover to ensure an additional 5 years of delayed Clean Water Act compliance, and presumably with it other associated economic and operational benefits from noncompliance.

LMC lobbyists K&L Gates admitted in a May 2012 press release, timed to coincide with LMC’s NPDES permit application, that the company hoped the natural gas talk would

²² See attached document – SS Badger efforts 2008-2012.

²³ Stephanie Klett Secretary Wisconsin Department of Tourism, letter reply to Congressman Tom Petri, June 16, 2011.

²⁴ Michael Hawthorne, Landmark Status for Polluting Ship?, Chicago Tribune, November 7, 2011, Page A1.

<http://www.scribd.com/doc/75254622/Landmark-Status-for-Polluting-Ship-SS-Badger-seeks-coal-ash-dumping-exemption-Chicago-Tribune-November-2011>

²⁵ Chuck Leonard, VP Lake Michigan Carferry, Letter to EPA Regional Administrator Susan Hedman, August 16, 2012,

http://www.epa.gov/region5/water/npdestek/badger/pdfs/2012_08_16_SSBadger_LMC_Coal_Ash_Retention.pdf

Lake Express, LLC

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,

D.J. Ref. No. 90-5-1-1-10771.

convince the regulators to grant more time, but admitted that “those systems are not technologically feasible or economically realistic for the S.S. Badger.”²⁶

The past 4 years have shown that the S.S. Badger has only sought loopholes to negate the agency’s authority under the 2008 VGP. Thus, the S.S. Badger did not live up to its end of the bargain under the 2008 VGP. Further disproportionate lenience only works to create and compound unfairness for all other lawful operators and participants in the competitive marketplace, and to the public who utilize and depend on the impacted environment and ecology.

2) Allowing continued violations of the law provides market-altering competitive advantages that reward pollution at the expense of compliant businesses.

LMC has a proven and continuing history of exploiting the economic advantage gained by noncompliance with the law. LMC has used that economic advantage, indeed has highlighted that advantage, in sales campaigns aimed at diminishing Lake Express on the basis of price.²⁷

EPA has been clear in numerous policy statements that noncompliance provides economic benefits to violators in several different ways:

- 1) Avoided costs
- 2) Delayed costs
- 3) Economic benefits from illegal competitive advantage generated by noncompliance²⁸

Extraordinary lenience in past and current S.S. Badger proceedings clearly fits all three criteria of unfair competitive advantage.

Lake Michigan Carferry has used resources freed by avoided and delayed costs, as well as other economic benefits to engage in efforts to block other operators from introducing modern and conforming vessels to traditionally competitive shipping routes elsewhere on Lake Michigan.²⁹

Operating cost advantages gained from noncompliance with environmental laws and regulations no doubt have bolstered both efforts to gain market share against existing competitors and to create barriers to entry for competitors who are not able to realize

²⁶ K&L Gates, Press Release regarding LMC application for SS Badger NPDES permit, May 24, 2012.

<http://gcaptain.com/american-coal-powered-ferry-asks/>

²⁷ See attachment titled “competitive overview best price” – attached filed:competitive-overview-bestprice.pdf

²⁸ EPA Science Advisory Board, An Advisory of the Illegal Competitive Advantage (ICA) Economic Benefit (EB) Advisory Panel of the EPA Science Advisory Board, September 7, 2005, http://www.epa.gov/sab/pdf/ica_eb_sab-adv-05-003.pdf

²⁹ Mark Ruge (counsel for Lake Michigan Carferry, Letter to Michael Gordon (Department of Transportation, opposing Maritime Administration(MARAD) cross-lake corridor designations, February 6, 2009, Docket No. MARAD-2008-0096-0045 <http://www.regulations.gov/#!documentDetail:D=MARAD-2008-0096-0045>

operating cost savings from nonconforming equipment, and who must bear the full cost of modern requirements.

The irony of the current regulatory environment is that newer generations of Lake Michigan carferries, including one vessel (Viking) on Lake Michigan that was modernized from coal-burning to diesel engine propulsion in part due to environmental concerns, are blocked from re-entering the competitive marketplace by modern regulations. LMC decided against purchasing this vessel as a replacement for the S.S. Badger after realizing the regulatory and legal requirements and compliance costs that apply to the dieselized former coal burner.³⁰ Yet, the S.S. Badger has been allowed to persist in its current original configuration in part to preserve competitive advantages through regulatory subsidy and in part to avoid costs of compliance.

Modern technology (ships, tug/barge, etc.) exists to serve all of the Lake Michigan Carferry/S.S. Badger roles, but must conform to all existing laws and regulations, and are subject to the full cost of compliance borne by all other members of the marketplace.

Additionally, LMC has a proven knowledge of industry-accepted modernization practices and has demonstrated its financial and technical ability to perform major repowerings through the recent installation (2012-2013) of diesel engines in the vessel operated by LMC-subsidiary Pere Marquette Shipping.³¹

A level regulatory playing field protects all participants in competitive markets. Allowing select companies to exploit regulatory loopholes or to ignore environmental protections not only damages the environment but also puts offending companies and individuals at competitive advantage over companies that abide by the law and invest in continued compliance.

A summary of cost benefits from delayed compliance, and per-ticket impacts on S.S. Badger pricing is included with this comment as an attachment.

3) Unequal application of laws and regulations governing waterborne commerce between Wisconsin and Michigan.

It is unfair to other businesses, both existing and under consideration, that a single company, LMC, be rewarded with continued and unprecedented lenience (as compared to requirements placed on other vessels and operators) in response to historical disregard for environmental laws. This continued lenience has rewarded a decades-long pattern of

³⁰ Case Study: Lake Michigan Carferry, Presentation by Robert Manglitz, President and CEO, Lake Michigan Carferry, Zeus International LNG-Fueled Marine Conference, Houston, TX, June 6, 2012. Page 2 http://www.zeusintel.com/Portals/0/Content_PDFs/LFMAC2012/01_Manglitz.Robert_LakeMichiganCarferry.pdf

³¹ Steve Begnoche, Season Opener for Pere Marquette Shipping, Ludington Daily News, April 9, 2013, page 1, 2.

delay and unfulfilled promises, and created an entitlement expectation by LMC that it should not have to comply with existing or newly developed standards. The historical record shows that the initial choice to power the S.S. Badger with coal was out-of-step with industry standards already in the 1950s,³² that the ship quickly drew scrutiny as the dirtiest on Lake Michigan, and that efforts seeking to clean it up have been rebuffed numerous times through the decades despite the continued availability of upgrades to reduce or eliminate pollution from the ship.³³ The S.S. Badger remains in its original 1952 configuration today,³⁴ despite decades of complaints about air³⁵ and water pollution³⁶ generated by the vessel. As has been the case for the past decade with the current owners, past owners also cited the rationale for failing to address federal pollution requirements in 1972 as being “too costly,”³⁷ for meeting asbestos requirements in 1984 as “too costly,”³⁸ for meeting air pollution standards in 1986 as “ridiculous,”³⁹ In 1990, owners sought exemptions from state air pollution regulations by presenting noncompliance as a matter of preserving economic impact.⁴⁰

Lake Michigan Carferry owner Robert Manglitz acknowledge the “importance of repowering the Badger” in a public letter published in 2001, but ultimately decided to maintain the ship as a coal burner despite concerns of the ship’s pollution and despite an offer of \$2 million by Michigan to aid in the conversion.⁴¹

Despite the S.S. Badger’s long history of contradicting statements, the Great Lakes shipping industry is filled with examples of vessels that were modernized from coal burning to cleaner propulsions systems, significantly extending the service life of the

³² James Cabot, Daily News Historian, A Brief History of the SS Badger, Ludington Daily News, May 10, 2003, C3, <http://www.scribd.com/doc/68665203/1950-C-O-Railroad-to-coal-fire-the-SS-Badger>

³³ George Hilton, “Badger,” Steamboat Bill, Winter 1987, Page 280.
<http://www.scribd.com/doc/128723935/hilton-george-ssbadger-steamboat-1997>

³⁴ SS Badger National historic landmark nomination, William Worden, presented to the National Park System Advisory Board Landmarks Committee, November 9, 2011,
<http://www.nps.gov/nhl/Fall2011Nominations.htm>

³⁵ Ferry Operators Vow to Curb Air Pollution, The Milwaukee Journal, October 19, 1972,
<http://www.scribd.com/doc/45050695/1972-newspaper-coverage-of-Milwaukee-air-pollution-charges-against-C-O-ferries>

³⁶ Car Ferry Agrees to Halt Dumping Refuse Into Lake,” Sheboygan Press, Monday, December 5, 1966, 22.
<http://www.scribd.com/doc/45323654/1966-C-O-told-to-stop-dumping-car-ferry-trash-into-Lake-Michigan-SS-Badger-complaints>

³⁷ Michael Donovan, End of Ferry Service has Economic Impact, Manitowoc Herald-Times, October 21, 1972, A1 <http://www.scribd.com/doc/45344936/1972-C-O-meeting-federal-pollution-standards-with-SS-Badger-too-costly>

³⁸ Richard Dancz, Replacing Asbestos on carferries too costly, Ludington Daily News, August 13, 1984,
<http://www.scribd.com/doc/45469121/1984-Asbestos-on-SS-Badger-Lake-Michigan-Carferry-replacement-and-removal-deemed-too-costly>

³⁹ Richard Dancz, Carferries get relief on Michigan Side, Ludington Daily News, Feb 26, 1986.

⁴⁰ AP, Lake Michigan ferry service will more, The Ironwood Daily Globe, Sept 21, 1990,
<http://www.scribd.com/doc/105434309/1990-SS-Badger-gets-air-pollution-exemption-under-threat-of-job-loss-then-moves>

⁴¹ Robert Manglitz, Readers Forum, Published Letter to Ludington Daily News, May 1, 2001.
<http://www.scribd.com/doc/45544214/2001-SS-Badger-offered-2-million-from-Michigan-to-convert-from-coal-to-diesel>

affected equipment. The notion of “modernization” is well-established within the Great Lakes shipping industry and often centers on the upgrade or replacement of propulsion systems or installation of pollution controls. The historical Lake Michigan carferry roster reflects this as well, with numerous examples of modernizations.

Among the historical roster of railroad carferries to serve on Lake Michigan, the following examples reflect ships that modernized to extend their economic working lifespans or were forced to either convert or cease operations in part due to pollution concerns:

- 1947 - SS City of Milwaukee refired from coal to oil boilers. (currently in Manistee, MI)
- 1959 - Ann Arbor No. 6 (Arthur K. Atkinson) lengthened and repowered from coal-fired steam engines with diesel engines.
- 1962 - Wabash (City of Green Bay) converted from coal to oil boilers.
- 1965 - Ann Arbor No. 7 (Viking) repowered from coal fired steam engines to diesel engines. (currently in Menominee, MI)
- 1967 - Coal powered City of Flint removed from service.
- 1971 - Coal powered PM 22 removed from service.
- 1971 - Coal powered City of Saginaw removed from service

Not listed but also relevant, are many other bulk freighters that have undergone similar conversions, most notably the famed Edmund Fitzgerald. Many prominent Great Lakes freighters continue to undergo propulsion replacements and upgrades including many in a fleet of 14 steamships that were previously subject to EPA actions due to evolving regulations. The Great Lakes freighter Kaye E. Barker (built 1951) was successfully relaunched in August 2012 after being converted from a steamship to a state-of-the-art and fully compliant motor vessel. The entire steam plant was removed and replaced with modern diesel engines, one of 5 such major repowerings to have taken place in the industry at Bay Shipbuilding over the past 6 years.⁴²

Bay Shipbuilding regularly performs shipyard work on the S.S. Badger and has indicated that a similar conversion is fully feasible and available for the ship.

Both a leading Great Lakes shipyard and engine manufacturer stated in 2010 that the S.S. Badger could undergo an industry-accepted diesel modernization during a 6 month work period.⁴³ Such a modernization would represent the most intensive and lengthy of possible pollution control options for the S.S. Badger. The letters also match 1970, 1977, 1999, and 2001 findings by S.S. Badger owners that diesel modernization

⁴² MMC, News from MMAC affiliates: Bay Shipbuilding, The Beacon, Summer 2012, Published for the Employees of Marinette Marine Corporation, <http://www.marinettemarine.com/MMC-12-065-BEACONsummer-web.pdf>

⁴³ Bay Shipbuilding letter of support dated July 12, 2010, National Maintenance and Repair letter of support dated August 19, 2010. City of Ludington (MI) application, Surface Transportation Infrastructure Discretionary Grants for Capital Investments II, US Department of Transportation, 4/26/2010 <http://www.scribd.com/doc/83506872/SS-Badger-Shipyard-Engine-Letters-2010-diesel-modernization>

represents the best available solution to air pollution and water pollution concerns with the S.S. Badger.

The requirement that vessel owners should invest in maintaining compliance with modern standards is neither novel nor new, and it certainly does not reflect a “singling out” of a single operator or vessel, as has been alleged by defenders of the S.S. Badger’ status quo. Rather than being “historic,” sometimes old is just old. The current Great Lakes working fleet boasts many vessels of greater age and longevity that have managed to modernize or conform to prevailing laws and regulations.

3) Unequal Application of Law and Regulations:

It is apparent by its operations, its actions and its own public statements that the dumping of coal ash is a cynical and deliberately intentional business practice propagated by Lake Michigan Carferry. Considering its long standing business practice to refuse to comply with the law, as well as the unenforceability of some proposed Consent Decree terms and provisions, and the minor nature of the penalties that would be lodged against the company if found in violation of the Decree, it is more than reasonable to conclude that the Decree in its present form will not attain the desired goal of the elimination of the deposit of coal ash into Lake Michigan and the elimination of mercury and other pollutants into that waterway. The loose terms and ill-defined limits embodied in the proposed Consent Decree will simply allow Lake Michigan Carferry more opportunity to obfuscate, negotiate and seek to avoid its responsibilities, as it has in the past, while maintaining its gains from not complying with environmental law. Indeed, it can be stated that the penalties as presented, give LMC a less expensive way to operate than complying with the law. And rather than presenting LMC with an enforceable reason to make the necessary changes in its operation, the proposed Consent Decree perversely caps the company’s liabilities, at a rate less than the cost of compliance and drives it toward the rational economic conclusion that it is more beneficial in an economical sense to dump and pay the fine than convert and pay the cost of conversion. These are not reasonable outcomes for any consent decree in the environmental realm.

S.S. Badger violations were allowed to occur because EPA improperly ignored state law in granting VGP permit coverage for coal ash discharges

In short, the S.S. Badger’s coal ash dumping violates part 95 of the Michigan Natural Resources and Environmental Protection Act (Watercraft Pollution Control Act).⁴⁴ In fact, the Michigan DEQ (DNR) has for decades held the position that coal ash discharges

⁴⁴ Richard Powers (Michigan DEQ Water Bureau Chief), comment to U.S. Coast Guard regarding the development of regulations governing the discharge of dry bulk cargo residue into the Great Lakes, July 10, 2006, USCG docket 2004-19621-0030 <http://www.regulations.gov/#!documentDetail:D=USCG-2004-19621-0030>

from ferries into Michigan waters violates state law.⁴⁵ Wisconsin state statutes also prohibit certain discharges from ferries into waterways.

This information raises questions about past extensions and permits provided to LMC by EPA – actions which appear to have provided improper regulatory cover for LMC to violate state law by superceding and negating state agency authority.

The historical record and current industry practices provide zero support for any argument that a lone operator (Lake Michigan Carferry), or ship (S.S. Badger), should be allowed to continue ignoring generally applicable federal, state, or executive regulations. The clear fact and body of available evidence shows that other operators are willingly making investments to modernize and keep vessels older than the S.S. Badger in full legal and regulatory compliance, with no public complaint nor mention or suggestion of obtaining special treatment on the basis of “historical significance” or any other attempts at prolonged delay or preferential treatment as has been the case during the past 5 years with the owners of the S.S. Badger.

The record shows that the “grace period” afforded to the S.S. Badger in 2008, based on LMC commitments to end ash discharges, and expired in December 2012, which included a built in one year “contingency buffer,”⁴⁶ provided more than ample opportunity for the owners to complete a “major repower” and certainly any of a series of lesser mitigation projects. The specific and undeniable proof of this is contained in two letters submitted as part of an application seeking market-altering federal subsidy through the TIGER II program in 2010. One letter included in the application came from the same Bay Shipbuilding that not only recently completed the conversion of the 1951 vintage Kaye E. Barker, but also stated in 2010 that an equivalent conversion of the S.S. Badger can be completed in a 6-month work period.⁴⁷

EPA has offered and provided unprecedented and otherwise unavailable lenience in this matter, providing ample time and opportunity to LMC from 2008-2013 to stop its coal ash dumping practice with the S.S. Badger. This is in clear contradiction of stated policies and has been done absent of any true analysis of economic benefits provided, or adverse market impacts caused by the action, or evidence that demonstrates that the agency has undertaken a full and true review of state law implications or potential violations.

The proposed Consent Decree follows a similar path of process failings. That is, there has been no market analysis on the impact of the Consent Decree or any analysis or legal implications of the S.S. Badger yet again ignoring Michigan law.

⁴⁵ Michigan Department of Natural Resources Remedial Action Plan for Muskegon Lake Area of Concern, October 27, 1987, page 131, <http://www.scribd.com/doc/45284596/1987-Michigan-DNR-statement-regarding-illegality-of-coal-ash-dumping-in-Lake-Michigan>

⁴⁶ Proposed VGP: EPA response to public comments US EPA – December 19, 2008 – 6-556, 6-558, <http://www.epa.gov/region5/water/mpdestek/badger/pdfs/application/badger-appl.pdf>

⁴⁷ Patrick J. O’Hern, VP & GM, Bay Shipbuilding, Letter to Chuck Leonard, Vice-President, Lake Michigan Carferry Service, July 12, 2010. <http://www.scribd.com/doc/83506872/SS-Badger-Shipyard-Engine-Letters-2010-diesel-modernization>

4) Violation of Stated Agency Policy: Consent Decree provides Concrete Economic Benefits for the S.S. Badger

The civil forfeiture component of the proposed Consent Decree ignores significant components of standard civil penalty calculations – failing to recoup past economic benefits and failing also to capture future financial and competitive gains from future noncompliance, delayed and avoided costs.

No other vessel in the United States has been allowed such an ongoing ability to operate while avoiding compliance with US, state and international air and water pollution regulations. These dispensations provide the Badger with unique economic advantage while at the same time introducing pollutants into US waterways. In effect, LMC is being rewarded to operate in an environmentally unfriendly manner. The proposed Consent Decree does nothing to stop the Badger from doing so and in fact, incents the Badger to continue poor environmental practices.

Annual financial benefits gained by the owners of the S.S. Badger from noncompliance were outline in the 2012 Lake Michigan Car Ferry, Inc. S.S. Badger application for Individual NPDES Permit.

Depending on the method avoided, each year of delay provides the owner of the S.S. Badger significant financial benefit as follows:

- Delay/avoidance of Ash capture: \$705,225.60 annually.⁴⁸ or \$ 2,820,902 over the 4 years since the advent of the VGP.
- Delay/avoidance of Diesel engine “repower”: \$1,915,260.00 annually⁴⁹ or \$7,661,040 since the advent of the VGP.

The per-ticket benefit of avoided compliance, and additional market effects can in part be calculated through ridership statements provided by Lake Michigan Carferry and forwarded as part of their 2010 Tiger II grant application (164,000+ tickets sold annually)⁵⁰ and in a signed 2012 agreement through which LMC accessed federal Department of Energy funds (165,000+ passengers and vehicles annually).⁵¹ Using these statements, LMC has established that each year of delay creates roughly between \$4.24 and \$11.68 in direct per-ticket financial benefit. The added and undisclosed competitive benefit from market-altering noncompliance are not reflected in the LMC statements

⁴⁸ <http://www.epa.gov/region5/water/npdestek/badger/pdfs/application/badger-appy.pdf>

⁴⁹ <http://www.epa.gov/region5/water/npdestek/badger/pdfs/application/badger-app-bb.pdf>

⁵⁰ US Senator Carl Levin, letter to Robert Manglitz, dated September 10, 2010, .City of Ludington (MI) application, Surface Transportation Infrastructure Discretionary Grants for Capital Investments II, US Department of Transportation, 2010.

⁵¹ Project narrative, Agreement between the State of Wisconsin Department of Administration State Energy Office and Lake Michigan Carferry Service, Inc., US DOE Award, Contract No. AD12-9610, March 2012. <http://www.scribd.com/doc/93939011/SS-Badger-LMC-grant-application-State-of-Wisconsin-75-000-natural-gas-study>

Lake Express, LLC

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

outlined above and do not appear to have been included in the analysis or negotiations that created the proposed Consent Decree.

In seeking an additional two year dispensation on dumping coal ash and its related pollutants, the S.S. Badger is requesting an additional \$1,410,451 to \$3,830,520 in “subsidy”. The EPA has failed in its obligation to fairness in the name of the public interest in agreeing to this extension.

**The civil fine for 2012 violations by the S.S. Badger equates to 15 cents per ticket.
(\$25,000 divided by 164,000-165,000 tickets per year)**

The \$25,000 civil penalty that is included in the proposed Consent Decree equates to 15 cents per passenger or vehicle ticket sold.

This assessed penalty on noncompliance (15 cents per ticket) represents a recovery of between 1.2% and 3.5% of the direct per-ticket financial benefits realized by LMC when compared with with the \$4.24 to \$11.68 per-ticket cost of compliance. It is clear that EPA and DOJ have failed to accurately assess and capture the financial benefits gained by noncompliance and by delayed and avoided remediation. The evidence compellingly suggests that the weak civil penalty (which recovers between 1/29 to 1/83 of the benefit received for 2012 alone and ignores the benefits realized by failures and refusal by LMC to come into compliance during the 2008-2012 timeline submitted during the VGP negotiation) is yet another reward for failures to abide by the law.

EPA and DOJ by their assessments of miniscule civil penalties are sending a powerful message that in the case of Lake Michigan ship operators, they will side with polluters over modern and environmentally compliant operators. This clear failure to accurately analyze polluter benefits and to accurately assess civil penalties does an extreme disservice to the public as it represents a failure to enforce long-stated policies aimed to protect the environment, public health and the competitive marketplace.

Given this, is there any reason to believe that future delays and failures to seek compliance will be met with continued and reckless disregard for stated enforcement policies?

5) Environmental stewardship and pollution concerns.

As a company who operates on Lake Michigan and whose employees likewise make their livings on or about this waterway, Lake Express has a distinct interest that all who use the waterway do so in an environmentally sound and responsible way, so as to preserve the health of both the waterway and those who use it.

While defenders of the S.S. Badger have for years advocated for lenient treatment due to the age and purported historical nature of the “filthiest” boat on the Great Lakes, ,” the true story of the S.S. Badger reflects the true irony of its currenet predicament. Perhaps the vessels once lasting legacy, aside from more than 1,000,000 pounds of coal ash

discharged into Lake Michigan annually, is its role in inspiring the environmental protections that its owners have spent decades trying to avoid.

The pollution issues with the S.S. Badger are neither new, novel, nor the result of evolved or newly introduced rules or regulations. The S.S. Badger has been subject to criticism for water pollution since at least 1966⁵² and the early efforts to end water pollution from the S.S. Badger no doubt in part inspired Senator Gaylord Nelson to advocate for the same water protections⁵³ that the S.S. Badger seeks to avoid complying with today.

While the proposed consent decree makes reference to acknowledged exceedances of Michigan and Wisconsin mercury discharge criteria, the process appears to have largely omitted any requirement for accounting of or scientific analysis of cumulative environmental impacts from the discharges during the period of time that LMC has controlled and operated the S.S. Badger. Analysis of incremental impact from continued discharge and further delayed compliance is also notably absent.

S.S. Badger coal usage and ash generation/discharge has increased significantly under EPA oversight since 2008.

The agreement and timeline provided to EPA by LMC in 2008/2009 did not lead to reductions in coal usage or ash discharges. Instead, both increased significantly in the following years to the present point where even 15% decreases over the next years as stipulated in the proposed Consent Decree can lead to higher levels of pollution than were generated by the ship in 2008, before the practice of ash discharges came under increased scrutiny.

2009 records from the Manitowoc Public Utility (MPU) show that in the first year of the S.S. Badger's VGP timeline to eliminate coal ash discharges, LMC and the S.S. Badger used only 7,200 tons of coal. Coal specs for C. Reiss Stoker used by the S.S. Badger that year also showed use of a fuel with relatively lower ash content by spec, testing as low as 6.14%.

In contrast, 2012 Manitowoc Public Utility (MPU) records show that the S.S. Badger burned 9,163 tons of coal (56.5 tons of coal per scheduled day of operation) last season and discharged not less than 4.79 tons of coal ash per day (based on 8.46% ash content of coal and a 162 day published operating schedule) into Lake Michigan.⁵⁴

⁵² Car Ferry Agrees to Halt Dumping Refuse Into Lake," Sheboygan Press, Monday, December 5, 1966, 22 <http://www.scribd.com/doc/45323654/1966-C-O-told-to-stop-dumping-car-ferry-trash-into-Lake-Michigan-SS-Badger-complaints>

⁵³ "(Gaylord) Nelson pushing pollution bills," Janesville Daily Gazette, February 7, 1967, 16.

<http://www.scribd.com/doc/68665182/1967-Senator-Gaylord-Nelson-Proposed-Ship-Pollution-Bill>

⁵⁴ City of Manitowoc, Manitowoc Public Utility, 2012 coal supply invoicing to Lake Michigan Carferry, <http://www.scribd.com/doc/117169549/Coal-Usage-Lake-Michigan-Carferry-SS-Badger-coal-supplied-by-Manitowoc-Public-Utility-City-of-Manitowoc>

Coal usage increased 27% during the previous agreement and under the previous timeline and the corresponding ash generation rate increased by 38% as reflected by the spec of coal purchased by the company.

Moving forward, the proposed 9.5% coal ash Consent Decree stipulation, as it relates to allowable fuel usage by spec, makes it possible for ash discharges by the S.S. Badger to increase more, to nearly 50% more than first-year-of-VGP. This allowance alone allows a loophole by which coal ash dumping can increase vs. 2009 first year of phaseout baselines, even if 15% coal usage reductions are realized.

Again, this is a case where the inherent weakness of the proposed Consent Decree provides zero meaningful requirements with regard to reducing the waste stream and pollution, as it supposedly addresses to do so. Either the agency has been misled or it is presenting a “phase out” requirement that does not meaningfully encourage nor compel LMC to reduce its waste streams. Worst of all, it continues a trend of allowing pollution from the S.S. Badger to continue largely unabated.

Without access to LMC discharge records, review of MPU invoicing and coal supply analysis from 2008-2012 provides the best means of estimating annual discharges by the S.S. Badger. These records suggest annual coal ash discharges by the S.S. Badger have ranged during the past 5 years from annual minimums of 462 tons to 770 tons generated, with a steadily increasing trend.⁵⁵

This amount is significantly higher than the reported 89 tons of cargo sweepings (limestone, coal, stone, etc.) placed into Lake Michigan each year by the entire combined U.S and Canadian Great Lakes fleet of 125 ships.⁵⁶ The S.S. Badger creates enough pollution that it would still create more pollution than all others combined even if hundreds more ships were to join the Great Lakes Fleet and current rates were to hold. That one ship is allowed to continue discharging at this level and is rewarded while doing so is a clear failing of the EPA to honor and uphold its mandate.

While the LMC owner has frequently and publicly stated that “science is on our side,” and have provided assurances of low impact from both past discharge activity and future continuation of coal ash discharges, these promises appear to rely simply on verbal assurances with little true scientific analysis to back up them up.⁵⁷ Like past timelines for compliance, and other promises, these assurances appear to reflect nothing other than clever wordplay. The actual filings by LMC have not examined the true cumulative and continuing environmental impact of the activity and admitted discharge of mercury among other specifically named toxic pollutants in scientific terms, nor do they examine

⁵⁵ See attachment–2008-2012-SS Badger coal-usage.pdf. Via MPU invoicing and coal analysis documents: <http://www.scribd.com/collections/4231083/SS-Badger-Coal-Invoices-via-MPU-Manitowoc-Public-Utility>

⁵⁶ Draft Environmental Impact Statement: U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes, U.S. Coast Guard in cooperation with U.S. Environmental Protection Agency, May 2008, <http://www.regulations.gov/#!documentDetail:D=USCG-2004-19621-0032>, Table 1-1 (page 1-4), Table 1-4 (1-10)

⁵⁷ Lake Michigan Carferry opening day press conference, Ludington Michigan, May 24, 2012. <https://www.youtube.com/watch?v=Pw170H33Q1A>

Lake Express, LLC

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

the requirement, possibility or public burden of clean up and restoration should the activity prove to have negative ecological impacts.

Requests for modifications to proposed Consent Decree Agreement

In light of the concerns outlined above, we ask the Department of Justice and the EPA on behalf of the United States to either amend the proposed Consent Decree as outlined; or, if that is not within their power and discretion, to set the Decree aside and end the Lake Michigan Carferry operation until such time as the company can demonstrate that its operations have been altered to eliminate its discharges and/or deposits of coal ash into United States waters.

We also ask for a formal response explaining the rationale for action or lack of action on all items outlined below:

Concerns with the express statements in the Consent Decree:

Civil penalty does not accurately capture the economic benefits derived from noncompliance (\$705,225.60 to \$1,915,260.00 annually), violations, and continued regulatory non-enforcement. Not just in terms of costs avoided, but also in market share and profitability gained.

- A. Proposed Consent Decree: Page 4, para 3, discussion of annual S.S. Badger crossings at 500 in 2012/2013. It should be noted that the S.S. Badger operated for 162 days in 2012 versus 128 days in 2009, 129 days in 2010 and 135 days in 2011 or an average of 131.7 days over the three years. The 2012 operating schedule represents an approximate 20% increase in operating days and a 20% increase in the pollution load caused by the S.S. Badger in Lake Michigan. The operating day increase is coincident with the S.S. Badger's pursuit of an individual permit Clean Water Act permit. We do not believe this to be unintentional.

In our opinion, the S.S. Badger should be restricted to the maximum pollution load calculated over a 131 day season, the season in place at the time the permit application process began, and not be rewarded with an expanded pollution envelope.

- B. Proposed Consent Decree: Page 6, II Applicability, para 5 "... each captain, master, and any other person... etc" should be amended to read "*...each captain, master, chief engineer and any other person placed in a command or management position or who is in charge of the S.S. Badger at any time, whether the S.S. Badger is in port or not, shall be given a copy of the Consent Decree and shall assume responsibility, in writing, by signing a document in form and substance approved by this Court, for operating the S.S. Badger under the terms of this Consent Decree and shall be personally liable for doing so while onboard in their official capacity and/or while in charge....*"

This provision places responsibility for complying with the operating provisions of the Decree on those who make the operating decisions, where it should be. This spurs direct accountability and clearly identifies, by reason of signing the proposed document, of who is in charge at any given time and responsible for Decree compliance.

- C. Proposed Consent Decree: Page 9, IV Permanent Cessation of Coal Ash or Coal Ash Slurry Discharge, para 29 amend to read "...Badger must permanently cease discharging, *directly or indirectly*, coal ash or coal ash slurry..."
- D. Proposed Consent Decree: Page 9, IV Permanent Cessation of Coal Ash or Coal Ash Slurry Discharge, para 29 amend to read "...after the first day of the calendar year 2014 Operating Season..."

LMC has had a four year grace period under the VGP to evaluate and engineer options for ending the coal ash dumping, which LMC has claimed to have accomplished. LMC has presented such options, together with technical data, to the EPA in their individual permit application. According to Bay Shipbuilding, it would take one season to install a new diesel power system in the S.S. Badger, the most challenging and time consuming of viable options (cite...). Given the above and the extensive amount of time and engineering claimed already performed by LMC, there is no technical reason it should take LMC another two years to make required changes. There is no other reason other than technical, which should impel the timeline to convert. **One year is sufficient** and places the burden of compliance on LMC. If LMC has indeed done the homework as repeatedly claimed, they should be able to meet the deadline. If not, the S.S. Badger should not be rewarded for frittering away their grace period. The burden of compliance should be on LMC. All of the viable technologies have been done and proven by other vessel owners. LMC should be able to perform. It should be noted that LMC's net savings, in not coming into compliance under the 4 year VGP grace period, was \$2,820,902 to \$7,661,040 based upon the S.S. Badger's own estimates of compliance costs depending upon the technology used. EPA, by the Consent Decree with an additional 2 year grace period, grants LMC another \$1,410,451 to \$3,830,520 in savings. This works to the advantage of LMC but not the public.

- E. Proposed Consent Decree: Page 9, IV Permanent Cessation of Coal Ash or Coal Ash Slurry Discharge, para 29 amend to read "...after the first day of the calendar year 2014 Operating Season *or cease operation unless and until LMC can demonstrate that such discharges have been permanently ended.*"

As currently worded there is no provision in the Consent Decree sufficient to insure the S.S. Badger meets its obligation to stop dumping (there is a

minor fine provided but it is insignificant when weighed against the cost of compliance). Therefore, this provision simply is not reasonable and contrary to the law of consent decrees as the Decree cannot claim to solve the problem it establishes. As revised, the provision will incentivize the Badger to stop dumping either by meeting the terms of the Consent Decree or by stopping operation. The decision will be LMC's.

- F. Proposed Consent Decree: Page 9, IV Permanent Cessation of Coal Ash or Coal Ash Slurry Discharge, para 32 "... LMC must operate the Badger in a manner that reduces the average amount of coal combusted per operating day. LMC must demonstrate compliance with this Paragraph according to the method set forth in Appendix B, Section 1A." This section says "LMC must demonstrate a reduction in the average amount of coal used to operate the S.S. Badger per Operating Day during 2013 compared to 2012".

This requirement is utterly weak, and unenforceable in practice, and fails in its "reasonableness" mandate. In the Consent Decree, there are no numeric standards established for a baseline coal burn nor an explanation of how that baseline would be established; there is no standard established regarding how the coal burn will be measured; there is no certification requirement by those measuring the burn that such burn calculation is accurate; there is no standard or definition of what "reduces the amount" actually means. Does it mean 1 ton per day? 5 tons? 1 pound? What LMC states? This is an at best poorly drafted language/provision and the EPA has failed in its obligation of developing an open and transparent process that can be tracked and verified. This is particularly egregious in that EPA has all the information required to put enforceable language in the Decree. For example:

"During the 2013 Operating Season, LMC will reduce its daily amount of coal combustion, on a daily average for the season basis, by 10% below the base combustion amount of 50.5 tons per day. LMC will substantiate such reduction by the presentation to the Court and the EPA, good and sufficient records signed by the Master or Chief Engineer as to the amount of coal combusted on a per day basis. Such coal combusted figures will be supported by coal truck delivery slips showing the time and date of delivery and the weight of material delivered, signed by both the truck driver and the mate or engineer on watch at the time of delivery. The Chief Engineer or Master shall also take an inventory of the coal onboard, in the presents of a certified cargo surveyor, who shall attest to same, on the first and last day of the season (i.e. a beginning and ending inventory). LMC will also provide the ship's logs or other good and sufficient evidence of the number of days operated during the season and such other information as the Court and EPA may deem appropriate to definitely establish the daily average coal burn."

Proposed Consent Decree: Page 9, IV Permanent Cessation of Coal Ash or Coal Ash Slurry Discharge, para 33 "... LMC must reduce the amount of coal ash discharged from the S.S. Badger into Lake Michigan as compared to the Calendar Year 2013 operation by 15%. LMC must demonstrate compliance with this Paragraph according to the method set forth in Appendix B, Section 1B." This section says "LMC must demonstrate a reduction in the average amount of *coal* used to operate the Badger per Operating Day during 2014 compared to 2013."

Similar to the comments under F. above, this requirement is utterly weak, unenforceable and fails in its "reasonableness" mandate. There are no numeric standards established for a baseline coal ash discharge nor an explanation of how that baseline would be established; there is no standard established regarding how the ash discharge will be measured; there is no certification requirement by those measuring the ash discharge that such discharge calculation is accurate; there is no numeric standard or definition of what "reduction in the average amount..." actually means. Again, does it mean 1 ton per day? 5 tons? 1 pound? This poorly drafted language/provision demonstrates the EPA has failed in its obligation to develop a reasonable cure and to insure the public interest by developing an open and transparent process that can be tracked and verified. As with coal combustion data, EPA has all the information required to put enforceable language in the Decree. Finally, while the para 33 calls for a 15% reduction in "coal ash discharged," Appendix B simply calls for a "reduction in the average amount of *coal used*" without stipulating by how much the reduction is. This is, at best sloppy drafting and opens the door to obfuscation and debate, which is not the hallmark of a solid agreement. Alternative language might read: *"During the 2014 Operating Season, LMC will reduce its daily amount of coal ash discharged on a daily average for the season basis, by 15% below the base ash discharge amount of 3.78 tons per day based upon an ash content of 7.5%. LMC will substantiate such reduction by the presentation to the Court and the EPA, good and sufficient records signed by the Master or Chief Engineer as to the amount of coal ash discharged on a per day basis. Such coal ash figures will be supported by coal truck delivery slips showing the time and date of delivery and the weight of material delivered, and the specification of the coal delivered including as a minimum total ash content and sulfur content of the product delivered. Such delivery slips will be signed by both the truck driver and the mate or engineer on watch at the time of delivery. The Chief Engineer or Master, shall also take an inventory of the coal onboard, in the presents of a certified cargo surveyor who shall attest to same, on the first and last day of the season (i.e. a beginning and ending inventory). LMC will also provide the ship's logs, coal delivery slips and other good and sufficient evidence of the number of days operated during the season and such other*

information as the Court and EPA may deem appropriate to definitely establish the daily average coal ash discharge.”

- G. Proposed Consent Decree, Page 12, VI Resolution of Claims and Reservation of Rights, para 42. Add to end of para *“LMC warrants that since January 1, 2009 it has been in compliance with all federal, state and local laws and regulations regarding the discharge of coal ash or coal ash slurry into the waters of Lake Michigan and that it has held and will continue to hold during the currency of this agreement, any and all necessary and required permits and/or certificates issued by the federal government and the States of Wisconsin and Michigan and any local authority of jurisdiction to allow them to make such discharges. Copies of such permits and/or certificates are attached hereto and made part and parcel of this Consent Decree. The EPA and Department of Justice warrant that they have provided a copy of this proposed Consent Decree to the States of Wisconsin and Michigan and have requested those States to review the proposed Consent Decree and have received agreement from those States that the deposit of coal ash into state waters is consistent with state law and regulation and that those States agree with the terms and conditions of the proposed Consent Decree. The States’ written responses, a copy of which is attached hereto, is made part and parcel of this Consent Decree.”*

The proposed Consent Decree mandates that “LMC is responsible for compliance with all applicable federal, state and local laws”. The EPA and DOJ is creating uncertainty, as the EPA did in the 2008 VGP process, by providing federal cover for LMC to dump coal ash in state waters where it is illegal to do so. This places the burden of “sorting out the legalities” to the states in an area made “gray” by EPA/DOJ actions. This is unfair and unacceptable and violates the principal that a consent decree should be clear in its intent and execution. This is particularly egregious given EPA/DOJ simply have to ask the relevant state agencies to “sign off”, which EPA does on a regular basis over a variety of actions. This process is not new to EPA nor should it be frightening. It just needs to be done. Does or doesn’t the dumping of coal ash into state waters violate state law or regulations? A simple question that, for the sake of fairness and clarity, needs be asked by the EPA/DOJ.

- H. Proposed Consent Decree, Page 14, VIII Stipulated Penalties, para 47:

This paragraph, which enumerates the penalties that can be imposed by the EPA for non compliance with the proposed Consent Decree, is wholly inadequate. For instance, the penalty for a “failure to cease discharging coal ash or coal ash slurry...” is a meager \$3,000 per Operating Day on which a discharge occurs. Considering that the S.S. Badger has operated an average of 131.7 days per season in the period of 2009-2001, dumping every single day of the season would expose LMC to a maximum fine of \$3,000 X 132 days or \$396,000 per season. This represents an amount of money far less than the \$705,000 per season LMC has publicly stated is

their least cost technological solution of ash retention and landfill.⁵⁸ This minimal level of monetary penalty gives the S.S. Badger a strong economic incentive to do nothing but to pollute, which history shows they are more than willing to do. This level of fine does not offset, even if a 162 day season was considered (\$486,000 fine). This level of fine fails to meet the goals of the Consent Decree and therefore fails as a reasonable element of the Decree. In our opinion, these fines on a daily basis (Consent Decree Violation Table a. & d., page 14) should be based on no less than twice the annual cost of LMC's publicized least cost alternative of \$705,000 per season. This would equate to a fine of about \$10,682 per day. This level of fine would meet the test of reasonableness, would encourage LMC to make necessary changes and would act to prevent dumping beyond the 2015 deadline. Reference sections b. & c. of the same table, these violations should be treated similarly as sections a. & d., a daily violation of \$10,682. It should be noted that a \$32,500 penalty for a violation for a season is an inexplicable \$246.21 per day (based upon 132 days) and a \$65,000 penalty for a violation is \$492.42 per day. This level of fine encourages, rather than discourages compliance.

- I. Proposed Consent Decree, Page 17, IX Force Majeure, para 55: this para defines a "Force Majeure" event, those circumstances under which LMC is allowed leeway to either seek more time for compliance or, to plead that compliance is "prevented" under the circumstances, as worded. The proposed Consent Decree should not allow LMC to use the force majeure clause to negotiate underperformance of standards or, in some circumstances, the failure to stop dumping at all (they being "prevented" from doing so by circumstances beyond their control). The purpose and intent of the proposed Consent Decree is for the S.S. Badger stop dumping or stop operating. The force majeure para again provides an artful way for LMC to not comply and not take responsibility. This is neither fair to the industry nor in the public's interest.

Para 55 of the force majeure clause should be amended to read as follows: " For purposes of this Consent Decree, a "Force Majeure Event" shall mean an event that has been or will be caused by circumstances beyond the control of LMC, its contractors, vendors officers, or any person or entity controlled by LMC that delays ~~or prevents~~ compliance with any provision of this Consent Decree or otherwise causes noncompliance with any provision of this Consent Decree despite LMC's best efforts to fulfill the obligation. to the greatest extent possible. LMC's financial inability to perform any obligation under this Consent Decree does not constitute a Force Majeure event, *nor does a Force Majeure event include, inter alia,*

⁵⁸ Chuck Leonard, VP Lake Michigan Carferry, Letter to EPA Regional Administrator Susan Hedman, August 16, 2012, http://www.epa.gov/region5/water/npdestek/badger/pdfs/2012_08_16_SSBadger_LMC_Coal_Ash_Retention.pdf

increased costs of performance, changed economic circumstances, changed labor relations, precipitation or climate events, changed circumstances arising out of the sale, lease, or transfer or conveyance of title or ownership of any LMC asset or failure to obtain federal, state or local permits and/or authorizations”

Para 58 of the force majeure clause should be amended to read:

“If EPA agrees that a Force Majeure Event has delayed ~~or prevented~~ or will delay ~~or prevent~~ compliance...”

Comments on Appendix A:

Essentially, Appendix A was lifted “whole cloth” from the VGP and was written by LMC themselves for inclusion in the VGP. This language was not derived from any thoughtful analysis by the EPA – it was written completely by the regulated party.⁵⁹

Under II A. of the Appendix, the maximum coal ash content of burned fuel is set at 9.5% (by weight as received). A review of the record confirms that this percentage is much too high and allows LMC to manipulate ash generation figures so as to indicate a reduction in ash generation against this standard that is not actually achieved in practice. This is unreasonable for a Consent Decree. Reviewing the available S.S. Badger coal purchase records for the years 2008-2010, the ash contents of purchase coal were as follow: 2008-7.41%; 2009-6.42%; and 2010-6.65%. This averages 6.82% over the three year time period. The amount of ash content is something, within reason, wholly controllable by LMC in accordance to what they order from the supplier. They can order a low ash coal and get it, within reason (i.e. they could not get a “no ash” content coal). The purpose of the Consent Decree is to limit and then eliminate coal ash discharge into Lake Michigan (together with resultant pollutants). Therefore, it would be reasonable, responsible and in the public interest to restrict the S.S. Badger to burning a low ash coal, not a 9.5% ash content coal. As the S.S. Badger purchase records show, it is capable of obtaining and burning coal with an ash content of 6.42%. **Therefore, it is reasonable that a 6.5% limit, rather than a 9.5% limit be set in Appendix A.** Appendix A should be amended accordingly.

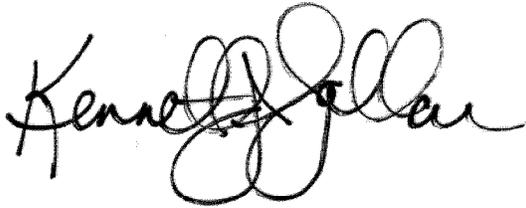
Comments on Appendix B:

Appendix B is utterly unenforceable as written and totally lacks verifiable standards. It should be amended to incorporate our comments in comments F & G above.

⁵⁹ Proposed VGP: EPA response to public comments US EPA – December 19, 2008, 6-558
<http://www.epa.gov/region5/water/npdestek/badger/pdfs/Attachment-I.pdf>

We ask the Department of Justice and the EPA on behalf of the United States to either amend the Consent Decree as outlined; or, if that is not within their power and discretion, to set the Decree aside and end the Lake Michigan Carferry operation until such time as the company can demonstrate that its operations have been altered to eliminate its discharges and/or deposits of coal ash into United States waters.

These comments to the proposed LMC Consent Decree are respectfully submitted by Lake Express, LLC.

A handwritten signature in black ink, appearing to read "Kenneth J. Szallai". The signature is fluid and cursive, with the first name "Kenneth" and last name "Szallai" clearly legible.

Kenneth J. Szallai
President
Lake Express, LLC.

From: Frank Luddite
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 9:05:04 AM
Subject: Case Number: D.J. Ref. No. 90-5-1-1-10771

To:

Assistant Attorney General, Environment and Natural Resources Division

Reference

Case Number: D.J. Ref. No. 90-5-1-1-10771

Case Name:

United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and S.S. Badger

Dear Sir,

I would like to comment on the above case.

1. To my understanding, the effect of less than one ounce of mercury per year in a lake the size of Lake Michigan is well under accepted levels for environmental harm. Note that I say less than one ounce per year, in contradiction to the ludicrously incorrect mathematics of Senator Durbin.
2. I have seen no proof of harm to the lake's ecology done by the turbidity or the relatively small ash deposited on the lake bottom. I say "relatively small" despite the ludicrously incorrect mathematics of Senator Durbin. I am sure you have scientifically calculated the amount of ash using readily available and accurate numbers.
3. While I can appreciate that the economic effect of losing 200+ jobs and many millions of dollars of much needed economic gain is small in terms of U.S. Government numbers, it is quite a huge impact to the small towns of Ludington and Manitowoc, especially in these difficult times.
4. Lastly, I hope I am correct in thinking the EPA is able to make decisions based on facts, and is not making decisions influenced by politics. I'm sure many people do think that "Senator Durbin is not even from Michigan, surely he is unbiased and just wishes to protect the lake". I wondered about that myself. Finally an explanation for Senator Durbin's fanatic behavior has surfaced. The following text is taken from the (admittedly biased) Ludington Daily News, but I am sure all of it can be easily verified.:

<start of quote>

Steve Begnoche - Managing Editor

Friday, April 19, 2013

...

"Now a story in the April edition of Outer Boundary Magazine paints a picture of Durbin receiving fundraising benefits through a lobbying firm hired by the competing Lake Express carferry owners.

Broydrick and Associates, the magazine says, lobbied for Lake Express against the Tiger grant, ultimately denied, that would have allowed converting the Badger to diesel.

It lobbied against the Badger getting the National Historic Landmark status the Badger both deserves and was recommended for but has wrongly not received.

According to the magazine, the lobbying firm hosted a D.C. fundraiser just days before Durbin put out a video attacking the Badger. We can't say for sure that what Outer Boundary Magazine details is true — we can't say it isn't either — but it better explains Durbin's fascination with the Badger than Durbin's ridiculous position that the Badger is a risk to Lake Michigan."

<end of quote>

I thank you sir, for your attention and hope for a fair and impartial decision based on facts.

Regards,
Frank Longmore

From: Michael Lanser
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Justin Nickels
Sent: 4/23/2013 9:31:57 AM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: SS Badger Resolution Letter.pdf

To: The Assistant Attorney General, Environmental and Natural Resources Division:

Re: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Please accept the attached comments regarding this case. As a supporter of our local economy, we believe adopting this resolution is the appropriate way to work toward an acceptable solution to all.

Please contact me if you have any questions.

Sincerely,

Mike

Michael A. Lanser, Ed.D. | President
Lakeshore Technical College
1290 North Avenue | Cleveland, WI 53015
920.693.1123 Direct | 920.912.6841 Mobile

Changing Lives. Building Futures.



April 22, 2013

Assistant Attorney General
US Department of Justice
Environment and Natural Resources Division
PO Box 7611
Washington, DC 20044-7611

RE: D.J. Ref. No. 90-5-1-1-10771

United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

To Whom It May Concern:

Lakeshore Technical College prides itself on being responsive to our local communities and exploring opportunities that support economic growth. As such, we support the proposed Consent Agreement between the U.S. Environment Protection Agency and Lake Michigan Carferry Services/55 Badger. In our view, the agreement is currently an appropriate resolution with the eventual goal of eliminating the discharge of coal ash into Lake Michigan.

The Badger is a vital economic partner in both Manitowoc, WI and Ludington, MI, providing hundreds of jobs and a combined overall economic impact of \$35 million annually for both cities. The Badger provides transport and cargo shipping for Midwest businesses, preventing much of the traffic congestion, pollution, and wear and tear the thousands of additional cars and trucks would generate on roadways. The Badger is also an integral part of local tourism.

We are sensitive to the concerns of environmental minded groups and individuals that we partner with at LTC and understand that coal ash discharge is not an insignificant issue. However, this proposed Consent Agreement, is in the best interest of the public as a whole and creates balance between environmental protection and the continued economic importance the Badger provides.

Sincerely,

Michael Lanser, Ed.D.
President

Michael A. Lanser, Ed.D., President



April 23, 2013

To: Assistant Attorney General
Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake
Michigan Car Ferry Services and SS Badger

Case Number: D.J. Ref. No. 90-5-1-1-10771

The SS Badger is an economic lifeline to Ludington. The services of the Badger provide many jobs in our area; from hotels, restaurants, campgrounds, museums, etc. The company also helps sustain the tourism economy. The Badger is vital to the economy of our region and too important to stop sailing. West Michigan tourism and the jobs that support the hardworking men and women of our community is a valid reason to keep the SS Badger sailing.

Sincerely,

Ouray Development LLC
5061 W. US 10
Ludington, MI 49431

From: Steve Burman
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 11:46:26 AM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.jpg; image002.jpg

Concerning the SS Badger, we feel that it is a vital part of our economic structure for Western Michigan, and we would ask that the consent agreement be approved.

Thank You,

Steve Burman

Business Development Director

Valley Truck Parts

P.616.241.5431

F.616.241.1170

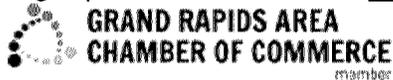
C [REDACTED]



Follow us on LinkedIn at: <http://www.linkedin.com/company/valley-truck-parts>

"Like" us on Facebook at: <https://www.facebook.com/pages/Valley-Truck-Parts>

Sign up for our newsletter at: <http://eepurl.com/qhjl5>



From: Bishop, Norma
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Board of Trustees; Staff
Sent: 4/23/2013 1:03:20 PM
Subject: D.J. Ref. No. 90-5-1-1-10771 - U.S. v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger
Attachments: image008.jpg; image009.gif; image010.png; image011.gif; image012.png; image013.gif; image014.png; image015.jpg; LTRHD - in Support of Consent Decree D.J. Ref. No. 90-5-1-1-10771 (WWM 4-23-13).pdf

April 23, 2013

Assistant Attorney General
U. S. DOH – ENRD
P. O. Box 7611
Washington, DC 20044-7611

RE: D.J. Ref. No. 90-5-1-1-10771

Dear Sir:

As the CEO of the Wisconsin Maritime Museum, I am writing today to share with you why I support continued operation of SS *Badger*—a vessel of historical significance. I am pleased that the DOJ and *Badger*'s owners have reached the agreement as stated in the consent decree referenced above.

As a steward of our maritime natural resources, the Museum is an active advocate for protection of water quality in our lakes, rivers, and streams. And we are eager to see SS *Badger* convert to a clean fuel technology in the future. Nevertheless, we are also aware that coal-fired electric generating units surround Lake Michigan and pose far greater risk to the health of our waters and to the residents of the Great Lakes' Region. In terms of this risk and the cultural and economic value brought to this region by *Badger*, continued operation under the terms of the consent decree is the right solution.

Badger is a national treasure, offering an experience that links us to an earlier time when an inland sea voyage was the ultimate travel and vacation adventure. Loss of this ship and the experience it offers would mean a loss of part of our maritime heritage. Nothing inspires people to preserve history more than an actual experience that makes “time travel” possible.

I would also point out that many people experience the magnificence and mystery of this great inland sea on board *Badger*—and become inspired to protect it for future generations. Several years ago, I sailed from Ludington, Michigan to Manitowoc on the summer solstice night sailing—under the magic of a full moon. Every passenger on that crossing went ashore in a state of awe, aware, possibly for the first time, of the irreplaceable and fragile nature of the Lake. I invite you to come and sail with us on *Badger* this season. Here at the Museum, we are a public forum for issues such as this, and I would also invite you to come and meet the community of which *Badger* is such a significant “citizen.”

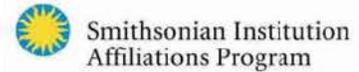
I would like to share with you a perception of many of the residents of Northeast Wisconsin. That is that there would have been a much more constructive public conversation about *Badger* and the attendant issues, if the Lake Michigan Express car ferry had not lobbied so blatantly on the basis of its own economic self-interest. I am sure that that did not color the EPA's decision in this matter, but you should be aware that some people do hold that opinion.

I look forward to selection of a technology that will solve the problem and fuel *Badger* far into the 21st century. I also look forward to a day when fossil fuels and their toxic discharges are gone from our lakeside power plants.

Sincerely,

Norma Bishop
Chief Executive Officer
Wisconsin Maritime Museum
75 Maritime Drive
Manitowoc, WI 54220
Tel: 920-684-0218
Fax: 920-684-0219





Board of Trustees

Mike Huck, President
Linda Kalles, Vice President
David Scherer, Secretary
Alan Ross, Treasurer
Michelle Birschbach, Esq.
John Creagh
James Ferguson
Marcia E. Flaherty
Doug Koch
Rich Larsen
Steve McMahon
Scott McMeans,
ex officio, City of Manitowoc
Robert Melzer, Esq.
Carlton Schultz
Dolly Stokes
Charles C. Weier

Chief Executive Officer

Norma Bishop

Honorary Council

Henry N. Barkhausen
Brendon Bailod
Terry D. Growcock
Former Chairman and CEO,
The Manitowoc Company, Inc.
RADM Henry McKinney
(USN Ret.) Former
Commander Submarine
Force, U.S. Pacific Fleet
Honorable Tom Petri,
House of Representatives
Jim Ruffolo, President
Burger Boat Company

In Memoriam

Gerald "Jerry" R. Pilger, Sr.

April 23, 2013

Assistant Attorney General
U. S. DOH – ENRD
P. O. Box 7611
Washington, DC 20044-7611

RE: D.J. Ref. No. 90-5-1-1-10771

Dear Sir:

As the CEO of the Wisconsin Maritime Museum, I am writing today to share with you why I support continued operation of SS *Badger*—a vessel of historical significance. I am pleased that the DOJ and *Badger's* owners have reached the agreement as stated in the consent decree referenced above.

As a steward of our maritime natural resources, the Museum is an active advocate for protection of water quality in our lakes, rivers, and streams. And we are eager to see SS *Badger* convert to a clean fuel technology in the future. Nevertheless, we are also aware that coal-fired electric generating units surround Lake Michigan and pose far greater risk to the health of our waters and to the residents of the Great Lakes' Region. In terms of this risk and the cultural and economic value brought to this region by *Badger*, continued operation under the terms of the consent decree is the right solution.

Badger is a national treasure, offering an experience that links us to an earlier time when an inland sea voyage was the ultimate travel and vacation adventure. Loss of this ship and the experience it offers would mean a loss of part of our maritime heritage. Nothing inspires people to preserve history more than an actual experience that makes "time travel" possible.

I would also point out that many people experience the magnificence and mystery of this great inland sea on board *Badger*—and become inspired to protect it for future generations. Several years ago, I sailed from Ludington, Michigan to Manitowoc on the summer solstice night sailing—under the magic of a full moon. Every passenger on that crossing went ashore in a state of awe, aware, possibly for the first time, of the irreplaceable and fragile nature of the Lake. I invite you to come and sail with us on *Badger* this season. Here at the Museum, we are a public forum for issues such as this, and I would also invite you to come and meet the community of which *Badger* is such a significant "citizen."

75 Maritime Drive, Manitowoc, Wisconsin 54220

Phone: (866) 724-2356; Fax: (920) 684-0219; E-mail: museum@wisconsinmaritime.org; WebSite: www.wisconsinmaritime.org

Wisconsin Maritime Museum
In Support of D.J. Ref. No. 90-5-1-1-10771

I would like to share with you a perception of many of the residents of Northeast Wisconsin. That is that there would have been a much more constructive public conversation about *Badger* and the attendant issues, if the Lake Michigan Express car ferry had not lobbied so blatantly on the basis of its own economic self-interest. I am sure that that did not color the EPA's decision in this matter, but you should be aware that some people do hold that opinion.

I look forward to selection of a technology that will solve the problem and fuel Badger far into the 21st century. I also look forward to a day when fossil fuels and their toxic discharges are gone from our lakeside power plants.

Sincerely,

A handwritten signature in black ink that reads "Norma Bishop". The signature is written in a cursive style with a large, stylized initial "N".

Norma Bishop
Chief Executive Officer

From: Silver, Doris
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 2:27:27 PM
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

Re: FW: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

I support the consent decree allowing the Badger to continue to sail. Our town heritage and livelihood are support greatly by the tourism that the car ferry brings to Ludington.

*Doris Silver, MSN, BHSA, RN
Staff Development Coordinator
West Shore Medical Center
(O) 231-398-1887
(F) 231-398-1027*

"The significant problems we face can not be solved at the same level of thinking we were at when we created them." - Albert Einstein

Assistant Attorney General
Environment and Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611

RE: UNITED STATES V. LAKE MICHIGAN TRANS-LAKE SHORTCUT, INC., D.J. REF. NO. 90-5-1-1-10771

COMMENTS OF CLEAN WISCONSIN, INC. REGARDING PROPOSED CONSENT DECREE

Introduction

Clean Wisconsin appreciates the opportunity to comment on the proposed Consent Decree between the United States Environmental Protection Agency and Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Service and S.S. Badger. Founded in 1970 as Wisconsin's Environmental Decade, Clean Wisconsin is a nonprofit environmental advocacy organization with over 10,000 members statewide. Many of our members use and enjoy Lake Michigan, and have an interest in protecting its waters from mercury and other pollutants contained in coal ash.

Unfortunately, the proposed Consent Decree between U.S. EPA and the owners of the S.S. Badger falls far short of what is needed to protect Lake Michigan from the harmful effects of toxic coal ash. Coal combustion waste, although not labeled "hazardous" for regulatory purposes, is highly toxic. Coal ash waste contains dangerous metals and elements -- including arsenic, lead, selenium and mercury -- that can cause cancer and other serious health effects when it contaminates drinking water. Land-based coal ash disposal sites are subject to numerous regulatory safeguards to protect ground and surface waters; it is incomprehensible that anyone would be allowed to simply dump toxic coal ash into one of our Great Lakes, a precious water resource upon which millions of people rely. The toxic effects of mercury are well recognized and understood; already, we are advised to avoid eating the fish in all of our Great Lakes and inland lakes and streams because they are contaminated with mercury. It is inconceivable that the SS

Badger would be allowed to continue dumping mercury-laden coal ash into Lake Michigan for two more years.

Clean Wisconsin respectfully requests that USDOJ and USEPA require the SS Badger to cease dumping coal ash into Lake Michigan immediately. The terms of the proposed Consent Decree are wholly inadequate to protect the Lake, for the following reasons.

I. The Consent Decree Sets Forth Unacceptable and Ambiguous Timelines.

A. Allowing the SS Badger to dump coal ash into Lake Michigan for yet another two years is unacceptable and unjustified by the facts.

EPA offers no reason for allowing the S.S. Badger to continue to dump toxic coal ash into Lake Michigan except that it wishes to avoid potential permit litigation, which could take longer than the two-year compliance path set forth in the proposed Consent Decree.¹ However, the additional two years is not needed in order to explore alternatives to dumping this toxic sludge directly into the lake; on the contrary, EPA granted the Badger an extension for exploring such alternatives five years ago. Not only that, but the State of Wisconsin awarded the SS Badger's owners a \$75,000 grant to study the feasibility of fuel switching from coal to natural gas. However challenging the technical problems related to cleaning up the SS Badger may be or have been, its owners have already had more than enough time to solve those problems. Nor is there reason to believe, based on their own public statements, that the SS Badger's owners are committed to solving the problem in the next two years. For example, they continue to state publicly that they believe the Badger deserves designation as a National Historic Landmark and the corresponding exemption from environmental regulations.

¹ Statement of EPA administrator Susan Hedman, Milwaukee Journal Sentinel, March 22, 2013.

EPA seems to assume that no enforcement tools would be available during a permit dispute, without explaining why they have reached that conclusion. Certainly EPA and USDOJ have the authority to deny the Badger a permit to dump toxic coal ash or to issue a permit prohibiting such dumping, and to penalize its owners if they continue to dump in violation of that permit.

B. Amount by which SS Badger must reduce its coal ash discharge dumped during 2013-14 seasons is ambiguous.

Paragraph 32 of the Consent Decree requires that the SS Badger “operate the Badger in a manner that reduces the average amount of coal combusted per Operating Day.” The method for demonstrating compliance, described in Appendix B, Section 1.A., states only that “LMC must demonstrate a reduction in the average amount of coal used to operate the Badger per Operating Day during 2013 compared to 2012.” Because this rather circular “requirement” does not make clear the actual amount by which the Badger must reduce its coal use in 2013, one then looks to Appendix A for what the 2013 reduction from 2012 coal combustion might mean. However, there again, ambiguity reigns. Appendix A directs LMC to “*minimize* the discharge of coal ash and coal ash slurry into Lake Michigan,” (emphasis added) using techniques which are insufficiently defined. The “efficient combustion of coal,” for example, is not defined, and it is not evident whether, or to what extent, this would reduce the Badger’s overall coal use. Minimizing the ash content of the coal used onboard appears on its face that it would result in a reduction in the amount of coal ash slurry dumped into the Lake, but by how much? Finally, limiting discharge quantities to “those necessary for the safe and efficient operation of the vessel” is perhaps the most ambiguous bullet point of all. If one assumes that the Badger has historically been using more coal than necessary for the safe and efficient operation of the vessel, then it could be expected that this measure would result in reductions in 2013. However, it

seems unlikely that any enterprise would routinely use *more* fuel than necessary to efficiently operate, given the high cost of fuel. It follows that the Badger discharges a concomitant quantity of coal ash.

Knowing the actual amount by which the Badger is required to reduce its coal use in 2013 is also important because the Consent Decree requires a 15% reduction from 2013 levels in 2014. If the Badger is serious about eliminating all coal ash discharge into Lake Michigan by the start of the 2015 operating season, then USDOJ and USEPA should require much steeper percentage reductions in 2013 and 2014 in order to provide a stronger compliance path.

In addition, the SS Badger should be required to submit monthly reports that detail how much coal ash is being dumped into Lake Michigan, and those reports should be made available to the public, as well as the results of all water quality testing.

II. The Consent Decree Imposes Minimal Penalties That Are Unlikely to Deter Future Coal Ash Discharges.

The imposition of a mere \$25,000 civil penalty for years of water quality violations does not send a strong signal that further violations will not be tolerated. In fact, the Consent Decree sets forth a modest schedule of stipulated penalties for violations of the Consent Decree which could conceivably cost the SS Badger less than it would cost them to comply. LMC estimated costs of ash retention and disposal at \$5,037.54 per day (\$705,255.60 annually). By contrast, their potential penalties under the Consent Decree (e.g. \$3,000 per Operating Day for “Failure to cease discharging coal ash or coal ash slurry”) would be a bargain.

Further, there should be an explicit agreement stated by all parties that they will not request any further extensions to the cessation of coal ash pollution by the S.S. *Badger* following the 2014 summer season. It has been suggested that since it is unclear whether the Badger’s owners actually accept that they must stop dumping coal ash, even after two years, the proposed Consent Decree

should require good-faith actions to show progress toward that goal. For example, nonrefundable investments in ash-storing equipment or fuel conversion equipment would demonstrate a degree of commitment that is currently lacking. If the SS Badger will not be required to cease dumping coal ash into Lake Michigan immediately, then USEPA and USDOJ should, at the very least, require a much stronger compliance path that includes financial assurances.

III. EPA Should Encourage the SS Badger to Stop Burning Coal.

It must be noted that while dumping toxic coal ash directly into Lake Michigan is egregious enough, burning coal to power the S.S. Badger also causes significant air pollution. At a time when land-based sources of carbon dioxide, nitrogen oxides, sulfur dioxide, particulate matter and other air pollutants are being required to reduce their emissions, the S.S. Badger's contribution to degraded air quality should not be ignored. Burning Kentucky coal produces fly ash emissions into the air – visible as a big brown cloud that trails after the ship on its travels across Lake Michigan. A Consent Decree that enables the ferry to continue using coal as fuel wastes an opportunity to eliminate a significant source of air pollution and global warming gases in the Great Lakes region. Further, allowing the S.S. Badger to store coal ash onboard and transfer it to coal ash disposal sites on land only contributes to already untenable and environmentally hazardous coal combustion waste storage issues.

Conclusion

For the reasons enumerated above, Clean Wisconsin respectfully requests that USEPA and USDOJ require the SS Badger to cease dumping coal ash into Lake Michigan effective immediately, and encourage the Badger to repower the vessel with less polluting fuel.

Respectfully submitted this 23rd day of April, 2013,

/s/ Katie Nekola

Katie Nekola, General Counsel

Clean Wisconsin

634 W. Main Street, Suite 300

Madison, WI 53703

(608) 251-7020 ext. 14

knekola@cleanwisconsin.org

From: Thorp641
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 3:37:36 PM
Subject: United States vs Lake Michigan Trans-Lake Shortcut, inc, D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney General,
Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger, D.J. Ref. No. 90-5-1-1-10771

Dear Sir or Madam:

I am writing in support of the Consent Decree. I write as the President of the Mason County Historical Society and the Chair of this organization's Maritime Museum Development Committee.

The Pere Marquette Railroad and its carferries were instrumental in the economic and social development of Mason County and the City of Ludington. At one time Ludington was the third busiest port on Lake Michigan. The carferries economic contribution continued with the C&O Railroad and continues albeit in a much smaller way now with the SS Badger.

Ludington is a popular destination for vacationers attracted by the city's location on the shores of Lake Michigan and the many recreational opportunities it affords. Aside from the daily sailings of the historic steamship *Badger* in the summer, there is little indication today that Ludington's beautiful harbor was among the busiest commercial ports on the Great Lakes in the last century, third only to Chicago and Milwaukee on Lake Michigan. That great history will now be remembered through the new Port of Ludington Maritime Museum which is being developed by the Mason County Historical Society <http://ludingtonmaritimemuseum.org/>. I invite you to explore this web site to learn how the Mason County Historical Society is planning to renovate the historic former Coast Guard Station at Ludington to house the museum. The history of the carferries in one of three major themes in this project.

The SS Badger continues that tradition of providing economic well-being to its employees who are Ludington and Mason County residents. The SS Badger has also come to play a very important role in the cultural life of Ludington and the 100,000's of visitors who come here each summer. As well as being an economic force in the community, the SS Badger is the modern symbol of Ludington's Maritime history.

It is imperative to the economic and cultural well-being of this community that the SS Badger continues to run. The Consent Decree is the best possible way for this to happen. I personally support this, as I know the other eight members of the Board of Directors and the Society's Executive Director do too. The real threats to Lake Michigan from invasive species and storm sewer runoff should be attacked rather than this Consent Decree.

Sincerely yours,

John P. Thorp, Ph.D.
President
Mason County Historical Society
6204 Grace Ave
Ludington, MI 49431

From: Dan Pawlitzke
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 3:37:21 PM
Subject: D.J. Ref. No. 90-5-1-1-10771

Assistant Attorney general
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

To Whom It May Concern:

I would like to offer my written response for the record that the Lake Michigan Carferry should be provided a 2 year extension, as agreed to in the Consent Decree by the Dept. of Justice and EPA, in order to find a solution to the by product of using coal to power a ship which is creation of fly ash.

The Lake Michigan Carferry employs several hundred people not only in Wisconsin but also in Michigan. There are many spin off benefits from people using the Carferry on our local community such as additional hotels rooms sales, restaurants catering to those coming off or departing the carferry, those exiting the carferry shop in our community and carferry visitors attend local attractions. Local manufactures use the carferry to ship their product as a less polluting transportation source.

We urge you provide final approval of the Consent Decree.
I am thanking you in advance for your time and consideration.

--

Dan Pawlitzke, CEcD, EDFP
Economic Development Consultant
City of Two Rivers
P O Box 87
Two Rivers, WI 54241
Phone: (920) 793-5564
Fax: (920) 793-5563
E-mail: danpaw@two-rivers.org
Web site: www.tworiverseconomicdevelopment.org

From: Reiszwitz Insurance
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 3:43:09 PM
Subject: D.J. Ref. No. 90-5-1-1-10771 SS Badger

Assistant Attorney General,
Environmental and Natural Resources Division

It has been my pleasure to see the value of the SS Badger has on the residents of both the State of Wisconsin and the State of Michigan. The economical impact that the ferry has on the communities and the tourists that travel on the Badger. This ship saves enormous miles of traveling and time for its local patrons that use it regularly as well. This in turn saves on the environment that they would would other wise use there automobiles.

Please consider my opinion in renewing there permit to use the SS Badger as a viable way of crossing Lake Michigan and the economical impact that it would impose on the people and the communities involved.

Sincerely,

David A. Reiszwitz Sr.
Reiszwitz Insurance Agency, Inc.

From: Todd and Brad Reed Photography
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/26/2013 3:18:53 PM
Subject: D.J. Ref. No. 90-5-1-1-10771 = Assistant Attorney General, Environmental and Natural Resources Division

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Dear Assistant Attorney General of the Environmental and Natural Resources Division,

My name is Todd Reed and I am in full support of the carferry Badger. My son Brad and I started the Save Our Ship (S.O.S) campaign in Ludington.

The Badger is the icon of our city and has attracted tourists and commercial customers for more than a half-century. Ludington has been known as "the carferry town" for a century or more and the car ferries have been a major part of this community's economic lifeblood and heritage. My father and one of my sons worked on the Badger. Being the last coal-fired ship of its kind on the Great Lakes, the Badger has become a visible target of critics from afar who have done little or nothing to reduce coal and other types of pollution elsewhere. It seems there is little political risk in attacking a ship that is outside one's voting district.

I am a big believer in fairness in our democratic society. One of the biggest risks to the democratic process happens when people with a lot of political clout get listened to more than the average person. I am an average person who has lived in the small town of Ludington all my life and knows the economic impact of the Badger and has seen the economic downturn during the time it did not run before the late Charles Conrad, who grew up in Ludington and whose father worked on the Badger, took his own hard-earned money and invested it to revive the carferry service so near and dear to the hearts of his family and his hometown. He invested not to get rich--he did it to give back to Ludington. It would be tragic if the Badger was forced to be tied up while the government-subsidized carferry in Muskegon kept running.

My son and I are outdoor photographers who love the outdoors and consider ourselves "green" and good stewards of the earth. The EPA's plan to work with the Badger to capture coal ash by a certain date while letting the ship continue to operate in the meantime as it puts the necessary systems in place demonstrates good government--government that works reasonably WITH its citizens to reach goals for the good of all.

My faith in government definitely got a big boost when I learned of the EPA consent decree. I am confident the EPA will not be swayed to change its intended course. I believe you will continue to carefully weigh this matter and come to the same conclusion you already have: to work with the Badger to alleviate environmental concerns within a specified time period. I look forward to the 2013 Badger sailing season.

Sincerely,

Todd Reed

Todd & Brad Reed Photography
114 W. Ludington Ave.
Ludington, MI 49431
231-843-0777

Visit us at: <http://www.toddandbradreed.com>

From: Dori Bray
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 2:16:32 PM
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.gif; image002.gif; image003.gif

Dear Assistant Attorney General, Environment and Natural Resources Division,
I would like to express my support of the SS Badger, operating out of Ludington, Michigan. Having lived in the Ludington area my whole life the Badger has been an important part of Ludington history and commerce. My father, daughter and son have all been employed at the Badger. Management has been great for them to work for, too.

Our packaging company, Change Parts, Inc. also uses the Badger to travel back and forth to Wisconsin during the season. Not only do our sales managers use this mode of travel, but also many of our customers take the Badger into Ludington to visit our plant. People come from far and wide to see and ride the Badger every day. Many of us in Ludington, visit the Water Walk daily to see the Badger come in, and go out. The restaurants and hotels rely on the tourists that the Badger brings to Ludington. It would certainly hurt our economy greatly to lose the Badger.

Please continue to allow the SS Badger to operate out of Ludington, Michigan.

Best Regards,
Dori Bray
Sales & Marketing Coordinator
Change Parts, Inc.
185 S. Jebavy Drive
Ludington, MI. 49431
231-845-5107 X-1310
www.changeparts.com

Follow us   

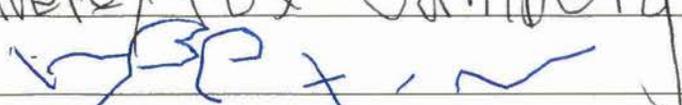
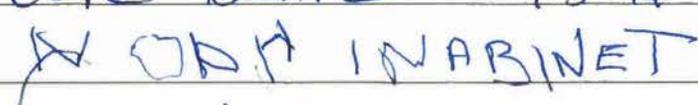
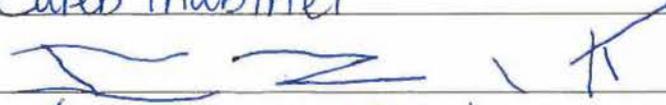
CONFIDENTIALITY NOTICE: This email and any attachments are for the exclusive and confidential use of the intended recipient. If you are not the intended recipient, please do not read, distribute or take action in reliance upon this message. If you have received this in error, please notify us immediately by return email and promptly delete this message and its attachments from your computer system.



Kid's Campaign to Save our Badger!

The S. S. Badger is important to the children of Ludington for many reasons. It's important for people who come to visit Ludington, for parents who work for the company, and Ludington is special because it has the Badger. From the time we are very small, we get excited when we hear the sound of its horn. Our parents take us down to the channel to watch with lots of other people as the Badger comes in or sails out. Our local children's museum, SandCastles, has a model Badger called the S.S. Badger PlayShip just for us to play on and pretend we are on the real ship. We love the Badger and we want it to sail for a long time! Please help us!

| | |
|-----|------------------|
| 1. | Faith Vega |
| 2. | Rachel Reed |
| 3. | Ty Reed |
| 4. | AUCAM Reed |
| 5. | Kiley Strzynski |
| 6. | Tristan Castorid |
| 7. | Eaha Wallager |
| 8. | Hil E Zatloukal |
| 9. | Kaitlin Catson |
| 10. | Karina Korendyke |
| 11. | Anika Korendyke |

12. Jenny Vega
13. Kaylee Persenaire
14. Sutton Husted
15. Mike Miller
16. Brendan Murphy
17. Colin Murphy
18. E + h + h Whitseil
19. Destiney Whitseil
20. Chase Zatloukal
21. Connor Dahlberg
22. Maddy Billings
23. Jodyh Anderson
24. Avery Fox Dahlberg
25.  Keetin Bentz
26. Cote Bentz 24rs old
27.  INABINET
28. Caleb Inabinet
29.  Bentz
30. Kowen Hamilton
31. Simon Wickham
32. Liana Wickham

| | |
|-----|-------------------|
| 33. | Noah Molina |
| 34. | Zachary Molina |
| 35. | NOAH |
| 36. | Jasamin Foster |
| 37. | Rowen Kara |
| 38. | Ella Korendyke |
| 39. | Ava Catson |
| 40. | Claire Althouse |
| 41. | Samantha Howe |
| 42. | Jensen Dianni |
| 43. | Elyson Wright |
| 44. | ELYN Powers |
| 45. | Jake Farmer |
| 46. | Ashur Cole |
| 47. | Hannah Gifford |
| 48. | Alissa Walgamott |
| 49. | Kylee Walgamott |
| 50. | JASON SEIBER |
| 51. | Liam Alvestetter |
| 52. | Wadey Alvestetter |
| 53. | Ava Cox |

| | |
|-----|--------------------|
| 54. | Dinda Van Zoeren |
| 55. | Shawn J. King |
| 56. | Vivian J. King |
| 57. | Landon Johnson |
| 58. | KELLI Johnson |
| 59. | Brandon |
| 60. | Ashlyn Rose |
| 61. | Ethan |
| 62. | Keenen |
| 63. | Brandon |
| 64. | CARSON |
| 65. | ALEX |
| 66. | Landon |
| 67. | BROOKLYN |
| 68. | Will James |
| 69. | CHRIS D. |
| 70. | NATALIE |
| 71. | Makenzie |
| 72. | Karsten |
| 73. | Annika |
| 74. | Aiden |

| | |
|-----|-----------------------|
| 75. | Kennedi |
| 76. | Arianna |
| 77. | Savina |
| 78. | Zech Kmiecik |
| 79. | Hannah |
| 80. | Ashlyn Hanson |
| 81. | Emilie Hanson |
| 82. | Lily Faith Bloodworth |
| 83. | Maeve Bloodworth |
| 84. | Brianna Roff LM AH |
| 85. | Alex Rohlman |
| 86. | Ashlynn Hochstadt |
| 87. | |
| 88. | |
| 89. | |
| 90. | |
| 91. | |
| 92. | |
| 93. | |
| 94. | |
| 95. | |
| 97. | |

| | |
|------|----------------|
| 98. | Trihity |
| 99. | Keaten |
| 100. | Av |
| 101. | Skylar |
| 102. | Saige |
| 103. | Shanna |
| 104. | MADISON |
| 105. | Ashlynn |
| 106. | AVON |
| 107. | Connor |
| 108. | Evelyn |
| 109. | LIZZIE + Lbert |
| 110. | Sloane |
| 111. | Avery Reed |
| 112. | Nathan Buster |
| 113. | CLIFE |
| 114. | Nicole Tteen |
| 115. | Hannah Reed |
| 116. | BROOKLYN |
| 117. | REYTON |
| 118. | MADISON |

| | |
|------|--------------------------|
| 119. | Hannah Filter |
| 120. | Kathryn Filter |
| 121. | Vibeke Rivet |
| 122. | Annie Kline |
| 123. | Brianna Hindman |
| 124. | Elizabeth Neyle |
| 125. | Charlotte Gilanville |
| 126. | Lauren Larr |
| 127. | Aubrey Pomorski |
| 128. | Ruby Strahan |
| 129. | Jimmy Strahan |
| 130. | ELLSWORTH HARPER Grubich |
| 131. | KOTSON Knowles |
| 132. | Gracie Knowles |
| 133. | Mark Teske |
| 134. | Landon Sloan ↓ |
| 135. | LOON N Sloan |
| 136. | Wendon Killips |
| 137. | Olivia Wegener |
| 138. | Avery Carson |
| 139. | CAVIN BENTZ |

From: Chris Knudsen
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 2:29:40 PM
Subject: FW: United States v. Lake Michigan Trans-Lake Shortcut, Inc. D.J. Ref No. 90-5-1-1-10771
Attachments: image002.png

United States v. Lake Michigan Trans-Lake Shortcut, Inc. D.J. Ref No. 90-5-1-1-10771

To Whom it may concern:

I support the consent decree. I am a lifelong resident of Ludington, MI. I have personally ridden on the Badger many times and also witnessed the economic impact the carferry has had on our community. It is the lifeblood of our small town and causing changes to it that would require it to shut down would devastate this community. It is a national treasure and is the last of its kind. It should be preserved for generations to come to enjoy. Even by the EPA's own standards the discharge from the carferry is below harmful levels. While I support the consent decree I also feel that no restrictions should be placed on the carferry. It should be able to continue to operate just as it has for the past 60+ years.

Chris Knudsen
Project Manager



WESTERN LAND SERVICES

1100 Conrad Industrial Drive
Ludington, MI 49431

Toll Free: 800.968.4840 ext. 2229

Local: 231.843.8878 ext. 2229

Cell: 231.233.3653

Fax: 231.843.3183

w w w . w e s t e r n

*The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged information. Duplication, copying, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender at (800) 968-4840 and delete the material from any computer or other storage device.

From: Brandi Cole
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 1:36:19 PM
Subject: Ludington Carferry Consent Decree
Attachments: image001.gif

United Sates VS. Lake Michigan Trans-Lake Shortcut, Inc.
Ref. No. 90-5-1-1-10771

I suppose the consent decree and agree with keeping the heritage of the Carferry in Ludington. It would be shame to lose this amazing ship not only for the future generations but for the City of Ludington!

Thanks,

Brandi Cole
Abstracting/Review



WESTERN LAND SERVICES

1100 Conrad Industrial Drive
Ludington, MI 49431

Toll Free: 800.968.4840 ext. 2199

Local: 231.843.8878 ext. 2199

Fax: 231.843.3183

www.westernls.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, duplication copying, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender at (800) 968-4840 and delete the material from any computer or other storage device.

From: Danie Wincheski
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 2:22:52 PM
Subject: SS Badger
Attachments: image001.gif

US EPA

I support the consent decree. Keep the heritage of the Lake Michigan Carferry service here in Ludington. That ship has a tremendous impact on our community and it would be a devastating blow if it were to be shut down.

Thank you!

Danie Wincheski
Payroll Specialist



WESTERN LAND SERVICES

1100 Conrad Industrial Drive
Ludington, MI 49431

Toll Free: 800.968.4840 ext. 2243

Local: 231.843.8878 ext. 2243

Fax: 231.843.3183

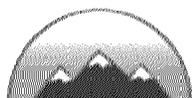
www.westernls.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, duplication copying, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender at (800) 968-4840 and delete the material from any computer or other storage device.

From: Donna Hoover
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 1:55:22 PM
Subject: The Carferry Badger
Attachments: image001.png

I support the consent decree. Keep the heritage here in Ludington.

Donna Hoover
Lease & Receipts Processor



WESTERN LAND SERVICES

1100 Conrad Industrial Drive
Ludington, MI 49431

Toll Free: 800.968.4840

Local: 231.843.8878

Fax: 231.845.5203

www.westernls.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, duplication, copying, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender at (800) 968-4840 and delete the material from any computer or other storage device.

From: Chris Young
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 2:55:36 PM
Subject: United States v. Lake Michigan Trans- Lake Shortcut, Inc D.J Ref No. 90-5-1-1-10771
Attachments: image001.gif

To whom it may concern,

This e-mail is in reference to United States v. Lake Michigan Trans- Lake Shortcut, Inc D.J Ref No. 90-5-1-1-10771.

I support the consent decree. Keep the heritage (of carferry service) here in Ludington. I personally have worked on the carferries in the past and I feel that the carferry is a great asset to the city of Ludington and the state of Michigan.

Chris Young
Lease Processor



WESTERN LAND SERVICES

1100 Conrad Industrial Drive
Ludington, MI 49431

Toll Free: 800.968.4840 ext. 2289

Local: 231.843.8878 ext. 2289

Fax: 231.843.3183

www.westernls.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, duplication copying, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender at (800) 968-4840 and delete the material from any computer or other storage device.

From: Al Greiner
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 12:27:31 AM
Subject: United States V. Lake Michigan Trans-Lake Shortcut, Inc. (Badger)

To Whomever This May Concern;

Please do NOT seriously consider any rhetoric spewed forth by senator Durbin of Illinois. I have lived in Mason County, Michigan all of my life. I have been exposed to air pollution coming across Lake Michigan all of those 50 some years. In Mason county we observe some of the highest air pollution rates of any Michigan county. Our air quality observation station is located in Riverton Township. Exactly southeast of Ludington. Ludington is the only town in Mason County with any factories that produce any type of air contaminates. The days when we record the highest air pollution are the days when the wind is from the southwest; exactly 90 degrees from Ludington. So where is the air pollution coming from? Simply look at any map of the United States and you can clearly see that Chicago IL is exactly southwest of Mason county. If the air is still so polluted by the time it gets all the way across the lake, what is it doing to the lake (as in fallout) before it gets here? My guess is that the pollution that Chicago and surrounding areas produce is going to equal several times the pollution that the SS Badger produces. The Badger, by any measureable amount, produces less than one ounce of mercury per season. That mercury does go into the lake. How much mercury does the countless air polluting factories in Illinois produce that consequentially fall from the air and into the lake?

I think the agreement between the EPA and the Badger is fair. The Badger has been trying for years to come up with the best solution to this problem. Holding coal ash seems to be the least expensive idea, but less than perfect. I would be in favor of some sort of grant or government help to find a greener (compressed natural gas) way to clean up the Badger.

I don't know who senator Durbin may be in bed with (God knows I'm not a politician) but my guess is he's taking "campaign funds" from the car ferry located in Muskegon. When senator Durbin shows a good faith effort to clean up the pollution from his own state, then and only then, should his rhetoric be taken in any way seriously.

In these times of recovery from a recession that was caused by careless moves from our government (the Clinton Administration requiring Fannie and Freddie to write high risk loans), we need to keep every job and business that we can. We certainly don't need the government to single out and shut down businesses that have been successful for decades. Especially when those very businesses are trying to comply with new regulations.

Unfortunately I feel that the Badger was singled out in some sort of vendetta. Why else would the EPA with all it's power go after such a small fish? This doesn't make sense. Stop and think about all of the coal burning industries, does the Badger even come close to the pollutants that the others produce? And what is the difference between disposal on land and disposal at sea? Mercury is still present. And what if the coal was left to nature? The mercury is still there. Anyone who has visited the Badlands of South Dakota can tell you of the natural coal fires that burn almost continuously from lightning strikes.

Please give the LMC and the Badger time to resolve this issue as was agreed upon.

Thank You,

Al Greiner
Greiner Construction
672 E. Running Buck Rd.
Scottville, MI 49454

231-757-2707 home / office
231-499-7661 cell
www.greiner-construction.com
al@t-one.net

From: Steve Begnoche
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 3:46:38 PM
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

>
> In regards United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771.

The following is an editorial that ran in the Ludington Daily News and is being submitted by the newspaper as part of the official comment period.
Thank you.

> The Environmental Protection Agency and Lake Michigan Trans-Lake Shortcut, Inc., have reached an agreement embodied in a consent decree now open to public comment that we believe will accomplish the environmental protection goals of the EPA and preserve the 200 direct jobs provided by Lake Michigan Carferry Service through operation of the SS Badger.

>
> The 410-foot long, coal-fired, steam-powered carferry is the last of a great fleet of ferries that once sailed across Lake Michigan. It's considered an engineering marvel, a historic vessel, and is nominated – and should be accepted – as a National Historic Landmark. But more than history, the Badger remains a working ferry, integral to the economies of Michigan and Wisconsin, especially its homeport in Michigan of Ludington and the Wisconsin port city it sails to, Manitowoc.

>
> Ludington has been home to cross-lake carferry service since 1874, almost continuously. The longest break in service occurred from November 1991 through May 1992 after the previous owners of the SS Badger declared bankruptcy and quit sailing. Lake Michigan Carferry was formed and purchased the Badger and two other carferries out of bankruptcy court and remade what had been primarily a rail carferry experience into a passenger service. In the process, the resurrected Badger revitalized the market, added significant economic activity to Ludington and Manitowoc, and to this day remains an important part of tourism in the shoreline communities it serves. The Badger, it is estimated, attracts more than 100,000 passengers annually – many of whom cross the lake here rather than navigate the already congested freeway system around the southern lake, especially in the Indiana-Illinois border towns including Chicago.

>
> The Badger's ability to transport oversize loads removes those loads from those same congested freeways. In 2012 and, potentially again this season, hundreds of large wind turbine components were transported from Manitowoc, Wisconsin to southeastern Michigan on the Badger. Without the Badger sailing, these green energy components would be trucked around the southern end of the lake adding to congestion.

>
> What's most important about the proposed consent decree, is Lake Michigan Trans-Lake Shortcut (LMC) is agreeing to end the coal ash discharge from the Badger before 2015. From all we can tell, LMC is committed to this goal. It is being given two more years to accomplish this. During that time it must reduce, on per-day-averages, coal combusted and ash discharged. These are important concessions that further and ultimately accomplish the EPA's goal of preventing the ash being put in Lake Michigan.

>
> It is important to note, the Badger for decades was allowed to discharge the coal ash as a process incidental to operating the vessel. Until 2008 it wasn't even an issue. The Badger is the last coal-fired, steam-powered vessel on the Great Lakes and in the United States, so this is a practice as close to extinction as can be. There are disagreements as to how bad the discharge is, but what can't be argued, is it will go away under this agreement.

>
> Some are saying two years is too long to wait. But these are not two years of doing nothing. The work to retain coal ash on board never has been done on a vessel of the Badger's size. Nor is a fix available off the shelf at the corner big box store. This will likely be a one-and-only solution. It's already April and the sailing season is about four weeks away as of this writing. To require an immediate stop to coal ash discharge, in essence, puts the Badger out of business at great economic harm to two communities to accomplish something that will be accomplished within two years. The proposed timeline seems reasonable, anything less seems unreasonable.

>

> When one considers the minute amount of mercury at hand, approximately a seventh of an ounce discharged by the Badger over an entire season, and compares that to the other sources of mercury entering the atmosphere and ultimately Lake Michigan, it seems, if anything, the Badger is being unfairly singled out when others are being permitted to introduce far more mercury into the ecosystem. Mercury is a serious concern with serious repercussions, to the ecosystem, to wildlife, fish and people who populate the region. This proposed consent decree more than appropriately deals with what little threat the Badger presents.

> In Ludington, sewage overflows from Milwaukee, Wisconsin, a few years ago led to our beaches being littered with plastic, trash and medical debris that rendered them difficult to use. Chicago is still allowed, under a consent decree running until 2029, to discharge combined sewage overflow into Lake Michigan under storm events. Those places are being given far more time to resolve an issue the cities in our county were forced to resolve years ago. It only makes sense the Badger be given time, also, to resolve its coal ash discharge.

>
> Some, including Sen. Dick Durbin of Illinois, are trying to exert political pressure to not allow the two years claiming to want to preserve the Lake Michigan from further harm. We'll believe the Illinois Senator is sincere in preventing pollution in Lake Michigan when he exerts as much pressure to clean up Illinois sources of lake contamination which are far more extensive than the SS Badger. Combined sewer overflows, mercury and other industrial emissions, the threat of Asian carp entering the Great Lakes from the canals of Chicago are three far more serious threats to the lake found in his home district. Sen. Durbin should exert pressure to clean up those sources first, if he is sincere in wanting to protect Lake Michigan.

>
> In the meantime, the consent decree, as written, is a workable agreement to reach the environmental goals of the EPA in a timely manner that does not cause unnecessary and unwanted economic harm to the communities that rely on the Badger as part of their economies. Michigan's U.S. Senators, Carl Levin and Debbie Stabenow, have cited support for the proposed consent decree based on those same reasons. If the Badger presented the top danger to the lake, we'd feel differently. In the overall scope of threats, the Badger poses a small threat to Lake Michigan and there's a plan contained in the consent decree, agreed to by the EPA, to resolve that perceived threat, the coal ash discharge.

> The consent decree, as written, should be approved. The EPA can then look at more serious issues. Chicago is home to a lot of them.

>
>
>

> Steve Begnoche
> Managing Editor
> Ludington Daily News
> P.O. Box 340
> Ludington, MI, 49431
> 231-843-1122, ext. 326
> sbegnoche@ludingtondailynews.com

>
>
>

From: Monica Owens
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 6:44:19 PM
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

As a lifelong resident of West Michigan and now Realtor for 13+ years, I have to send my support to keep the car ferry in Ludington. Ever since I was little, I have always dreamed of being on that big ship, the closest thing to feeling like what the Titanic would've been like--that is how I always imagined it. I have never been fortunate enough to take a trip on the Ferry but have picked up many clients and heard many stories of how the Badger has either saved them money and time, headaches and hassles, or just simply allowed that single older lady with no family, the opportunity to visit friends in northern Wisconsin--something she could never do as she can't drive that far nor thru all those large cities by herself.

Please please please allow the Badger to remain in operation in Ludington. It will be a huge loss for this area!

Monica Owens
Coldwell Banker Anchor Real Estate
231-873-3400 Office
231-873-4899 Fax
231-750-2393 Cell
<http://www.PentwaterProperties.com>

From: Becky Scott
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/24/2013 1:45:47 PM
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref No. 90-5-1-1-10771
Attachments: image001.gif

I support the consent decree! Keep the heritage of the SS Badger here in Ludington!

Becky Scott
Accounting Department Manager



WESTERN LAND SERVICES

1100 Conrad Industrial Drive
Ludington, MI 49431

Toll Free: 800.968.4840 ext. 2213

Local: 231.843.8878 ext. 2213

Cell: 231.690.6027

Fax: 231.843.3183

www.westernls.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, duplication, copying, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender at (800) 968-4840 and delete the material from any computer or other storage device.

From: NLSmith
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/23/2013 8:51:55 PM
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc.
Attachments: butterfly_bottom.gif; butterfly_top.gif

The United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771.

In support of the SS Badger, I, as a local business owner and photographer (and 2x cancer survivor and single parent of 3) know that I would lose the customer base to continue my Made in Michigan retail shop, downtown Ludington, should the Badger cease to make it's summer trips to Manitowac, WI.

It is an important part of what makes Ludington Ludington. And it is one of the things that brings people to downtown Ludington daily. Watching the Badger come into Ludington harbor, seemingly so close as if you could reach out and touch it, is a highlight of everyone's Ludington experience.

I want to thank everyone who saw fit to come up with a solution. I would hate to see another Michigan tourist- supported small town dry up and the beauty of our area go unappreciated.

The SS Badger is a historical part of the Great Lakes, the only one of its kind left on the great lakes. As a photographer, I love to photograph the great ship sailing the big lake in all kinds of weather. I am forever in awe of her grace and beauty. She's a piece of history and it would have been such a travesty to lose her. This past year I kept thinking, surely the US Government has greater pollution issues and more important things to do then crush a small town that relies on tourism so heavily? I also hoped a mutually acceptable solution would be reached in time.

To the senator from Chicago- I saw your you tube rant... SHAME ON YOU! Please look at the open sewer running through your own town, the Asian carp, the odd water color at Navy Pier (etc) before you attack what you call a "filthy ship" -look at that state of your own State. I might add, a good amount of your State visits MI for their vacations annually, because our beaches and coastline are not only expansive, but pristine. Ludington has some of the most beautiful Parks and Recreational Areas I have ever seen in my 54 years (and I've lived in Alaska).

In conclusion- other means of protecting the environment avenues could have been approached without first unleashing the EPA on our little town that doesn't have the resources to defend itself. I again am glad a solution has been agreed upon, hopefully this will allow our town to once again be the carefree, affordable, pristine vacation destination it should be. I appreciate your time and appreciate your negotiations in this matter-

Thank-you,
Nancy L Smith
Owner, (and Ludington resident)
Ludington Gallery & Gifts
Featuring all things made in Michigan
123 W. Ludington Ave
Ludington, MI 49431

LUDINGTON
Gallery & Gifts
(featuring all things Made in Michigan)
123 W. Ludington Ave
Downtown Ludington
231-510-1504



FREE Animations for your email [Click Here!](#)

April 24, 2013

Assistant Attorney General
U.S. DOJ-ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

The Michigan Environmental Council, Michigan League of Conservation Voters and Great Lakes Environmental Law Center request that you strengthen the proposed consent decree that requires the Lake Michigan Carferry, Inc. (company), owners of the S.S. Badger, to stop dumping coal ash into Lake Michigan. We believe that the company has not demonstrated that they have operated in good faith in investigating and implementing changes that would eliminate the uncontrolled emissions from their coal-fired boilers into air and waters of the Great Lakes. When granted an exemption in 2008 from the vessel general permit, they agreed that any discharge would be eliminated by May of 2012, and have already received an extension of that timeline. The proposed consent agreement is over reliant on the company voluntarily moving forward with solutions to coal ash discharges without adequate protections for the lake.

The proposed Environmental Protection Agency consent decree, which would allow the coal-burning SS Badger ferry to continue dumping waste ash into Lake Michigan for an additional two years, is not environmentally protective of the lakes and fails to ensure compliance by the company.

Specifically, the consent agreement should require the following:

- 1) To avoid a third repeat of the current process, the company should be required to immediately create a non-refundable escrow account of no less than \$300,000 to ensure it is committed to the necessary retrofits. Those funds could be used only for the purpose retrofitting the vessel to comply with all Clean Water Act requirements. Without such a provision, the firm could simply pay fines of approximately \$87,500, submit a schedule for upgrades, but take no real action towards the required retrofits. If the company fails to move forward on upgrades the money should be forfeited and distributed between the EPA and the States of Wisconsin and Michigan.
- 2) The company should be required to make an affirmative demonstration as to why the company cannot complete the required work before the 2014 summer operating season. Although there would be additional costs, unless those costs are significantly higher than a two-year solution, those additional costs should not be a reason for delaying the upgrades for more than one year.
- 3) Clarify under which Clean Water Act water discharge permit the vessel will continue to operate, since their current permit has expired and they do not appear to meet the requirements of the new vessel discharge VGP.

- 4) Increase the fines for continuing violation in 2013 and 2014. The \$25,000 penalty for the past 2012 violations, and the amounts now proposed as stipulated penalties during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are significantly lower than the Badger's \$705,226 estimated cost to remove and landfill the coal ash. These relatively small fines are contributing to the company's pattern of noncompliance.
- 5) Require annual inspections after the vessel is retrofitted to ensure compliance with Clean Water Act violation.
- 6) Require a plan to control air emissions from the vessel after upgrades have been completed.

The continued operation of this vessel within the Great Lakes is an embarrassment to the states of Wisconsin, Michigan and to the federal government. Through the consent order, the states and federal government must ensure the future protection of the Great Lakes as soon as possible. Clearly, feasible and prudent alternatives to dumping coal ash are available and EPA must demonstrate stewardship over one of the most significant and important natural resources in the United States. It is past time for the SS Badger to comply with state and federal law or to cease operation.

Sincerely,

James Clift, Policy Director
Michigan Environmental Council

Nick Schroeck, Executive Director
Great Lakes Environmental Law Center

Lisa Wozniak, Executive Director
Michigan League of Conservation Voters

From: Elliot Essenburg
To: ENRD, PUBCOMMENT-EES (ENRD)
Sent: 4/26/2013 2:08:03 PM
Subject: USS Badger
Attachments: image001.jpg

Dear Sir,

Thank you for entertaining the consent agreement to allow 2 years to phase out the coal usage and ash disposal by the Badger. It is an extremely valuable asset to tourism, but also industry between Wisconsin and Michigan. I understand phasing out the coal, but it important to allow reasonable timing to make the change take place.

Thank you,

Elliot Essenburg
Engineering Coordinator



Email: elliote@ess-tec.com
(616) 886-7704

3347 128th Ave, Holland, MI 49424

Office: (616) 394-0230 x106

Cell:

Martinez, Isidra

From: Joel Brammeier [JBrammeier@greatlakes.org]
Sent: Tuesday, April 16, 2013 9:53 AM
To: Hedman, Susan
Subject: Badger

Hi Susan – I wanted to give you a heads up that we are emailing out this website today in support of strengthening the Badger consent decree. Thank you for your work on this issue thus far; we believe EPA and DOJ are on the right path toward a solution that can stop coal ash dumping in Lake Michigan, and I hope these suggestions will be helpful in getting there.

<https://secure3.convio.net/agl/site/Advocacy?cmd=display&page=UserAction&id=217>

Joel Brammeier | President & CEO | jbrammeier@greatlakes.org
Alliance for the Great Lakes | www.greatlakes.org

17 N. State Street, Suite 1390 | Chicago, IL 60602 | 312.445.9727

Protect Your Lakes at <http://takeaction.greatlakes.org/subscribe>



From: Pierard, Kevin
To: Nelson, Leverett
Sent: 4/16/2013 4:39:50 PM
Subject: FW: No More Extensions for the S.S. Badger's Pollution of Lake Michigan!

From: Howard A. Learner [mailto:howardalearner@elpc.org]
Sent: Friday, April 12, 2013 1:10 PM
To: Pierard, Kevin
Subject: No More Extensions for the S.S. Badger's Pollution of Lake Michigan!

 Action Alerts capitalized



Dear Kevin,

Lake Michigan provides us with water to drink, a place to boat and swim, and is a vital asset to our economy. That is why, for many years, ELPC has worked with you to protect our lake. We need your help now to keep protecting Lake Michigan.

In late March, the U.S. Environmental Protection Agency (EPA) and Lake Michigan Carferry (LMC) announced a consent decree that would allow LMC's S.S. *Badger* ship to continue dumping coal ash into Lake Michigan through the summer of 2014. Read the consent decree. The Environmental Law & Policy Center is working with our partners to submit written comments to the U.S. Department of Justice (DOJ) and the U.S. EPA. We will request that the proposed consent decree be strengthened as follows:

- There should be an explicit agreement stated by both parties that they will not request any further extensions to the cessation of coal ash pollution by the S.S. *Badger* following the 2014 summer season.
- The U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. *Badger's* continued pollution.
- The U.S. DOJ and the U.S. EPA should consider providing for steeper percentage reductions in the S.S. *Badger's* coal ash dumping over the next two years in order to have a stronger path towards compliance.
- The S.S. *Badger* should provide monthly reporting of how much coal ash is being dumped into Lake Michigan, and that information should be made publicly available on an easily accessible website.

Each summer, while ferrying passengers and cars between Ludington, MI and Manitowoc, WI, the S.S. *Badger* dumps more than 500 tons of coal ash directly into Lake Michigan. Coal ash can contain dangerous pollutants like mercury, lead and arsenic.

Please participate with us by sending an email to the U.S. Department of Justice.

The sad reality is that a consent decree may be the fastest way to end the S.S. *Badger's* dumping of coal ash into our Lake. The S.S. *Badger's* pollution of Lake Michigan must come to an end soon. Send an email to the Department of Justice request that the consent decree be strengthened.

All comments should be emailed on or before April 26, 2013.
Thank you for helping to protect our Lake Michigan,

 Howard Signature
First Name New 2012

Howard Learner
Executive Director
Environmental Law & Policy Center

P.S. -- Please share the ProtectOurLake.org website with your friends and family who are interested in getting more information about this issue.

 20th Anniversary Logo

Visit www.elpc20.org to find out more about
ELPC's 20th Anniversary celebrations in 2013!

[Unsubscribe](#)



Unknown

From: Aaron Schultz [ASchultz@lake-express.com]
Sent: Friday, April 26, 2013 4:53 PM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: Aaron Schultz, Lake Express, LLC comment re: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771
Attachments: Comments- LMC Consent Decree AS -Lake Express04-26-2013.pdf; exhibits-AS-LakeExpress-04026-2013-comment-fin.pdf

Case Number: D.J. Ref. No. 90-5-1-1-10771

Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

By e-mail pubcomment-ees.enrd@usdoj.gov.

To: Assistant Attorney General, U.S. DOJ-ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please find the following documents attached – all of which comprise the public comment by Aaron Schultz, Lake Express, LLC in reply to the proposed consent decree with the United States District Court for the Western District of Michigan in the lawsuit entitled *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, Civil Action No. 1:13-cv-317.

Please note: the attached comments are separate and distinct from comments submitted previously on behalf of Kenneth J. Szallai, President Lake Express, LLC.

Attached files:

Comments - LMC Consent Decree-AS -LakeExpress-04-26-2013.pdf
exhibits-AS-LakeExpress-04026-2013-comment-fin.pdf

Aaron Schultz
Director of Sales and Marketing
Lake Express, LLC.
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207
P: 414.727.7797
F: 414.489.9455
aschultz@lake-express.com

Milwaukee WI - Muskegon MI.
Lake Michigan's high speed ferry.



April 26, 2013

Via email: pubcomment-ees.enrd@usdoj.gov

Aaron Schultz
Director, Sales and Marketing
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

Objection to false and misleading statements utilized to influence NPDES permit and proposed Consent Decree decisions.

As an affected party, I am writing to provide comment regarding the proposed Consent Decree under which Lake Michigan Trans-Lake Shortcut, Inc. (also known as Lake Michigan Carferry, LMC and the S.S. Badger or Badger) undertakes to cease the dumping of coal ash and coal ash slurry into the waters of Lake Michigan before the commencement of a 2015 operating season.

It is our opinion that the proposed Consent Decree is neither fair, reasonable nor in the public interest.

Additionally, for the reasons outlined below, material misrepresentations included in the NPDES individual permit application for S.S. Badger suggest reason for concern that the decisions leading to the proposed Consent Decree may have been improperly influenced by false or misleading statements submitted by LMC, or by its agents and supporters acting in concert and under direction by LMC.

The evidence contained in the LMC NPDES individual permit application¹ suggests strongly that *LMC knowingly submitted false information and urged others to submit material misrepresentations using information which LMC provided. Those statements concerning economic impact, employment and air quality benefits of its vessel the S.S. Badger, despite being factually inaccurate, were submitted and misrepresented to federal representatives and to the EPA in an effort to influence permitting decisions in favor of allowing continued discharges by the S.S. Badger.*

I ask that the Department of Justice and the EPA to review and take appropriate action to investigate and correct the following:

Intentional use of misleading and false economic impact and job claims:

The public record posted at EPA.gov contains significant evidence that LMC utilized fabricated economic impact figures in order to influence the NPDES permit process and by extension the current proposed Consent Decree.

In its May 22, 2012 application to EPA seeking NPDES individual permit coverage for the S.S. Badger, LMC provided a document outlining past economic impact contributions from operation of the S.S. Badger under LMC ownership (1992 to present) along with a 20-year projection of future economic impact totaling \$867,416,102². The exhibit was used to support the ongoing assertion that “It would be economically and environmentally devastating to have the Badger stop sailing”³ and to bolster the false suggestion that the EPA permit decision was one of “jobs or environment” despite the existence of feasible and available pollution controls or alternate modern technologies. LMC continues to utilize this precise argument in public calls for comment on the proposed Consent Decree. Elsewhere in the application an “\$867 million” economic impact claim was also used to petition the EPA for NPDES individual permit coverage, showing a clear pattern of intent to use the figure as a centerpiece in efforts to influence EPA decision-making.⁴

LMC also engaged in a public relations and electronic email “petition” writing campaign that forwarded economic impact information to federal representatives and presumably to EPA decision makers closely associated with the S.S. Badger individual permit application process. One such electronic “petition” over the course of months urged members of the public, and provided the mechanism for them to email the claim (via tool posted on SSBadger.com) that \$35,000, of annual economic benefit was tied to continued operation of the S.S. Badger under terms of the 2008 VGP that allowed for continued discharge of coal ash into Lake Michigan.⁵

¹ Lake Michigan Carferry (LMC), NPDES individual permit application, May 22, 2012.

<http://www.epa.gov/r5water/npdestek/badger/>

² Lake Michigan Carferry, NPDES individual permit application, May 22, 2012. Link: [\(E\) - Economic Impact of the S.S. Badger 1992-2009 \(PDF\)](#) (2 pp, 661K)

³ Lake Michigan Carferry, EPA Fact Sheet, SSBadger.com, August 2012, retrieved October 15, 2012.

http://web.archive.org/web/20121015120143/http://www.ssbadger.com/content.aspx?Page=epa_update_2012august

⁴ Petition to apply for NPDES individual permit coverage, letter to EPA Region 5 administrator Susan Hedman, November 2, 2011. Link: [Lake Michigan Car Ferry, Inc. SS Badger Petition for Individual NPDES Permit \(PDF\)](#) (14 pp, 847K) Nov. 2, 2011

⁵ Lake Michigan Carferry, “SOS BADGER” petition to federal representatives and EPA. Retrieved October 15, 2012. <http://web.archive.org/web/20121015120139/http://www.ssbadger.com/petition.aspx>

Despite the voluminous size of the S.S. Badger “application,” the basis for economic impact claims does not appear in the public record, yet it continues in submissions to EPA and now in reference to the proposed Consent Decree. This suggests that either the basis for the claim is documented widely outside this process or that there has been a continuous and intentional effort to mislead the public and by extension EPA to the extent of the economic benefit provided by the S.S. Badger.

Aside from the lack of credible or available documentation, the presentation and warranty of these economic impact figures by LMC in their application for NPDES individual permit coverage for the S.S. Badger is problematic for the following reasons:

1. LMC has not supplied a study of their own current-day operations, nor have they provided evidence that any such study exists.
2. The 1990 study (published 1991) submitted by LMC late in the NPDES individual permit application process studies a separate and distinct cross-lake railroad freight hauling operation that operated the S.S. Badger, not LMC.
3. The cited study has no factual relevance to LMC’s operation, as the source material is a 20+ year old study of a year-round railroad car operation⁶ that pre-dated LMC operation of S.S. Badger by 2 full years. Current-day S.S. Badger operations are seasonal and do not include rail traffic, nor do they utilize a unionized railroad workforce or support manufacturing activities even remotely approaching the scale or character of which are reflected in the 1990 study..
4. The cited study utilized a statistically irrelevant phone survey of only 196 people conducted in 1990.
5. The 1990 ridership study examined a statistically insignificant sample of 35,000 who rode in 1990 and tried to project economic impact against a hypothetical 80,000 riders – its 1991 findings were based on assumptions, not actual data.
6. Current Manitowoc economic impact numbers, as provided by LMC, are clearly and wholly invented as the cited 1990 study focused only on Ludington and does not survey or otherwise examine Wisconsin port impact. (Additionally, S.S. Badger sailed to Kewaunee, WI not Manitowoc, WI in 1990).
7. The 1990 study finds direct employment of only 107, different than LMC assertions by several factors of magnitude.
8. Indirect employment findings and economic impact calculations in the 1990 study include a large number of workers tied to railroad-based manufacturing industries that no longer exist.
9. The 1990 study relied on research dating back as far as the 1970s.
10. The 1990 survey reported a level of confidence of only 6 percent, meaning there is a 94% chance the results are inaccurate.
11. The 1990 study does not provide any projection of economic impact over the years 1992-2012, nor does it provide projections through 2029 as suggested by LMC in their NPDES application. The summarization of the source material is invented and not based in past research or currently acceptable sampling or analytical methodologies or models.

Because of the reasons outlined above, all assertions in the NPDES individual permit application for the S.S. Badger regarding economic impact should be reviewed to ensure that all information in this matter adheres to agency-accepted methodology for economic impact analysis (EIA), if basis for the claim can be confirmed to exist at all. Likewise any use of the same claims, specifically with reference

⁶ Attachment to LMC Response to EPA letter dated August 29, 2012 – Economic Impact of the Lake Michigan Car Ferry Service, West Shore Community College, March 1991; Link: [Response to Items A-E in EPA's Aug. 29, 2012 letter \(PDF\)](#) (57 pp, 7.1MB) Sept. 21, 2012

to the invented claim of \$35,000,000 (elsewhere \$40,000,000⁷) in annual impact, made with intent to influence the review of the proposed Consent Decree, should be reviewed and addressed using all available remedies.

All economic impact claims made by LMC should be reviewed to determine intent and effectiveness in influencing the NPDES individual permit application process for the S.S. Badger and subsequently, the proposed Consent Decree. Where improper influence has been found, appropriate corrective action should be taken. Similar efforts should be made to assure the public that this and other related agency activities have not been improperly influenced by false or misleading statements.

Inconsistent and misleading claims regarding LMC employment.

In addition to false, fabricated and misleading claims regarding economic impact directed toward EPA during the NPDES individual permitting process, LMC also directed misleading statements regarding associated direct and indirect employment benefits. Specifically, the November 2, 2011 petition for NPDES permit coverage includes a report of “700 direct and indirect employees” under threat from EPA enforcement action.⁸ As noted above, the NPDES file does not provide any evidence of a study or other data submitted to support this statement. As in the case of unfounded economic claims, LMC has utilized and continues to utilize a variety of questionable direct and indirect employment claims in public relations efforts and direct electronic “petition” appeals to federal representatives and has provided tools that urged members of the general public to send the same to NPDES permit decision makers.⁹

The same misleading and unsupported employment statements are included in the May 22, 2012 NPDES individual permit application submitted by LMC and reads as follows:

“Just as in 2008, the cost of achieving zero discharge through any of the options described above is technologically infeasible and economically not achievable at this time. Any option would result in the direct loss of about 200 jobs supported by the vessel’s operations and a potential loss of over 500 additional vessel-related jobs that are indirectly supported by the Badger’s operations.”¹⁰

While LMC claims “700 direct and indirect” employees in its efforts to assert economic clout, the company has made separate conflicting statements elsewhere in the federal record. In April 2008, S.S. Badger owner Robert Manglitz submitted the following statement to the DOT while

⁷ Charles Leonard, Supplemental submission, LMC NPDES individual permit application for S.S. Badger, page 72. Link: [Supplemental Submission for NPDES Permit \(PDF\)](#) (78 pp, 321K)

⁸ S.S. Badger petition for Individual NPDES permit, page 13. [Lake Michigan Car Ferry, Inc. SS Badger Petition for Individual NPDES Permit \(PDF\)](#) (14 pp, 847K) Nov. 2, 2011

⁹ Lake Michigan Carferry, “SOS BADGER” petition to federal representatives and EPA. Retrieved October 15, 2012. <http://web.archive.org/web/20121015120139/http://www.ssbadger.com/petition.aspx>

¹⁰ Charles Leonard, Supplemental submission, LMC NPDES individual permit application for S.S. Badger, page 72. Link: [Supplemental Submission for NPDES Permit \(PDF\)](#) (78 pp, 321K)

protesting ADA requirements for the S.S. Badger,¹¹ revealing the true makeup of the SS Badger workforce and raising doubts about “indirect” employment claims.

Our sailing season fits so well with college and high school schedules, a large majority of our employees are students between the ages of 18 and 22.”

And later in the same statement:

“As a large majority of our employees are students, the longevity of their employment is, at the most, one or two seasons.”

The 2008 statements provide context lacking in the 2012 NPDES individual permit application and certainly suggest that claims regarding S.S. Badger employment have been presented in intentionally vague or misleading terms. It should be noted that the vast majority of jobs created by the Badger are seasonal in nature, at or near minimum wage and are never presented by LMC on a “full time equivalent (FTE)” basis (as is the industry standard) in an effort to inflate apparent job impact. Previous statements have suggested that the bulk of positions provided by modern-day S.S. Badger operations bear virtually no resemblance to the full-time, year-round, unionized railroad positions that are represented in the 1990 West Shore Community College economic impact study that is part of the May 22, 2012 NPDES individual permit application submitted by LMC, a study which was presented as support for economic impact claims elsewhere in the application.

EPA and DOJ should audit and properly review S.S. Badger employment claims to remove false, erroneous, inflated, undocumented or intentionally misleading claims regarding direct or indirect employment. Any S.S. Badger employment figures used in should be converted to FTE basis and assessed using agency-standard Economic Impact Analysis standards or suitable equivalent methodology.

All direct and indirect employment claims made by LMC should be reviewed to determine intent and effectiveness in influencing the NPDES individual permit application process for the S.S. Badger and subsequently, the proposed Consent Decree. Where improper influence has been found, appropriate corrective action should be taken. Similar efforts should be made to assure the public that this and other related agency activities have not been improperly influenced by false or misleading statements.

False or misleading claims about Air Pollution and non-water quality pollution reduction benefits of S.S. Badger:

The May 22, 2012 NPDES individual permit application by LMC also provides false and misleading statements regarding pollution reduction benefits gained through use of the S.S. Badger with specific reference to commercial truck traffic diverted from highways and roadways to the ship. Within the application the following specific claim is made:

¹¹ Robert Manglitz, Comment on the Department of Transportation (DOT) Rule: U.S. DOT/OST - Transportation for Individuals With Disabilities: Passenger Vessels, April 29, 2008, DOT-OST-2007-26829-0187, <http://www.regulations.gov/#!documentDetail;D=DOT-OST-2007-26829-0187>

Non-water quality environmental impacts

As discussed in Section II.C above, the Badger provides ferry service to thousands of cars and trucks each year and saves an estimated 1 million gallons of gasoline and diesel fuel. These reductions equate to annual air pollution reductions of more than 4.3 tons of total hydrocarbons, 100 tons of carbon monoxide, 20 tons of nitrogen oxide, and 1000 pounds of particulate matter.¹²

At the same time LMC was seeking individual NPDES permit coverage for the S.S. Badger, the owners of the S.S. Badger were ~~part~~ and participating in a study of S.S. Badger emissions and fuel alternatives through research by the Great Lakes Maritime Institute (GLMRI), utilizing federal grants from the U.S. Department of Transportation's Maritime Administration. An October 24, 2011 letter from Richard Stewart, Co-Director of GLMRI, citing the S.S. Badger as a model in the study, was also included in LMC grant applications seeking federal funds via the State of Wisconsin.¹³

Despite knowledge of and participation in a study of S.S. Badger non-water environmental impacts, the work product from the study does not appear in materials submitted by LMC to EPA during the NPDES individual permit application process or the subsequent negotiation of the proposed Consent Decree.

The results of the study showed significantly more air pollution generated by the S.S. Badger operation than if vehicles in the study were to drive around Lake Michigan instead. This finding held true for carbon dioxide, oxides of sulfur, oxides of nitrogen, methane, carbon dioxide, and particulate matter. In the case of particulate matter, the coal-burning S.S. Badger generates 10,000 times more pollution than the non-ferry alternative of driving.¹⁴ Yet LMC falsely claims its vessel operation reduces air pollution.

It appears that the EPA was not given the full benefit of available research to determine the accuracy or reliability of assertions regarding non-water pollution benefits of the S.S. Badger. Nor was LMC forthcoming in disclosing ongoing analysis of the subject. By its omissions, the LMC statements on the subject appear to create and perpetuate a deceptive and false conclusion despite the company's role in generating alternate studies of the subject.

Despite completion of the S.S. Badger emissions study sometime prior to the September 2012 GLMRI affiliates meeting held in Duluth, MN, LMC continued as recently as January of 2013 to use false non-water pollution benefits statements on an electronically distributed "EPA fact sheet", an electronic "petition" tool and in public relations intended to influence the EPA permit

¹² Charles Leonard, Supplemental submission, LMC NPDES individual permit application for S.S. Badger, page 72. Link: [Supplemental Submission for NPDES Permit \(PDF\)](#) (78 pp, 321K)

¹³ Richard Stewart, GLMRI letter of support, October 24, 2011. <http://www.scribd.com/doc/93939011/SS-Badger-LMC-grant-application-State-of-Wisconsin-75-000-natural-gas-study>

¹⁴ Dr. James Winebrake, Rochester Institute of Technology and Dr. James Corbett, Comparative Model of Maritime Fuels Using the S.S. Badger *University of Delaware*
<http://www.glmri.org/downloads/2012Reports/affiliatesMtg/WinebrakeandCorbett.pdf>

process.¹⁵ The willful failure to disclose the results of LMC collaboration with GLMRI could reasonably be construed as an effort to perpetuate false or misleading statements about S.S. Badger pollution, and to allow or encourage others to use the same in efforts to influence the EPA during consideration of the NPDES individual permit application for the S.S. Badger.

Given the incomplete and potentially misleading claims made by LMC with regard to non-water pollution impacts by the S.S. Badger and efforts to influence the public to submit the same, these efforts should be reviewed to determine intent and effectiveness in influencing the NPDES individual permit application process for the S.S. Badger and subsequently, the proposed Consent Decree. Therefore, any communications of support for the proposed Consent Decree referencing these false and misleading economic impact results should be discounted in EPA/DOJ considerations. Where improper influence has been found, appropriate corrective action should be taken. Similar efforts should be made to assure the public that this and other related agency activities have not been improperly influenced by false or misleading statements.

We ask that the Department of Justice and EPA acting on behalf of the United States to give accurate and full review of all LMC, associate and affiliate claims with regard to economic impact, employment and non-water pollution impacts. Where inaccuracy or inadmissible information is found or where the record has been shown to include false or misleading information sufficient to unduly influence the proposed Consent Decree, we ask for public response to enumerate and properly correct the public record and to counteract the publication of said information on EPA web servers. Where evidence suggests that misleading or false statements have been provided intentionally in an effort to influence the NPDES individual permit application, the subsequent proposed Consent Decree, or members of the general public through subsequent publishing and distribution by EPA we ask the DOJ and EPA seek appropriate remedy as allowable by law.

Respectfully



Aaron Schultz
Director, Sales and Marketing
Lake Express, LLC.

.....

¹⁵ SSBadger.com, EPA Fact Sheet and “SOS Badger” electronic petition tool, retrieved January 10, 2013, <http://web.archive.org/web/20130110211435/http://www.ssbadger.com/home.aspx>

April 26, 2013

Via email: pubcomment-ees.enrd@usdoj.gov

Aaron Schultz
Director, Sales and Marketing
Lake Express, LLC
2330 S Lincoln Memorial Drive
Milwaukee, WI 53207

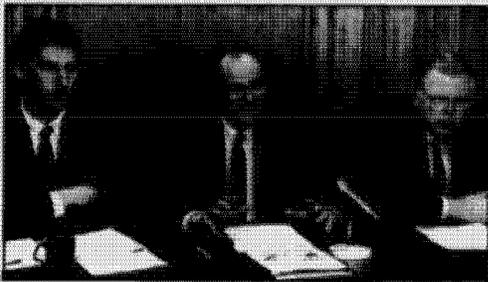
Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Comment regarding *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*,
D.J. Ref. No. 90-5-1-1-10771.

Supporting exhibits:

- 1) Steve Begnoche, Carferries Wield Major Economic Impact Here, Ludington Daily News, March 6, 1991.
- 2) August 14, 2012 S.S. Badger facebook posting promoting "EPA Fact Sheet" posted to SSBadger.com
- 3) August 2012 "EPA fact sheet" posted to SSBadger.com
- 4) August 23, 2012 "Sail Mail" email newsletter encouraging recipients to contact EPA on behalf of LMC using online information and tools posted at SSBadger.com
- 5) Screen capture showing online "petition" tool posted to SSBadger.com and used from August 2012 through January 2013.
- 6) Screen capture showing SSBadger.com home page promotion of "EPA fact sheet" and online "petition" tool in January 2013.
- 7) March 2012 DOE/Wisconsin DOA grant agreement signature page.
- 8) October 2011 letter of support from GLMRI confirming LMC collaboration in fuel and emissions studies using the S.S. Badger as "pilot" and "model."
- 9) September 2012 affiliates meeting agenda showing completion of S.S. Badger air emissions study.
- 10) S.S. Badger emissions study: Comparative Model of Maritime Fuels Using the *S.S. Badger*. Dr. James Winebrake, Rochester Institute of Technology and Dr. James Corbett, University of Delaware

Carferries wield major economic clout here



By STEVE BEGNOCHÉ
News Editor

The carferries of Ludington -- none now running -- are "an extremely valuable asset that needs to be enhanced," says William Kratz of the Mason County Economic Development Alliance.

Building off its tourism appeal may be the answer. According to a study released today by the alliance and prepared by the Business and Industrial Development Institute of West Shore Community College, operation of the Michigan-Wisconsin Transport Lake Michigan carferry adds \$15 million annually to the Ludington area economy.

Other noteworthy figures in the study include that the carferry operations could affect 5.6 percent of Ludington's total employment and jeopardize up to \$8.8 million in tourist revenues. (See related stories, pages 1 and 6).

"We have identified the carferry issue as the number one issue," Kratz said at a news conference this morning announcing the results of the economic benefits study of the carferry to the Ludington area. "We need to take every possible step to save the carferry service and enhance it."

Announcement of possible steps will be made to the Ludington City Commission at its 7:30 p.m. meeting Monday, Kratz said following the hour-long press conference.

"We, as a community, need to do whatever we can to see that the service continues," he said.

M-WT suspended carferry service between Ludington and Keweenaw, Wis., Nov. 16, 1990, ending cross-lake service that began in 1875. The first carferry began running between Ludington and Wisconsin in 1898.

(See CARFERRIES, page 6)

Study shows carferries impact here

Economic Benefits Of The Lake Michigan Car Ferry Service



Prepared For:
Mason County Economic Development Alliance
By:
Business and Industrial Development Institute
West Shore Community College

March
1991

(Continued from page 1)

According to Archie Lewis, director of the Business Development Center and study preparer, noted that in recent years the carferry has evolved from a freight operation to one that get 80 percent of its 1990 revenues from passengers meaning that the tourism factor is more important now.

"It's wide open as a non-railroad," he said of the carferry's potential if rail service is stopped.

Dr. William Anderson, WSCC president and chairman of the alliance board of directors, echoed that view, adding as a tourist passenger carrier "it is a profitable activity."

He said it is possible that the operation, if resumed, will be summer-only. A June restart date is envisioned, leaving little time to do the work needed to resume operations.

Other options suggested would be for the M-WT operation to be purchased from President Glen Bowden; for a financial package to be put together with state and local or private funding to support Bowden's M-WT operations.

State Sen. Phil Arthurs and Rep. Bill Bobier are working to see what aid is available from the state.

Anderson, Kratz or Lewis wouldn't go into much details about options. Anderson at one point during repeated questioning responded, "the favored option is that the carferry operate."

Kratz said that the group "is getting a lot of support from Glen Bowden in our efforts to resume cross-lake service. Without his involvement our goals are impossible. Glen Bowden is an ally in our efforts."

Also in the next few weeks, a decision will be made on which Wisconsin port to sail to, if the carferry is back in service. Both Keweenaw, where the Badger last sailed from, and Manitowish, where service once was provided to and had been suggested as the port of preference for 1991, have expressed interest in being the carferry port.

The decision on which to sail to will be based on "business principals" based on the long-term good for the enterprise, the speakers said.

"We all assumed that the carferry service had a significant financial impact on our area economy, so we weren't surprised when this study produced the hard data to substantiate our opinions," Anderson stated. "The study underscores a compelling conclusion -- that the Ludington area community must make an all-out effort to retain cross-lake carferry service. Its loss would represent a major blow to our local economy, not unlike the closing of a major industry."

Kratz pointed out there are few businesses in the community employing 107 people, as does M-WT.

The study briefly traces the history of the carferry service in Ludington to the Nov. 16, 1990, termination of service due to declining revenues.

Kratz said M-WT's financial position is the "underlying factor" service was stopped.

According to a phone survey, over 60,000 of the boats' average 80,000 passengers per year, wouldn't come to Ludington if the carferry wasn't here. That translates into \$8.8 million for the local economy, the report said.

"It's critical that the carferry service operate this summer," Kratz said.

Study shows carferries' economic value to county

Major findings of an economic benefit study done by the Business and Industrial Development Institute of West Shore Community College showed that the Lake Michigan carferry operation:

- Adds \$15 million to the Ludington area economy each year.
- Directly or indirectly supports 5.6 percent of the Ludington area's employment base.
- Directly or indirectly provides more than 555 area jobs with \$5,722,000 in annual wages and salary to area workers.
- Contributes more than \$8.8 million in tourist revenues to the Ludington area's economy.
- Operations contribute more than \$1.7 million to area hotels and motels.
- Operations contribute more than \$1.95 million to area restaurants.
- Operations contribute more than \$1.24 to area retail stores and service stations.
- Operations contribute more than \$300,000 in state and local tax revenues.
- Operation of the carferry brings to Ludington over 60,000 tourists who would not otherwise visit the area.

Passenger survey shows carferry impact on tourism

The following is a summary of the data the Business and Industrial Development Institute of West Shore Community College collected in a telephone survey of 196 people chosen at random from the 35,000 people that booked passage on the carferry in 1990.

The figures are expressed in terms of the total number of passengers the 1991 survey responses based on the actual percentage of the survey responses. (The survey response percentage is expressed in parenthesis.) The carferry total annual passenger count averages 80,000.

The responses have "level of confidence" of plus or minus 6 percent.

- 45,714 passengers (57 percent) booked passage from Michigan and 34,286 (43 percent) passengers from Wisconsin.

- 27,347 passengers (34 percent) spent at least one day in the Ludington area, 5,306 passengers (7 percent) spent 2-3 days in the Ludington area, and 2,449 passengers (4 percent) spent more than three days in the area.

- 24,490 passengers (31 percent) stayed at an area motel or hotel.

- 51,836 passengers (65 percent) ate at an area restaurant.

- 23,265 passengers (29 percent) shopped at an area retail store.

- 33,061 passengers (41 percent) stopped at a service station in the area.

- 42,857 passengers (54 percent) rode the ferry one-way; 36,327 passengers (45 percent) made a round trip on the car ferry.

- 39,184 passengers (49 percent) plan to use the ferry again this summer.

- 17,551 passengers (22 percent) use the ferry every year.

- 40,408 passengers (51 percent) spend \$50-100 per person per day while traveling and 26,571 passengers (36 percent) spend more than \$100 per day while traveling.

- 42,041 passengers (53 percent) are married traveling with children, 22,449 passengers (28 percent) are married traveling without children, and 15,510 passengers (19 percent) are single.

- 7,347 adult passengers (9 percent) are under 29 years of age, 37,143 passengers (46 percent) are 30-44 years of age, 20,000 passengers (25 percent) are 45-59 years of age and 15,102 passengers (19 percent) are over 60 years old.

- 31,020 passengers (39 percent) have a household income of \$50,000 or more, 22,041 passengers (27 percent) have a household income of \$25,000 to \$50,000 and 16,735 passengers (21 percent) have a household income of less than \$25,000.

- 74,286 passengers (93 percent) were satisfied with their experience with the ferry service.

The report containing the results say the figures may actually understate the economic impact on tourism in the area because ridership levels in recent years have been about half of what they were in the 1970s.



S.S. Badger: Lake Michigan Carferry · 5,377 like this
August 14 at 3:47pm · 🌐

👍 Like

For the latest information on the EPA, please see this information that we posted on our website about an hour ago:

http://www.ssbadger.com/content.aspx?Page=epa_update_2012august

Like · Comment · Share

💬 14

👍 20 people like this.



BIG SHIP, MORE FUN!

The 417' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



BOOK NOW!

Home

Schedules & Fares

Big Ship, More Fun!

History

Vacation Ideas

Contact Us

August, 2012

Lake Michigan Carferry – S.S. Badger

EPA - Updated Facts

1. Background

a. In 2008 the Environmental Protection Agency (EPA) issued a Vessel General Permit (VGP) that regulates discharges incidental to the normal operation of maritime vessels. Coal ash is one of 26 specific discharge streams specifically covered by the VGP.

b. Not only has LMC fully complied with the EPA permit they are currently operating under, which has put in place a series of special requirements for the Badger, including where it can discharge, the sulfur content of the coal, etc. In addition, we have upgraded the vessel so that we have reduced coal use by 20%. At the same time, we found ways to reduce discharges, including using a much more expensive and efficient type of coal.

c. LMC was issued a permit to operate until December 19, 2012 and was instructed by the EPA to apply for an National Pollution Discharge Elimination System (NPDES) Individual Permit (IP) under the Clean Water Act if, at that time, an alternative technology is both technologically infeasible and economically unachievable and impracticable, and as long as the discharge complies with EPA standards.

d. LMC has spent time & money investigating alternatives to eliminate the discharge including storage on board and disposal in a landfill, replacing the coal with diesel, and completely removing the boilers and installing a new propulsion system. These options were all impractical or prohibitively expensive. This is why LMC is seeking an NPDES Individual Permit from the EPA.

2. Status of EPA's consideration of LMC's Individual Permit application

a. LMC started the process of seeking an EPA individual permit when we met with EPA headquarters staff in Washington D.C. in June, 2011. During this meeting, we were instructed to work with EPA Region 5 in Chicago, IL. We immediately scheduled a meeting with the EPA Region 5 staff, at which time we indicated our intent to apply for an individual permit. Despite our clear indication that we were ready to move forward in June 2011, EPA Region 5 did not respond to us until October, 2011, at which time Region 5 staff told us we would have to petition the agency, asking for permission to apply for an individual permit.

b. LMC is the first company ever required to ask permission to file a permit application. We submitted the 1000+ page "application to apply" in November, 2011. EPA gave us permission to apply for the NPDES Individual Permit in February, 2012.

c. Having been finally granted permission to apply, in May 2012, LMC submitted a 1,000 page application that was filed seven months before the deadline set by the EPA. The application includes multiple sets of tests analyzing the coal ash under federal and state environmental standards – over 100 pages of test results.

d. The permit application also includes a continuing commitment to test coal ash to make sure it continues to meet EPA standards, a continuing commitment to look for, and if possible, implement a system to eliminate the discharge completely, including with strong potential replacing coal with liquid natural gas within five years; and a continuing reporting requirement to EPA so it can confirm LMC's compliance with the new permit and efforts to become the greenest ship on the Great Lakes.

3. Status of the legislative alternative to the EPA Individual Permit

a. Back in November 2011, given the impending expiration of our current permit, and with no clear timeline from the EPA, we involved Congressmen Tom Petri, Bill Huizenga and Dan Benishek, seeking a legislative solution.

b. In late 2011, the U.S. House of Representatives included language to extend the regulations under which the Badger is currently operating in a Coast Guard policy bill. Some have suggested that the legislative language exempted the Badger from the EPA rules; actually it freezes in place the existing EPA rules governing the Badger. The Senate's version of this Coast Guard bill has not yet been voted on, but after the Senate does vote on this bill (which does not contain language pertaining to the Badger), members of the House and Senate will convene a conference committee to negotiate and reconcile any differences between the two bills. The Badger language will be one of the issues that must be negotiated.

4. LMC is seeking permission to continue operating the Badger to gain additional time to convert to a cleaner fuel

a. While LMC has had to dismiss a number of options for eliminating the discharge of coal ash, LMC believes that natural gas conversion is a viable solution, and LMC has taken a number of steps to convert the Badger to operate on natural gas. Natural gas, particularly liquefied natural gas (LNG), is the fuel of the future for the maritime industry, with many projects underway internationally and in the U.S. LNG is less expensive and cleaner, a "win win."

b. Already, the Badger's chief engineers have undergone training on the use of natural gas fuel.

c. The Great Lakes Maritime Research Institute (GLMRI) has made the Badger the model vessel as part of a study funded by a new \$800,000 federal grant designed to make Great Lakes steamships "greener."

d. LMC has recently completed the engineering on converting the existing boilers to burn LNG. This engineering was supported by a \$75,000 grant from the Wisconsin State Energy Office, and a \$32,000 grant from the Michigan Energy Office.

e. While LMC believes that LNG is the best long term solution, the solution could take several more years to implement.

5. *Arguments about hazardous materials are overstated and in many cases simply not true*

a. LMC's permit application includes multiple sets of tests analyzing the coal ash under federal and state environmental standards. Of the 115 constituents tested for in the Badger discharge using EPA approved testing methods, only 26 were detected and they are below levels of concern for applicable water quality standards in Michigan and Wisconsin.

b. The amount of mercury, arsenic and lead in the coal ash is not only below standards that would make it harmful, but also hundreds of times lower than what others are allowed to discharge into Lake Michigan.

c. While a trace amount of arsenic is present in some of the coal ash, it is thousands times below the Michigan and Wisconsin water quality standard to protect aquatic life.

d. The Milwaukee Metropolitan Sewerage District is allowed to discharge 60 times more lead on an annual basis than is in the Badger's coal ash discharge.

e. Less than a fraction of an ounce of mercury is discharged in the Badger coal ash each year; at current rates, it would take years for the ash discharge to result in an ounce of mercury being in Lake Michigan.

f. According to a study (Argonne National Laboratory), the average amount of mercury allowed to be discharged into Lake Michigan by NPDES permit holders each day is 5 times higher than the amount of mercury in the Badger's coal ash discharged by the Badger in an entire season and on average about 10 times more mercury per year than the Badger.

g. The turbidity level in the ash discharge (how "cloudy" it could make the water) has been determined by the Great Lakes Environmental Center to be so low that there is no indication that it would be harmful to any aquatic life.

6. *It would be economically and environmentally devastating to have the Badger stop sailing*

a. The importance of the Badger cannot be overstated. The economic impact of the Badger is enormous for the States of Wisconsin and Michigan. Economic impact studies show that the Badger contributes over \$14 million annually to the city of Manitowoc, and over \$21 million annually to city of Ludington, MI. This equates to over \$570 million (over a half of a BILLION dollars) total in both ports since 1992 when LMC took over operations.

b. Not only does this bring tourism dollars to the State, the Badger helps Michigan and Wisconsin companies get their products to market cheaper and faster. The Badger carries semi-trucks and other large over-dimensional trucks hauling items such as wind towers manufactured in Manitowoc.

c. That is to say nothing of the environmental benefits derived from the Badger's operation. In addition to transporting thousands of people between Manitowoc and Ludington every year, the Badger carries semi-trucks and other large over-dimensional trucks, cars, and other vehicles across Lake Michigan, saving one million gallons of fuel each year. This directly translates to reduced air pollution, including a 4.3 ton reduction in hydrocarbons, a 100 ton reduction in carbon monoxide, a 20 ton reduction in NOx (oxides of nitrogen) and a 1,089 ton reduction in particulate matter (i.e., dirt in the air).

d. Without the Badger, not only would these benefits disappear, these vehicles, including the oversized semis, would be forced to travel on highways through Milwaukee and around the Chicago area, where highway systems are notoriously congested. This would add safety concerns in these large urban areas.



Aaron Schultz <

>@gmail.com

The S.S. Badger needs your help!

1 message

Lake Michigan Carferry <info@ssbadger.com>

Thu, Aug 23, 2012 at 9:59 AM

Reply-To: info@ssbadger.com

To: @gmail.com

Having trouble viewing this email? [Click here](#)



August 2012

Lake Michigan
Carferry
800-841-4243
www.ssbadger.com



Ludington, Michigan



Greetings!

In this edition you'll see details on how you can make your voice count in support of the S.S. Badger's application for a new EPA permit, as well as details on a landmark moment in the history of Lake Michigan Carferry and information on some very special passengers that travelled recently.

Support the S.S. Badger!

We have launched a petition letter on our website so that the

thousands of Badger advocates have an easy way to let their voice be heard by some of the politicians and government agencies who will have an impact on the future of the Badger. This letter provides the facts regarding the Badger's ash issues and the plans to convert the Badger to a clean alternative fuel source.

Click the link below, then fill in the fields and click the button to have the letter emailed to multiple Governors, Senators and administrators involved in the decision



Manitowoc, Wisconsin



Shop till you Drop!

**Badger Boatique's
Annual**

**Employee & Community
Shopping Nights**

about the Badger's future.

<http://www.ssbadger.com/petition.aspx>

We need your help, let your voice be heard!



S.S. Badger Milestone

2,500,000 Passenger will sail this season!

We are excited to announce that the 2,500,000 passenger since the 1992 rebirth of the S.S. Badger will be booked for passage aboard a regular scheduled by August 29th or 30th!

The S.S. Badger has been an icon in Ludington for nearly 60 years and to commemorate this passenger milestone the 2,500,000 passenger will be awarded a prize package valued at over \$1000! Including a free annual passage aboard the S.S. Badger for LIFE! A special tour of the Pilot House and photos with the Captain, in addition to many other fun prizes.

In addition, each passenger sailing on this special day will have an opportunity to win a free crossing for our 2013 sailing season!

We feel that holding the celebration aboard the Badger will be a special way for our passengers to observe the Badger's longevity and historic significance to Ludington MI, and Manitowoc WI.

Will the 2,500,000 passenger be you?

Employee Shopping

October 5th at 7:45 pm
After docking

Pop a balloon for extra savings
for up to 45% saving!

Community Shopping

October 6th at 7:45 pm
After docking.

Enjoy refreshments...
Huge Savings...

**Here Comes the Bride!
Congratulations Katherine & David**

Katherine Connor, 50, of Neenah, WI and David Harrison, 60, of East Lansing, MI., connected online at the eHarmony's dating site in February 2012 and met for the first time outside the Lake Michigan Carferry ticket office in June 2, 2012.

Officiating this unique wedding was our own Manager of the Manitowoc Ticket Office, Del Whitmire.



You can view their interview and wedding album by
visiting the:
Manitowoc Herald Times Reporter

<http://www.htrnews.com/>

Forward email



Try it FREE today.

[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

Lake Michigan Carferry | 701 Maritime Dr. | Ludington | MI | 49431



BIG SHIP, MORE FUN!

The 410' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



Home

Schedules & Fares

Big Ship, More Fun!

History

Vacation Ideas

Contact Us

SHARE



SEND A LETTER TO HELP US SAVE OUR SHIP

** Please put your first name, last name and valid email address below to send this support email to key politicians who will have an impact on the future of the S.S. Badger

First Name: Last Name: Email:

Today we submit this letter to you in support of the historic S.S. Badger. The S.S. Badger is the only coal-fired passenger vessel operating in regular service in the United States and in her almost 60 years of service has carried millions of passengers and countless amounts of cargo between Michigan and Wisconsin. The Badger is listed on the National Register of Historic Places and has numerous other awards and designations indicative of her proud service on Lake Michigan.

We are aware of the environmental concerns. The BADGER does discharge the ash that remains from burning coal in its boilers during the course of its 50 mile voyage between Ludington, Michigan and Manitowoc, Wisconsin. Multiple tests by independent, E.P.A. certified laboratories of the residue have proven there is no harm to the environment. Please view the following link to the Environmental Protection Agency website with the Badger's permit application: www.epa.gov/5water/mpdestek/badger/badger

The Badger provides services that have a positive impact on the environment in several ways. Since 2011 the Badger has moved over 100 million pounds of wind energy cargo, saving the transportation companies thousands of miles and eliminating the large trucks from the congestion of the regional highway systems. The cars, motorcycles, RV's and commercial trucks carried by the Badger each season would require over 1,000,000 gallons of fuel to drive the distance saved by crossing Lake Michigan. Click the link to see the details of the fuel savings in the Badger's EPA permit application. <http://www.epa.gov/5water/mpdestek/badger/pdfs/application/badger-app.pdf>

The BADGER's owners have taken multiple steps to reduce the amount of ash that is discharged. Lake Michigan Carferry is actively exploring alternate fuels, including natural gas. Engineering was recently completed on converting the boilers to burn Liquefied Natural Gas instead of coal, and the Badger is the model of a study by the Great Lakes Maritime Research Institute on clean energy use in the maritime industry. While natural gas appears to be the fuel of the future, more time is needed to develop this as a long-term solution."

Your commitment for the environment is matched only by your commitment to keep Americans working. The BADGER employs over 200 people and has a combined impact of \$35,000,000 to the port cities of Ludington and Manitowoc. Whatever repowering solution is chosen, the work will be done in an American shipyard by American welders, electricians and other skilled tradesmen. Please ask the U.S. EPA to issue the BADGER their individual permit as soon as possible. The uncertainty is making finding a solution even more difficult. Lake Michigan is a precious natural resource and it deserves our respect and protection but it is not necessary to banish the BADGER. The steamship has plied these waters since 1953 and there is no reason our children's children can't enjoy an experience on this historic vessel.

Very Respectfully,



BIG SHIP, MORE FUN!

The 410' S.S. Badger car ferry is the fun and relaxing shortcut across Lake Michigan for you and your car, RV, motorcycle, truck, or any other type of vehicle!



- Home
- Schedules & Fares
- Big Ship, More Fun!
- History
- Vacation Ideas
- Contact Us



Big Ship, More Fun, Best Value!

Cruise News

2013
Service resuming in May, 2013

Important
Please Read
Sign the support petition for the S.S. Badger

EPA UPDATE
S.S. Badger Updated EPA Facts

Visit the SOS Badger site!

Badger news and updates

Check out the latest edition of Crossings!

Shop our online store

Port of Ludington Maritime Museum

Sign up for our SailMail email newsletter
Privacy by ISP SafeSubscribe™

The S.S. Badger recommends the following hotels and attractions:

PURE MICHIGAN™

travelwisconsin.com

AGREEMENT

Between the

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
STATE ENERGY OFFICE

and

LAKE MICHIGAN CARFERRY SERVICE, INC.

THIS AGREEMENT is made and entered into by and between the State Energy Office ("Division"), Department of Administration ("Department"), representing the State of Wisconsin (collectively "State"), and Lake Michigan Carferry Service, Inc. ("Contractor").

WHEREAS, on behalf of the State, the Department administers the State Energy Program – Alternative Fuels Use in Maritime Vessels Feasibility Study ("Program") through the Division to provide funds for eligible activities; and

WHEREAS, it is the intention of the parties to this Agreement that all activities described herein shall be for their mutual benefit; and

WHEREAS, the State has approved an award to the Contractor in the amount of \$75,000 for eligible activities herein described; and

WHEREAS, the terms and conditions herein shall survive the performance period and shall continue in full force and effect until the Contractor has completed and is in compliance with all the requirements of this Agreement; and

WHEREAS, this Agreement is mutually exclusive and is distinguished from all previous Agreements between the Contractor and the State and contains the entire understanding between the parties;

NOW, THEREFORE, in consideration of the mutual promises and dependent documents, the parties hereto agree as follows:

The following documents are part of this contract:

- 1) This Contract Agreement (including all attachments and the initial workplan delivered under this contract agreement)

LAKE MICHIGAN
CARFERRY SERVICE, INC.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
STATE ENERGY OFFICE

BY: 
Patrick McCarthy

BY: 
Kevin Vesperman

TITLE: Vice President – Shore Operations

TITLE: Administrator-Division of Energy Services

DATE: 03/16/2012

DATE: 03/28/2012

UNIVERSITY of WISCONSIN
Superior

October 24, 2011

The Wisconsin State Energy Office
201 W. Washington Avenue, 3rd Floor
Madison, WI 53703

Dear Ms. Mott,

We are writing to support the grant application of the Lake Michigan Carferry S.S. *Badger* for the Wisconsin State Energy Office RFP: Feasibility Study for the use of Alternative Fuels in Marine Applications. The Great Lakes Maritime Research Institute, based in the port of Duluth/Superior has recently been awarded a contract from the U.S. Department of Transportation's Maritime Administration to study the feasibility of using natural gas as a marine fuel for Great Lakes shipping. Our research plan will include interaction with the European Union that has embarked on a similar study. The U.S. EPA is aware of our research and is supportive.

One part of our study plan includes looking at the S.S. *Badger* as a demonstration model of a vessel that may benefit from natural gas as an alternative fuel. Utilizing the S.S. *Badger* as our project's demonstration model, we will be tying into Wisconsin based facilities and engineering firms, along with the shipping route of the S.S. *Badger* between Ludington, MI and Manitowoc, WI.

However, our funding to work with the SS *Badger* is quite limited and having a supporting grant from the state of Wisconsin for Lake Michigan Carferry would allow the leveraging of funds and advance the alternative fuel study as a whole. Our research, while focused on the Great Lakes is intended to provide models and information that can be used nationally. Our research findings will be available to the Wisconsin State Energy Office and we welcome working with your office.

Please feel free to contact me or the Executive Director of Great Lakes Maritime Research Institute, Carol Wolosz at 218-726-7446 if we can provide any additional information to support the grant request for Lake Michigan Carferry, S.S. *Badger*.

Sincerely,



Richard D. Stewart, Ph.D., CTL
Co-Director, Great Lakes Maritime Research Institute www.glmri.org
Director, Trans & Logistics Research Center

TRANSPORTATION AND LOGISTICS RESEARCH CENTER
Erlanson Hall, Suite 5 • Beiknap & Cattin • PO Box 2000 • Superior, WI 54880-4500
Phone: 715-394-8254 • FAX: 715-394-8374

Agenda
GLMRI University Affiliates Meeting
Thursday and Friday, September 27-28, 2012
Radisson Hotel, Duluth, Minnesota

Thursday, September 27, 2012

1:15 Meeting Registration.

1:30 Welcome and Introductions. Ms. Carol Wolosz

GLMRI Report. Dr. Richard Stewart (University of Wisconsin-Superior) and Dr. James P. Riehl (University of Minnesota Duluth)

Steam Bulk Carrier LNG Conversion Study. Dr. Michael Parsons, Professor Emeritus, University of Michigan

S.S. *Badger* Engineering Study. Mr. Joseph Fischer and Ms. Ziyang Zhang. Bay Engineering Inc., Sturgeon Bay, Wisconsin

2:45 Break

3:00 LNG as a Maritime Fuel on the Great Lakes; Regulatory Issues. Randolph Helland, Captain, USCG (ret).

Comparative Model of Maritime Fuels Using the S.S. *Badger*. Dr. James Winebrake, Rochester Institute of Technology and Dr. James Corbett, University of Delaware

Panel: Norway's Use of LNG as a Maritime Fuel

Dr. Michael Parsons, Richard Harkins, Pat O'Hern, Randolph Helland, Captain, USCG (ret) and Carol Wolosz

Afternoon Wrap Up

4:30 Adjourn

Friday, September 28, 2012

8:30 *Sediment Testing in U.S. Lakers Ballast Tanks*
Dr. Donn Branstrator. University of Minnesota Duluth.

Building Sustainable Solutions to the Issue of Ballast Water Treatment: Testing Relationships between Propagule Pressure and Colonization Success of Invasive Species (Year 4)

Dr. Donn Branstrator and Mr. Matthew TenEyck. University of Minnesota Duluth (with Dr. Mary Balcer, University of Wisconsin-Superior)

Combining Fine Dredge Materials and Biosolids for Sustainable, Beneficial Reuse

Dr. Nathan Johnson. University of Minnesota Duluth

9:45 Break

10:00 *Measuring a Port's Performance Using the Economic Value of Commodities*
Dr. Zamira S. Simkins. University of Wisconsin-Superior

New Developments in the Great Lakes Maritime Information Delivery System

Dr. Peter Lindquist. University of Toledo

The Economics of a Bi-State Truck Ferry

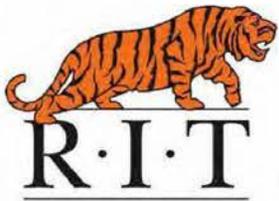
Dr. Thomas Brady. Purdue North Central University

Affiliate Program Updates.

Administrative Updates /Closing Comments

12:00 Adjourn

As of 9 Aug 2012



A Comparative Analysis of Ships v. Trucks to Transport Cargo along the Great Lakes Sustainable Intermodal Freight Transport Research Program

James J. Corbett, PhD., University of Delaware

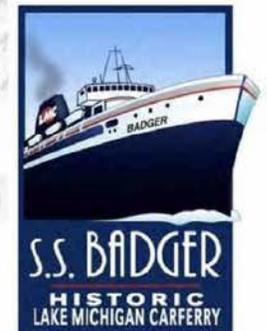
James J. Winebrake, PhD, Rochester Institute of
Technology

Heather Thomson, University of Delaware

Arindam Ghosh, Rochester Institute of Technology

Goods Transport

- Great Lakes shipping occurs across three modes
 - Railroad
 - Ship
 - Truck
- Each has pros and cons, and intermodal combinations offer flexibility and efficiency
- One intermodal ship is SS Badger carferry.





SS Badger

- Started as a railcar ferry in 1953
- Now ferries cars, passengers, and cargo
- Engines declared a mechanical engineering landmark by the American Society for Mechanical Engineers
- Ship itself placed on the National Register of Historic Places
- Only coal-fired steamship in US



Outline

- What did we study?
- How did we analyze it?
- What were our results?
- How robust are they?
- What are our conclusions?

What we studied

- Emissions of 6 criteria pollutants
 - Carbon dioxide (CO_2), Sulfur oxides (SO_x), Nitrogen oxides (NO_x), particulate matter (PM_{10}), methane (CH_4), and carbon monoxide (CO)
- Looked at current emissions from both truck and Badger
- Compared to a fuel switch from coal
 - Intermediate Fuel Oil (IFO), Marine Distillate Oil (MDO), Compressed Natural Gas (CNG), Liquefied Natural Gas (LNG) and a biodiesel blend (BD20)



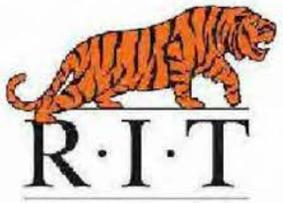
Emissions Estimation Basics



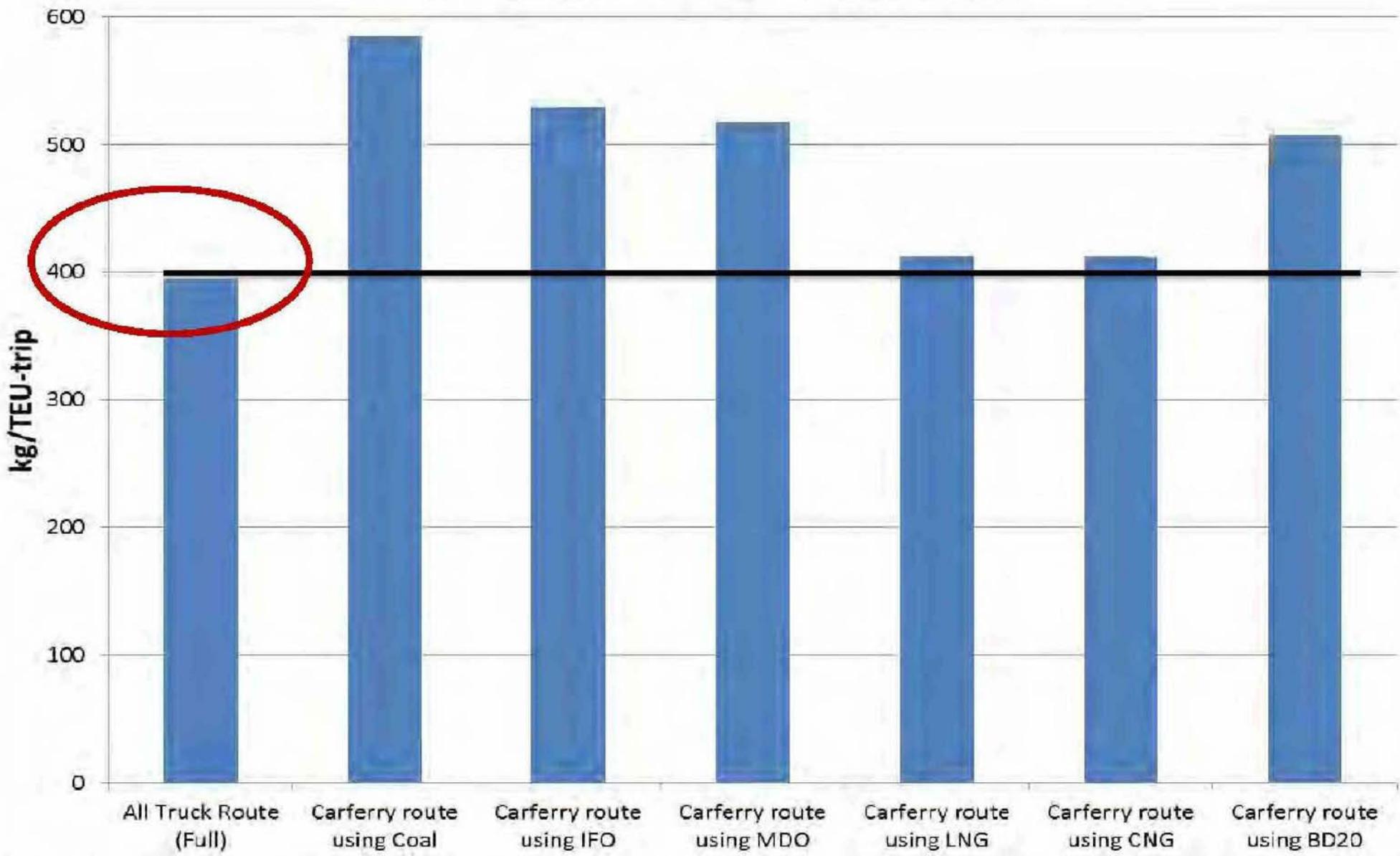
General equation used:

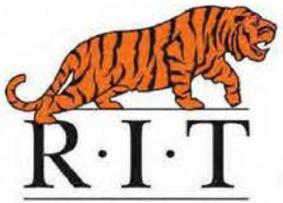
$$P_{ij} = E_j \cdot EF_{ij}$$

where P_{ij} represents pollutant of type i for mode j in kg/segment; E_j represents energy consumption for mode j in BTU/segment; and EF_{ij} represents an emissions factor for pollutant i for mode j in mass/energy unit (e.g., g/BTU or g/hp-hr).

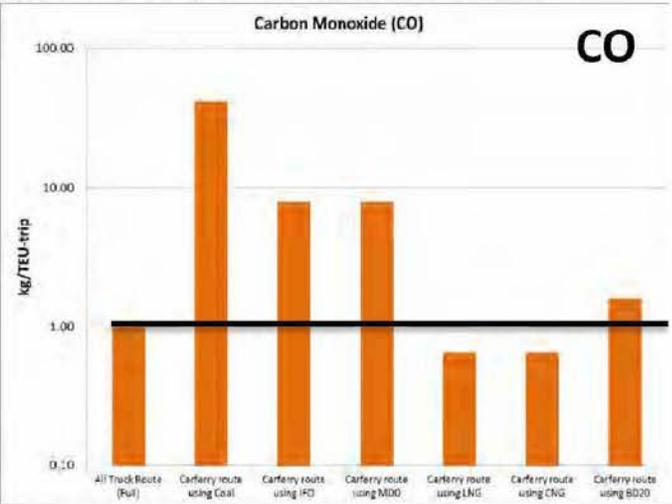
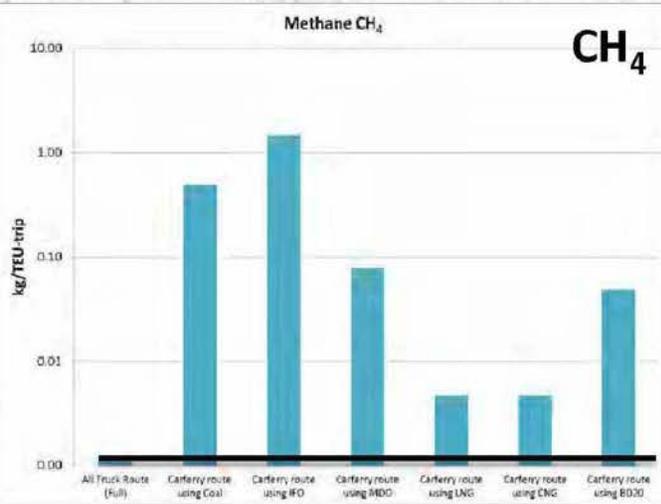
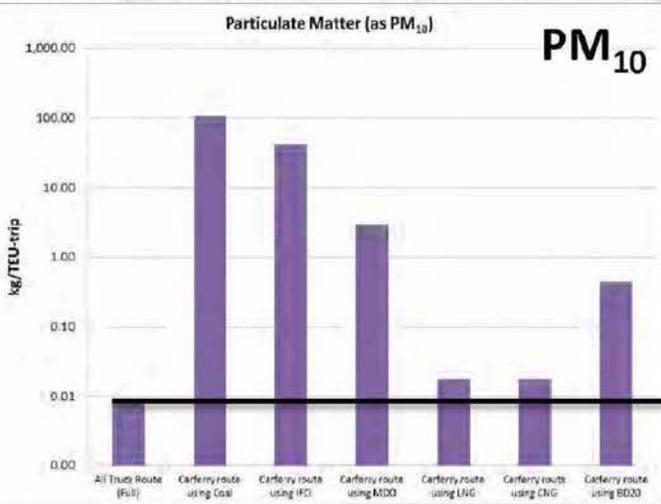
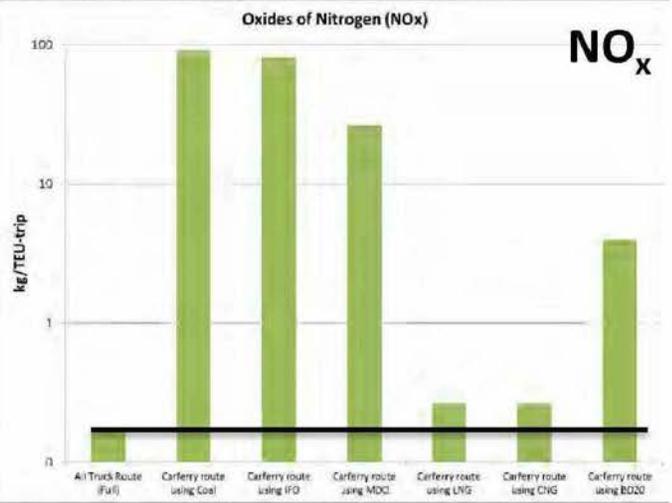
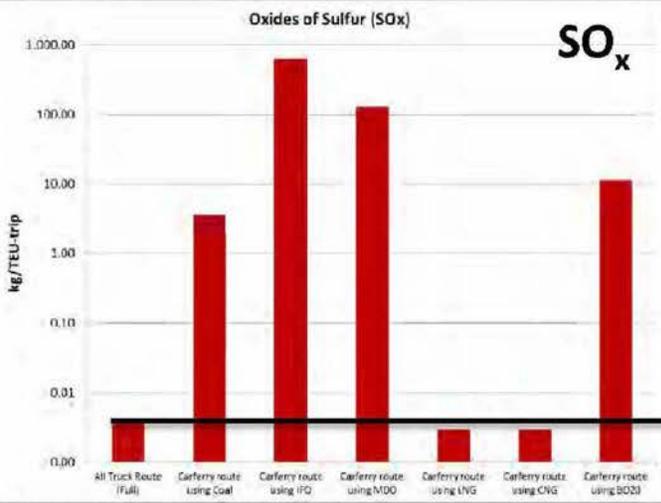
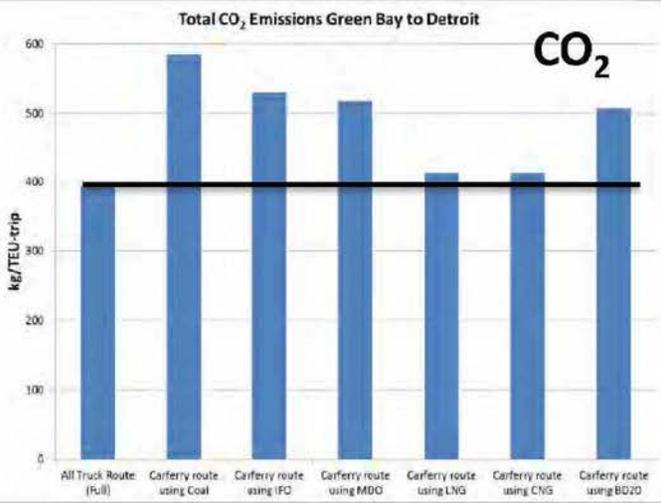


Total CO₂ Emissions Green Bay to Detroit





Results for Different Pollutants



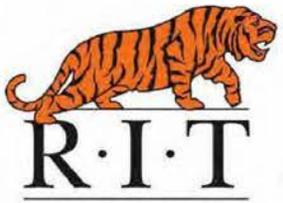
Example of sensitive assumptions

- Current configuration is for 12 tractor trailers
- Capacity is 180 “Vehicle Units”
 - One tractor trailer = 4 Vehicle Units
- Assuming only 12 trailers would assign all pollution to those trailers
- Therefore assumed 45 trailers on board
- Is this a good assumption?
 - More freight than normal max (Calculated emissions too low)
 - We allocate ALL emissions to payload (Calculated emissions too high)
- Our “best estimate” for study was 117 TEUs,
 - May be conservatively high (optimized for freight)

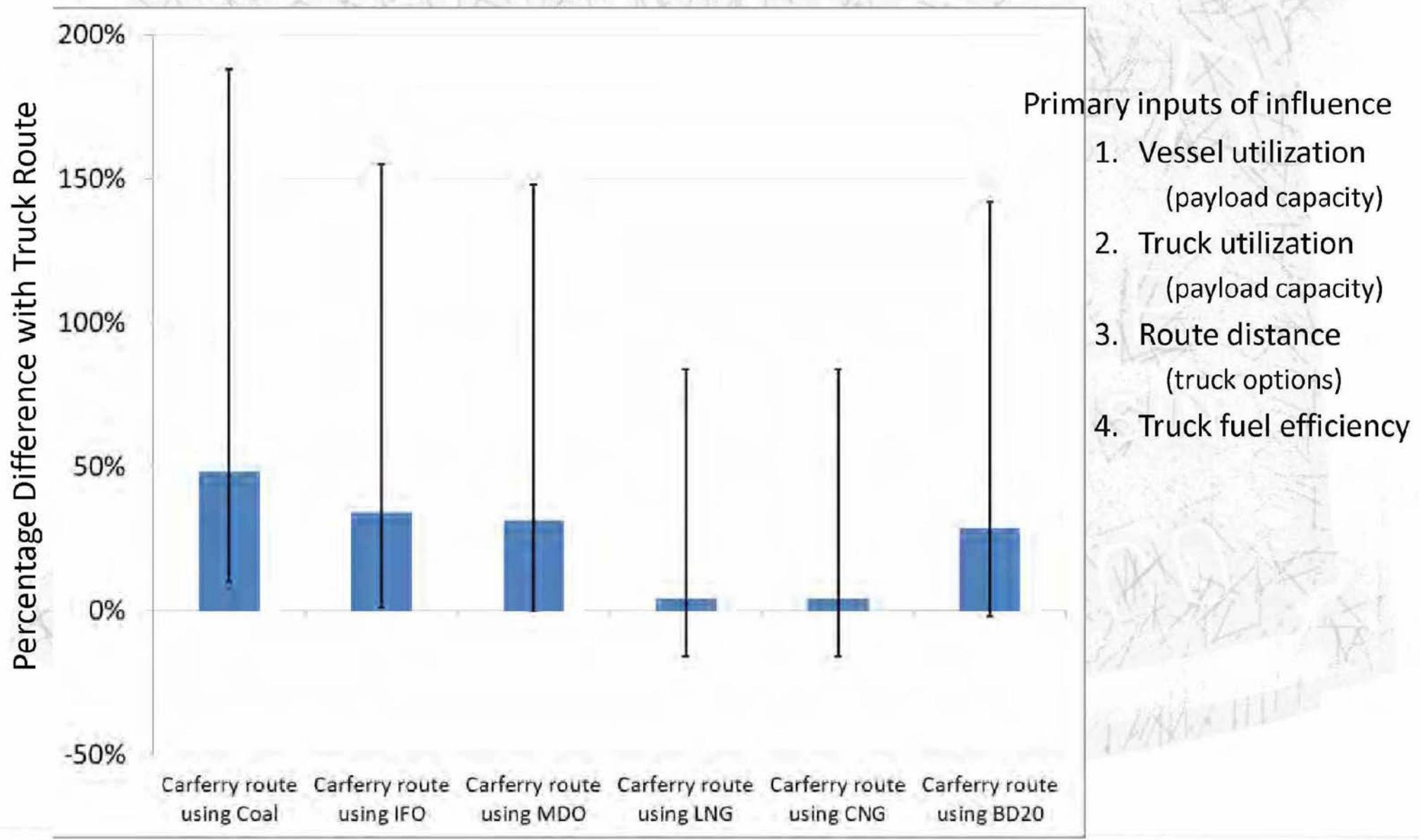
Sensitivity Analysis

Ranges for vessel and vehicle characteristics

| Parameter | Low | Best | High |
|-------------------------------------|------|------|------|
| Annual Vessel Trips | 445 | 445 | 460 |
| Vessel Engine Load Factor (%) | 50 | 73 | 80 |
| Vessel Boiler-Engine Efficiency (%) | 17 | 22 | 45 |
| Vessel Payload Capacity (TEU) | 31.2 | 117 | 117 |
| Ship Speed (knots) | 15.9 | 18.0 | 18.6 |
| Truck efficiency (mpg) | 5.5 | 6 | 7.2 |
| Truck Payload Capacity (TEU) | 1 | 2.6 | 2.6 |
| All-truck route distance (miles)* | 500 | 620 | 650 |



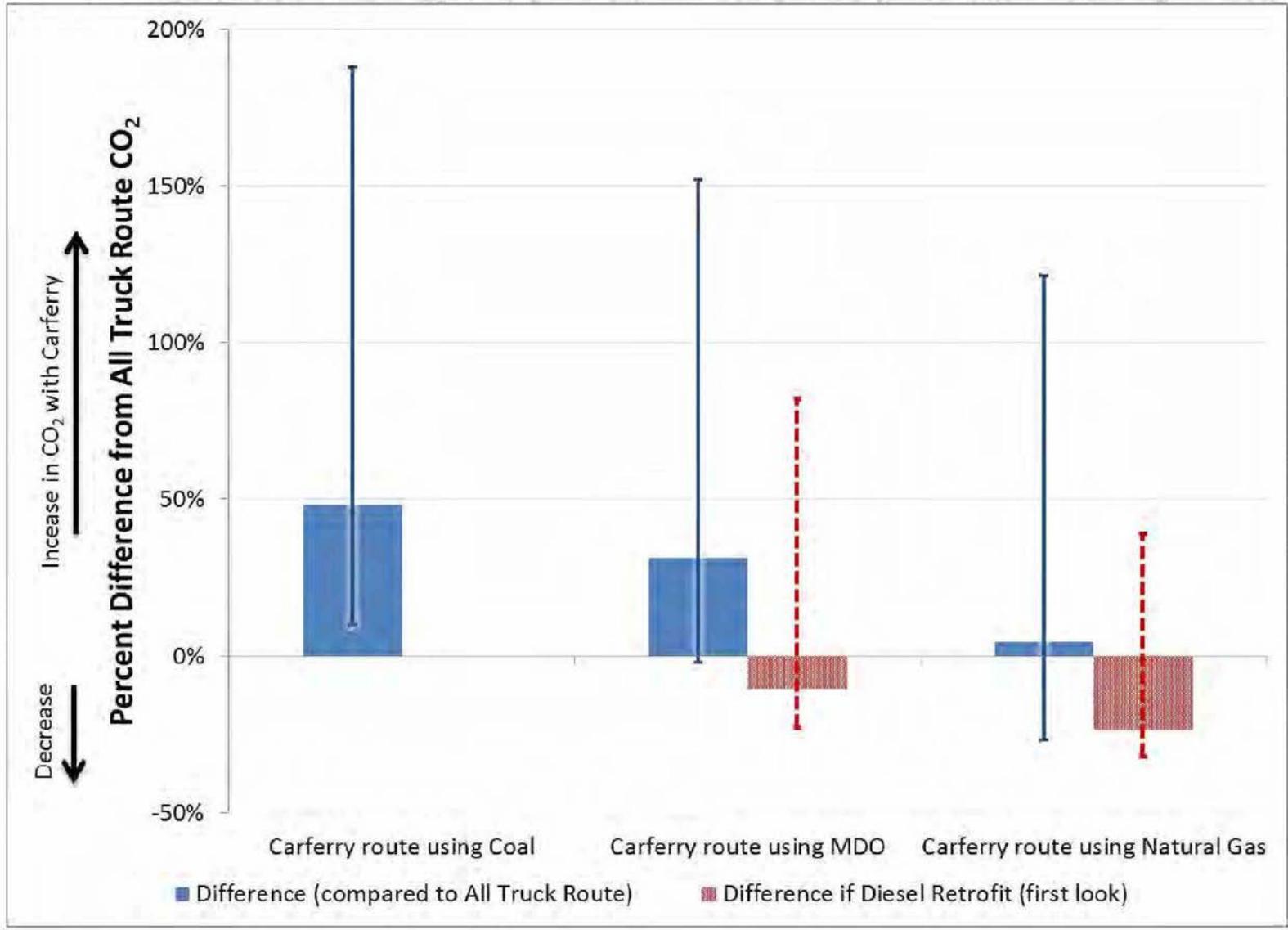
SS Badger CO₂ performance using current steam propulsion





Sensitivity results

Considering potential for improved thermal efficiency

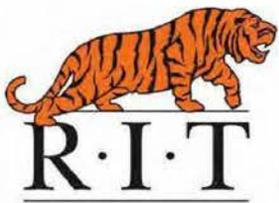


Improving fuel economy on the SS Badger (e.g., plant thermal efficiency) would substantially transform the analysis

Dieselization or other prime mover modernization can be coupled with alternative fuels to outperform all-truck route

Discussion Summary

- **Study scope**
 - Compare environmental performance of alternative routes (all-truck v. intermodal) under various fuel scenarios
- **Methods**
 - Apply GIFT model and SS Badger data to explore routes and environmental performance
 - Apply sensitivity analysis to identify high-leverage variables



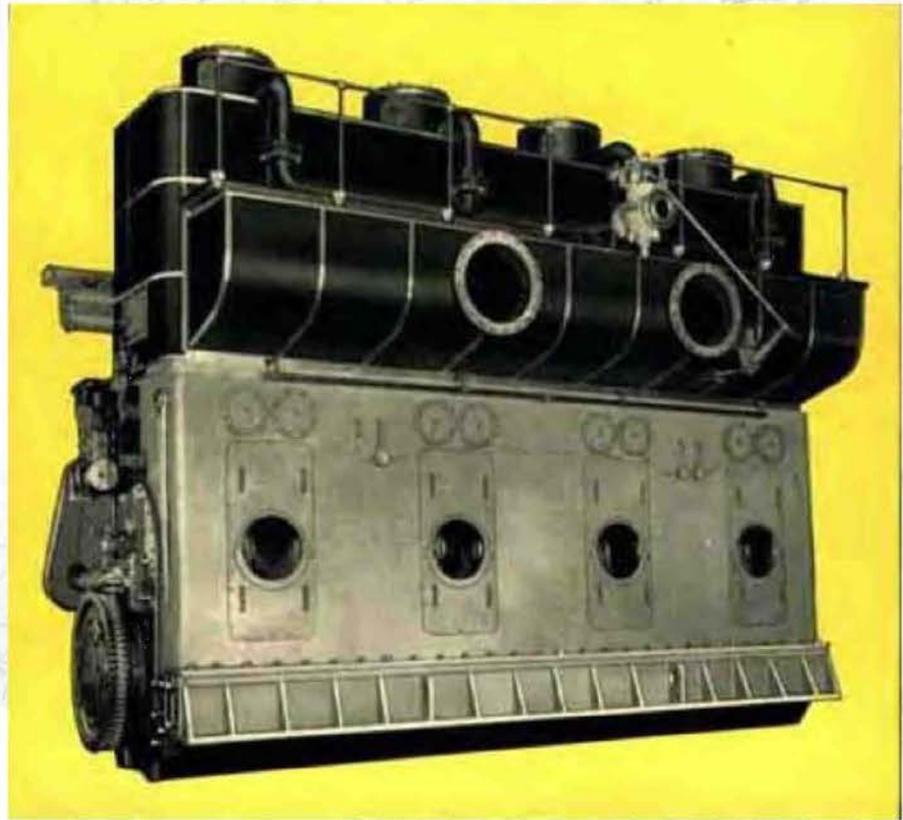
Results Summary

- Current all-truck route outperforms intermodal scenarios in most cases
- Results are case-specific to 1950s steam-propulsion technology and route served by SS Badger and do not include total fuel cycle emissions
- Sensitivity analysis reveals opportunities for natural gas or MDO with or without new engine designs, payload configuration, etc.
- Natural-gas-fueled engine propulsion can perform at lower CO₂ emissions than all-truck route

Conclusions

- Natural gas shows promise as a marine fuel for Great Lakes vessels
- Technology modernization can accompany a fuel-transition for Great Lakes (such as scrubbers, dieselization, payload configuration)
- A Great Lakes shipping transition to natural gas fuels will need to be strategic, and analyses like this study can serve as important decision support role for GLMRI and industry partners
- Adding a total fuel cycle analysis to this work will provide additional insights into the role of alternative fuels

Thank you





http://t1c_ferry.tripod.com/images/fleet/Badger-5.jpg



R. Burdick



BOARD OF DIRECTORS

WILLIAM LYNCH

President
Milwaukee

STEPHANIE TAI

Vice President
Madison

DANIEL IDZIKOWSKI

Treasurer
Milwaukee

HELEN SARAOKOS

Secretary
Madison

ARLEN CHRISTENSON

Founding President
Madison

MELISSA SCANLAN

Founder
Milwaukee

JIM GOODMAN

Wauwatosa

TIM JACOBSON

La Crosse

KELLY PARKS SNIDER

Madison

LARRY WAWRONOWICZ

Lac du Flambeau

STAFF

KIMBERLEE WRIGHT

Executive Director

KELLY FORMAN

Director of Administration
and Finance

DENNIS GRZEZINSKI

Senior Counsel

JODI HABUSH SINYKIN

Senior Counsel

BETSY LAWTON

Staff Attorney

MIRIAM OSTROV

Staff Attorney

JIMMY PARRA

Legal Advocate

KENDRA WOCHOS

Communications

April 26, 2013

Via email: pubcomment-ees.enrd@usdoj.gov

Assistant Attorney General, U.S. DOJ-ENRD

Re: United States v. Lake Michigan Trans-Lake Shortcut, Inc.,
D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

Midwest Environmental Advocates ("MEA") is submitting these comments regarding the proposed Consent Decree between the United States Environmental Protection Agency (EPA) and Lake Michigan Trans-Lake Shortcut, Inc. d/b/a Lake Michigan Carferry Service and S.S. Badger (LMC) on its own behalf and on behalf of the Milwaukee Riverkeeper ("Riverkeeper"). Midwest Environmental Advocates ("MEA") is a nonprofit environmental law center dedicated to protecting Wisconsin's environmental quality by advocating for the public's right to clean air, land and water. Riverkeeper is a nonprofit, membership-based organization whose mission is to protect water quality and wildlife habitat in the river corridors and to advocate for sound land use in rivers feeding into Lake Michigan. Riverkeeper is a member of the Waterkeeper Alliance, an international coalition dedicated to promoting clean water and healthy communities worldwide, and is the licensed Riverkeeper® for Milwaukee. We believe the proposed Consent Decree with LMC is inappropriate, inadequate, and improper.

The Clean Water Act prohibits facilities, including vessels, from discharging pollutants into waters of the United States without a discharge permit. (CITE) The S.S. Badger's discharges into Lake Michigan are subject to Vessel General Permit (VGP) issued by EPA under the Clean Water Act effective December 19, 2008.¹ That permit is currently in effect, and expires on December 19, 2013. The VGP, in a provision which applies solely to the S.S. Badger (as the only coal-fired large ferry in service), authorizes the Badger to discharge coal ash slurry into waters of the U.S. only until December 19, 2012:

§ 5.3.1. *Coal Ash from Coal Fired Propulsion Systems on Ferries.*



¹ Link to 2008 VGP: http://www.epa.gov/npdes/pubs/vessel_vgp_permit.pdf

The discharge of coal ash slurry from coal fired propulsion systems on a ferry is authorized in waters subject to this permit until December 19, 2012. All coal ash slurry discharges must comply with effluent limits in Part 5.3.2.3 of this permit.

The proposed Consent Decree explicitly “is not a permit, or a modification of a permit, under federal, state, or local laws or regulations.”² It states that LMC “is responsible for achieving and maintaining *complete* compliance with *all* applicable federal, state, and local laws, regulations, and permits.”³ (*emphasis added*). Thus, discharges of coal ash into Lake Michigan by the S.S. Badger during the 2013 operating season, or beyond -- which are not authorized by the VGP and which contain mercury, arsenic and many other toxic contaminants present in coal ash -- will remain unpermitted, and unlawful under the Clean Water Act, even if the proposed Consent Decree is approved.

The proposed Consent Decree is inappropriate, inadequate, and improper because it purports to approve of further coal ash discharges into Lake Michigan by LMC for two additional operating seasons, until the beginning of the 2015 season.⁴

The proposed Consent Decree states that it does not modify the VPG under which LMC is currently operating; it also purports to make LMC responsible for achieving and maintaining complete compliance with the issued Vessel General permit; but then grants LMC a two operating season reprieve from the unmodified permit’s requirement that discharges of coal ash slurry cease as of December 19, 2012, and inadequately addresses what will be an ongoing and continuous violation of the vessel’s current discharge permit and of state water quality standards. The conflicts between these provisions of the proposed Consent Decree, and between the provisions of the Decree and the unmodified requirements of the VGP should be enough to cast doubt on the reasonableness of the proposed Decree, and on whether it is in the public interest.

Moreover, the Badger’s history under LMC and under its previous owners/operators is further reason not to approve the proposed Decree. This history is one of a continuous pattern of non-compliance with environmental regulations. Granting LMC another two operating seasons of unlawful pollution will likely only result in more delay, non-compliance, and another round of requests to extend the deadline to cease discharging of coal ash slurry.

The S.S. Badger, the only coal powered steamship operating in the U.S., has had more than sufficient time and opportunity to remedy illegal polluting operations throughout its history. Instead, it has repeatedly chosen to take actions running counter to the law and in avoidance of environmental mandates. The S.S. Badger has operated with inferior technology since its beginnings. The S.S. vessel entered service in 1953 at a time when the transportation industry was already moving away from coal. In 1952, railroads had already begun a full-scale conversion

² Proposed Consent Decree Case 1:13-cv-00317 Doc#2-1 Filed 03/22/13 at ¶42

³ *Id.* (*emphasis added*)

⁴ *Id.*

from coal power to diesel fuel, and this trend likewise extended to car ferries.⁵ Between 1958 and 1965, Ann Arbor Railroad, a competing car ferry operator, converted its car ferries from coal to diesel power.⁶ The S.S. Badger and its then owners the C&O Railroad nevertheless decided not to follow suit. Despite this trend, and despite numerous studies and plans undertaken throughout the life of the S.S. Badger to bring the ship up to modern standards of pollution control, some such studies dating as far back as 1970, the S.S. Badger has remained adamant in its practice of, continuing to dump coal ash into Lake Michigan for decades beyond the service of any other coal powered ship.⁷ This inaction and environmental disregard is characteristic of the S.S. Badger's operation throughout the ship's history.

In 1966, the S.S. Badger was subject to complaints over the dumping of sewage, trash, and "black, viscous liquid for miles from a large diameter pipe."⁸ After pressure from lawmakers, C&O gave assurances that such dumping would cease, but eventually decided that making investments in the S.S. Badger would not be worthwhile. C&O therefore sought to cease operation of the S.S. Badger.⁹ This would not ultimately come to pass. After the full magnitude of the Lake Michigan dumping problem came to light, lawmakers passed the Michigan Watercraft Pollution Control Act of 1970, which prohibited the discharge of sewage and other wastes into Lake Michigan by watercraft. The plain language of the statute makes this prohibition clear:

(2) A person shall not discharge, dump, throw, or deposit garbage, litter, sewage, or oil from... watercraft used for pleasure or for the purpose of carrying passengers, cargo, or otherwise engaged in commerce on the waters of this state.¹⁰

This law forced partial modernization of the S.S. Badger, leading to modification of the ship to retain its sewage while making transit across Lake Michigan. However, the S.S. Badger continued to discharge its coal ash into Lake Michigan, claiming that this law did not prohibit coal ash dumping.¹¹ Such a claim seems particularly suspect in consideration of a further aspect of the Watercraft Pollution Control Act which allowed for onboard incineration of sewage as a disposal method but only under the condition that, "The ash shall be disposed of onshore in a manner that will preclude pollution."¹² The S.S. Badger continued its polluting discharges into Lake Michigan. This again became an issue in 1987 under Michigan DNR review.¹³

⁵ *Diesel Propulsion System Replaces Steam*, Ludington Daily News (March 19, 1997). This, and other historical references were provided to USEPA along with MEA's comments submitted on October 10, 2012 regarding Badger's then pending application for an individual discharge permit.

⁶ *Id.*

⁷ *Propulsion Plant Analysis of C&O Carferries*, R.A. Stearn, Inc. (Dec. 31, 1970).

⁸ *Car Ferry Agrees to Halt Dumping Refuse Into Lake*, Sheboygan Press, 23 (Dec. 5, 1966).

⁹ Letter from Wm. Bamert to C.R. Zarfoss (May 12, 1970).

¹⁰ MCLA 324.9502 (1970).

¹¹ 40 CFR 122.3

¹² MCLA 324.9503 (1970).

¹³ Michigan Department of Natural Resources Remedial Action Plan (1987).

Coal ash discharge was not the only environmental issue for the S.S. Badger during this time though. Amid rising concerns over air quality, in 1972 new air quality standards put the polluting smoke stacks of the S.S. Badger at issue. In internal correspondence, C&O once again stated its unwillingness to update the S.S. Badger to regulatory standards.¹⁴ Rather than making the necessary investments, the S.S. Badger would continue to operate in willful violation of air quality emissions standards in Michigan and Wisconsin for the next decade.¹⁵ When the ferry was sold to MWT in 1983, the S.S. Badger continued its air quality violations. Rather than forcing the S.S. Badger to convert to modern technology and follow the laws other ships on Lake Michigan were required to follow, lawmakers in both Michigan and Wisconsin allowed the S.S. Badger to be exempt from air quality standards in legislation passed in 1986 and 1990 respectively.¹⁶ To this day, under these exemptions, the S.S. Badger's emissions continue to exceed levels which otherwise constitute violations of air quality standards in Wisconsin and Michigan.

In addition to dumping coal ash in Lake Michigan and failing to comply with air emission standards, asbestos problems were present within the S.S. Badger. In 1984, toxic asbestos had been identified in the working environments of those employed on the S.S. Badger but remained unaddressed for five years.¹⁷ No tests were performed on the safety of the working environments on the S.S. Badger, and claims against LMC were settled out of court. The owners of the S.S. Badger stated that replacing such materials would be "too costly."¹⁸

In 1987, the Michigan DNR prepared a report regarding lake dumping activities. In this report, the Michigan DNR stated that dumping sewage, ashes, and other wastes had been made illegal through state laws and that such activities had since ceased.¹⁹ Contrary to this very clear statement by the regulators, the S.S. Badger continued to hold that its dumping was not a violation. The S.S. Badger continued dumping coal ash into Lake Michigan despite the MDNR's stance.

Even when offered incentives to clean up its act, the S.S. Badger has not only ignored its regulatory obligations but has spurned attempts by the government to help the ship enter the modern era. In 2001, the Michigan legislature proposed financing to help the S.S. Badger and its current owner, Lake Michigan Car Ferry, convert the vessel to diesel power.²⁰ LMC President Robert Manglitz declined the funding, stating that while he understood the, "importance of repowering the Badger," the company did not want government interference.²¹ Since then, after a dozen years, LMC has come no closer to repowering the S.S. Badger with an alternative fuel source and has subsequently dumped more than 6000 additional tons of coal ash into Lake Michigan, an operation LMC has no plans to change in the near future.

¹⁴ Letter from Wm. Bamert to C.R. Zarfoss (May 12, 1970).

¹⁵ Letter from L.J. Holmes, Michigan Department of Natural Resources, to Lee Rosenberg, Interstate Commerce Commission (Aug. 24, 1976)

¹⁶ MI Stat. 324.5513 (1986); WI Act 247 (1990).

¹⁷ *Replacing Asbestos in Carferries Too Costly*, Ludington Daily News, Richard Dancz (Aug. 13, 1984).

¹⁸ *Id.*

¹⁹ Michigan Department of Natural Resources Remedial Action Plan, 131 (1987).

²⁰ *Reader's Forum*, Ludington Daily News (May 1, 2001).

²¹ *Id.*

Recently the State of Wisconsin awarded the S.S. Badger a grant to “help accelerate the conversion process away from coal.”²² Considering LMC’s earlier refusal to accept government assistance, the likely real-world impact of this new grant should not be exaggerated. Unless LMC can provide a concrete date in the immediate future for completing the S.S. Badger’s conversion and eliminating ash discharges, it should not be given approval by EPA or by any court, to continue discharging coal ash into Lake Michigan, the source of drinking water for millions of residents in 4 states. As discussed below LMC has had more than ample time to convert the vessel from coal power, and if it is simply being provided more money without an *immediate* deadline to complete the conversion, LMC will likely continue to drag its feet on a problem that needs to be resolved now. Approving a Consent Decree that allows continued coal ash dumping, even at modestly reduced rates, is likely to result in nothing other than requests for yet another extension or for yet another legislative exemption, without ever converting the ship to non-polluting operation.

The EPA previously granted the S.S. Badger a discharge exception with the understanding that the ship would cease to dump coal ash by the end of 2012. In 2008, the United States Environmental Protection Agency put LMC and the S.S. Badger under regulatory scrutiny for its practice of dumping coal ash under the new Vessel General Permit.²³ Given that other all coal-fired ships on Lake Michigan had long since converted to cleaner and more efficient fuels several decades ago, the EPA authorized the discharge of coal ash slurry, but limited its duration.²⁴ EPA allowed the practice to be exempt from normal regulation until December 19, 2012.²⁵ The decision to allow the discharge of coal ash slurry until December 19, 2012 was based on statements made by LMC:

Owners of the Badger are aggressively pursuing a range of options for developing and constructing an ash containment system on board the vessel... Owners of the Badger believe the full process of developing, constructing and testing the containment system should be completed in time for the vessel to operate with no discharges by the opening of the Badger’s season in the spring of 2012.²⁶

The EPA considered these comments when selecting a date to end authorized discharging of coal ash slurry, and authorized the discharge for an additional season beyond May 2012 “for some contingency time in case the owner/operator faces additional difficulties in eliminating the discharge type.”²⁷ The EPA clearly gave LMC more than ample time to solve its coal ash discharge problem under the VGP.

²² Letter from Governor Walker to Susan Hedman (October 1, 2012).

²³ Water Permits Div., U.S. Environmental Protection Agency, Proposed VGP: EPA’s Response to Public Comments 6-557 (Dec. 19, 2008).

²⁴ *Id*

²⁵ Proposed VGP: EPA’s Response to Public Comments, 6-558 (December 19, 2008).

²⁶ Comment on proposed Vessel General Permit, from Barry M. Hartman, K&L Gates, to U.S. Environmental Protection Agency, 13 (Oct. 10, 2008).

²⁷ Proposed VGP: EPA’s Response to Public Comments, 6-558 (December 19, 2008).

Even though the EPA had provided LMC with sufficient time under the Vessel General Permit to develop a plan to eliminate coal ash discharge on the S.S. Badger, LMC failed to pursue realistic alternatives. Instead, LMC claimed to consider some unrealistic options and sought ways to get around the environmental regulations. During the exemption period of the VGP, LMC considered and ultimately dismissed several options for eliminating the coal ash discharge. LMC first considered creating ash storage containers and dumping the ash in landfills on shore, but dismissed this proposal as not “technically feasible or economically achievable.”²⁸ LMC also considered converting the S.S. Badger to diesel power, which the company acknowledged was technically feasible but claimed the conversion would be “problematic” and due to the cost of fuel would result in the ship being no longer economically viable.²⁹

LMC has more recently been considering the idea of converting the S.S. Badger to run on natural gas.³⁰ LMC believes that conversion to natural gas propulsion is the “best future alternative technically, economically and environmentally.”³¹ When, if ever, in the future this alternative will become viable remains unclear. LMC has acknowledged that natural gas propulsion technology is in the development stages and would not be available in 2012 or 2013.³² LMC also noted that neither Manitowoc WI, nor Ludington MI have the infrastructure to deliver natural gas to the ship, and no date has been identified or even suggested as to when a natural gas supplier would build the infrastructure.³³ LMC further stated that the company cannot install the required equipment until the development of the infrastructure is scheduled.³⁴ Instead of pursuing currently available options, LMC spent the time given to it by the VGP looking into options that clearly would not be achievable by the December 2012 deadline.

Not only did LMC spend much of the time allotted to it by the VGP pursuing unattainable propulsion systems, but the company also spent that time trying to completely circumvent environmental laws. LMC arranged to have the S.S. Badger and its coal-fired propulsion system placed on a list of National Landmarks.³⁵ The application for placement on this list shows LMC’s intent to avoid its promises to the EPA, even going so far as to paint the EPA as an antagonistic organization threatening the existence of the ship:

Currently, however, the propulsion system is under threat from a ruling by the Environmental Protection Agency that Badger must stop dumping her coal ash into Lake Michigan by 2012. It is unclear how this mandate might be met. The options include conversion to oil firing, which would destroy part of the historic coal-delivery system and significantly increase operating costs. An expensive alternative is to install diesel propulsion units aft of the present machinery spaces, leaving the historic machinery intact but unused. Retention of the coal ash on

²⁸ *Id.* at 7.

²⁹ *Id.* at 34.

³⁰ *Id.* at 33.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ National Historic Landmark Nomination, prepared by William M. Worden (June 2011).

board for on-land disposal presents almost insurmountable obstacles given the limited space available for storing red-hot material in the already crowded boiler room.³⁶

On November 3, 2011, members of Congress from both Wisconsin and Michigan offered the following amendment to H.R. 2838, the appropriations bill for the Coast Guard for years 2012-15, “Special Consideration for Vessels of Historical Significance.”³⁷ This bill, if it succeeded, would have exempted S.S. Badger from all future environmental mandates, and allowed the ship to continue discharging coal ash slurry into Lake Michigan as provided in the VGP.³⁸ LMC’s lack of action in implementing a plan to bring the S.S. Badger into compliance with environmental regulations, and its actions in seeking to exempt the ship from environmental regulations during the time allotted to the company under the VGP, demonstrate that LMC squandered the time provided by the EPA and also did not take its promises to the agency seriously.

Having accomplished nothing during the duration of the VGP, and with the VGP’s coal ash slurry exemption expired, LMC then asked for more time to waste, and it is unreasonable for EPA to agree to another two operating seasons of coal ash dumping into Lake Michigan, and unreasonable for a court to approve such a proposal. Amazingly, after the four year exemption of the VGP expired, LMC came up with an ash retention plan that the company felt may be viable, and could be implemented in two years.³⁹ In a 2012 letter to the EPA, LMC outlined how the company would use the time it could continue to discharge coal ash slurry if only it were given several more years to implement a modified system. Until December 31, 2014, LMC proposed to continue to pursue the option of a natural gas propulsion system, and only abandon the idea if a plan could not be reached by the end of December 2014 – a plan that could not be implemented by 2017.⁴⁰ If no natural gas plan could be attained, LMC would spend 2015 designing, engineering and getting approval for a new stoker and combustion controls for the ash retention system that would be installed by the 2016 season.⁴¹ The 2016 season would be spent monitoring the new implementations and fine-tuning the final designs of the ash retention unit, which would be completed and installed for the 2017 season.⁴² The time outline provided by LMC illustrates LMC’s lackadaisical and dilatory approach towards ending the Badger’s discharge of coal ash. Clearly, LMC’s plan is not to end the dumping of coal ash into Lake Michigan. Rather, it is simply to continue operating in its historical, polluting way, until it is actually forced to stop.

The proposed consent decree, which purports to authorize the Badger to continue dumping coal ash into Lake Michigan for another two operating seasons, provides for a “penalty” of \$25,000. This is only two-thirds of the statutory maximum penalty *for a single*

³⁶ *Id.* (emphasis added).

³⁷ House Conference Report 112-267, U.S. House of Representatives 13 (Nov. 3, 2011).

³⁸ *Id.*

³⁹ Letter from Chuck Leonard, VP Navigation Lake Michigan car Ferry, to Susan Hedman, Regional Administrator Region 5 U.S. Environmental Protection Agency (Aug 16, 2012).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

day's violation of the Clean Water Act. Given the magnitude of the violations involved, and the Badger's and LMC's history of foot-dragging, this paltry "penalty" looks more like a reward to the Badger and its owner/operator for their years and even decades of thumbing their noses at the requirements of the nation's, Wisconsin's and Michigan's environmental laws.

To conclude, the S.S. Badger has a long history of illegal polluting, and LMC has been disingenuous in its commitment to comply with environmental regulations throughout this history. From its early years, the S.S. Badger has operated on inferior technology. The various owners of the ship have often openly disregarded environmental regulations. Over the period of the VGP, LMC at best half-heartedly pursued options to bring the S.S. Badger into compliance with environmental requirements, and at the same time sought legislative means to avoid having to comply with those requirements at all. This pattern needs to end now. LMC has had more than enough time to find ways to operate without discharging coal ash slurry. The proposed Consent Decree that purports to allow continued coal ash dumping for another two operating seasons would be an affront to the Clean Water Act and to the millions of people who rely on Lake Michigan for their water supplies.

For the foregoing reasons Midwest Environmental Advocates and Milwaukee Riverkeeper strongly urge DOJ and EPA to withdraw the proposed Consent Decree and to require LMC to promptly cease discharging coal ash into the waters of Lake Michigan.

Very truly yours,



Dennis M Grzezinski
Senior Counsel
Midwest Environmental Advocates
Milwaukee Office
1845 N. Farwell Avenue, Suite 202
Milwaukee, WI 53202
414 455-0739
414 455-0744 fax
dennisg@midwestadvocates.org

cc: Karen Schapiro, Exec. Dir. Milwaukee Riverkeeper
Cheryl Nenn, Milwaukee Riverkeeper



LARRY EMIG
Chairperson, Local Elected Officials
SHERI THOMPSON
Chairperson, Workforce Development Board
PAUL J. GRIFFITH
Executive Director

April 3, 2013

Assistant Attorney General
U.S. DOJENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: United States vs. Lake Michigan Trans-Lake Shortcut, Inc.
D.J. Ref. No. 90-51-1-10771

Dear Assistant Attorney General,

This letter is written in support of the proposed consent decree concerning Lake Michigan Carferry in Ludington, Mich. As a longtime community partner in Ludington, we see first-hand the economic impact Lake Michigan Carferry has on the Ludington community and fully support the S.S. Badger's continued operation.

Michigan Works! West Central serves five counties - Lake, Mason, Mecosta, Newaygo and Osceola. Thousands of people travel across US-10 each year through Lake, Mason, and Osceola County who are on their way to Ludington, a summertime premier destination. They travel through our three counties and stop to buy food, gas, and other necessities during their travels, not to mention the dollars they spend while in Ludington. It's important to note that not only does the S.S. Badger attract people to Ludington, it attracts people in Wisconsin as well. Economic impact studies show the S.S. Badger contributes more than \$14 million annually to the city of Manitowoc, Wis., and more than \$21 million annually to city of Ludington. This equates to more than \$570 million total in both ports since 1992 when LMC assumed ownership of Lake Michigan Carferry.

Furthermore, the S.S. Badger helps Michigan and Wisconsin companies get their products to market cheaper and faster. The Badger carries semi-trucks and other large over-dimensional trucks hauling items such as wind turbines manufactured in Manitowoc for erection in Michigan, saving millions of gallons of fuel and reducing air pollution.

Michigan Works! remains committed to improving regional employment conditions and has provided support to Lake Michigan Carferry's staff during its hiring needs which includes seasonal, part-time, and full-time employment. We look forward to continuing to assist Lake Michigan Carferry's business operations and helping residents secure employment. We urge you to accept the proposed consent decree and keep the S.S. Badger afloat on the waters of Lake Michigan. It's a win-win situation for everyone, including one of our state's greatest natural resources.

Sincerely,

[Handwritten signature of Larry Emig]

Larry Emig, Chairperson
Local Elected Officials

[Handwritten signature of William Stanek]

William Stanek, Chairperson
Workforce Development Board

Our Mission: "To continually improve a Workforce Development System that produces a workforce with the required skills to attract, retain and expand business and enhance our regional economy."

Some Programs Funded by the MI Economic Development Corp-Workforce Development Agency/Equal Opportunity Employers/Programs
MI Relay Center • 800 649.3777 (Voice and TTY)

Auxiliary aids and services are available upon request to individuals with disabilities.

www.michworks.org

231.796.4891 • Fax: 231.796.8316

Big Rapids, Michigan 49307

14330 Northland Drive



202 N 8th St - Ste 101
PO Box 813
Manitowoc, WI 54220
P: 920.482.0540
F: 920.682.6816
www.edcmc.org

April 17, 2013

Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
PO Box 7611
Washington, D.C. 20044-7611

SUBJECT: D.J. Ref. No. 90-5-1-1-107771, Proposed Consent Agreement Regarding United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

To Whom It May Concern:

The Economic Development Corporation of Manitowoc County supports the proposed Consent Agreement between the U.S. Environment Protection Agency and Lake Michigan Carferry Services/SS Badger as being in the public interest and an appropriate resolution to the longstanding issue of this historic vessel discharging coal ash into Lake Michigan.

The Badger is an economic lifeline to Manitowoc, WI and Ludington, MI, as well as many of the nearby surrounding areas. It provides 200 jobs directly and supports another 500 indirectly and has a combined overall economic impact of \$35 million annually for both cities. Not only does the Badger provide critical transport and cargo shipping for Midwest businesses, but it also helps stimulate the region's tourism industry.

Without the Badger transporting residents, tourists and cargo each year, thousands of cars and trucks would be forced to make the eight-hour trip around Lake Michigan, clogging already congested roadways and adding significantly more air pollution to the region. In addition, the wear and tear on our roadways, with the heavy freight, would add significant costs to our road system maintenance.

We believe that the proposed Consent Agreement, which establishes a two-year timetable for ceasing the discharge of ash, strikes a fair balance between environmental protection and the economic needs of a region that needs the continued economic benefits provided by the S.S. Badger. The Economic Development Corporation of Manitowoc County fully supports the approval of this Consent Agreement.

Sincerely,

A handwritten signature in cursive script that reads "Connie Loden".

Connie Loden
Executive Director

April 19, 2013

Assistant Attorney General
U.S. DOJ – ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE:

Reference Case Number: D.J. Ref. No. 90-5-1-1-10771
Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry
Services and SS Badger

Dear Sir:

I appreciate the opportunity to express my feelings on the decision to allow the SS Badger to operate for two more years and give them time to solve the ash disposal problem.

The SS Badger is an extremely important economic connection between our community in Wisconsin and Ludington, Michigan, on the Michigan shores. It is a very viable alternative to shipping products and services from the Manitowoc area to the east, and vice versa. Several of our local companies in the Manitowoc/Two Rivers area utilize the S.S. Badger's cargo carrying capabilities on a regular basis.

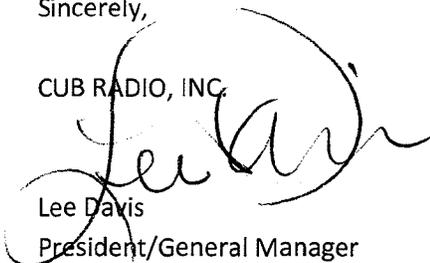
Thousands and thousands of people visit Manitowoc, either coming or going across Lake Michigan. This link was once called the extension of Highway 10. It is a valuable resource to our communities, and we are very hopeful that the car ferry service can continue for ever.

I care about the water from Lake Michigan – I drink it every day. I am also concerned with the opportunity to continue to survive with a robust and strong economy. The SS Badger helps make that possible. I am confident the extra time will allow a solution so we can have both – a clean lake and a strong economy, so we can continue to live in this beautiful area.

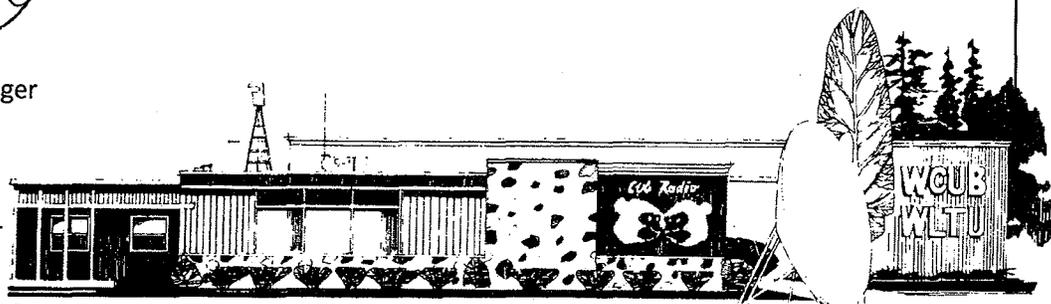
Thank you for your consideration of my comments.

Sincerely,

CUB RADIO, INC.


Lee Davis
President/General Manager

LD/dld



Cub Radio, Inc. 1915 Mirro Drive Manitowoc, WI 54220 (920) 683-6800
WCUB Two Rivers, WLTU Manitowoc

WASHINGTON ISLAND FERRY LINE, INC.

DETROIT HARBOR
WASHINGTON ISLAND, WISCONSIN 54246
920-847-2546
800-223-2094
FAX 920-847-2807



U. S. Department of Justice
Assistant Attorney General
Environmental and Natural Resources Division
PO Box 7611
Washington, D. C. 20044-7611

To Whom It May Concern:

It has come to our attention that the SS Badger may be granted permission to operate for another two years with its present coal-fired plant. Continuation of the SS Badger's operations is in the public interest.

We heartily support the DOJ decision to allow the Badger to continue. It makes sense for the general public, which relies on the Badger for transportation, and for the enjoyable experience of crossing Lake Michigan. It makes economic sense for the Badger employees, several hundred of them, and the hundreds of people in Michigan and Wisconsin whose business or livelihood depends wholly or in part on the Badger's continued operations.

It is our further belief that the Badger's emissions and coal ash is relatively small - insignificant almost - when compared to other major Lake Michigan pollution sources. Were it not for the merciless campaign to disparage the Badger in the press, and in political circles, it would not be the issue it is today.

However, that being said, we believe that ultimately the Badger's power plant will be modernized. It will take time, with help and the coordination of various factors - including proper safety regulations and vessel standards that also are in the best

interest and safety of the public, as well as financial support - to make this a reality. We believe that day of fuel conversion for the Badger is not far off, and that the Consent Decree will give the Badger the necessary time for a successful change.

Operating a Lake Michigan ferry company, although our vessels, route and scale is much smaller than the Badger, we know of annual challenges that face ferry transportation, a business with extremely high capital investment. And yet, our community depends upon our continued, regular service, much as other communities rely on the Badger.

The Washington Island Ferry Line Board of Directors, therefore, passed a resolution to support the Consent Decree to allow the Badger to continue at a meeting Monday evening, April 15, 2013.

Respectfully,

A handwritten signature in black ink, appearing to read "Hoyt R. Purinton". The signature is written in a cursive style with a long horizontal flourish extending to the right.

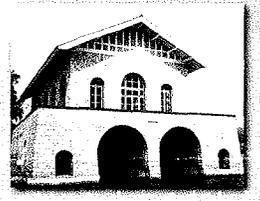
Hoyt R. Purinton

President

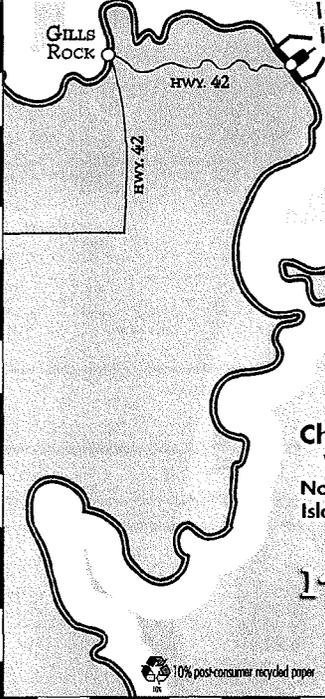
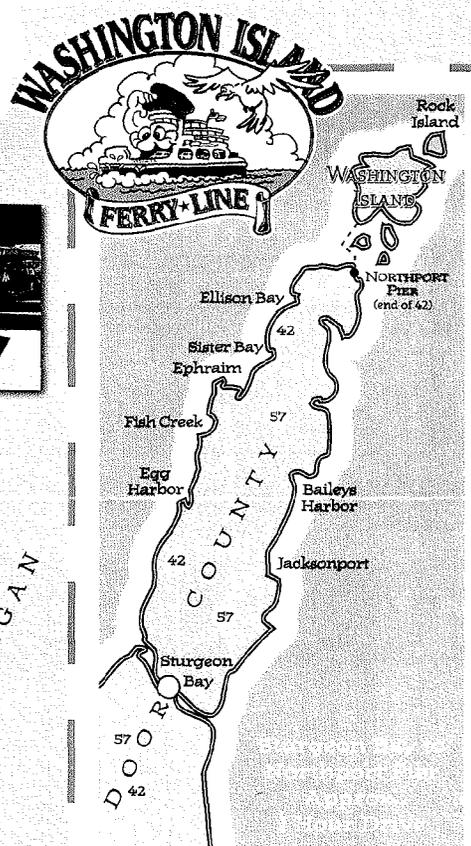
- ### PLACES TO STAY
- Bitter End Motel..... 877-635-7367
 - *Bread & Water..... 920-535-0077
 - Cascio Cottages.com..... 414-427-0850
 - Cedar Lodge..... 920-535-0126
 - *Cedar Point Inn..... 920-847-2180
 - Cottage on the Bay..... 920-847-2311
 - Deer Run Golf Course
& Resort..... 920-847-2017
 - Dor-Cros Inn..... 920-847-2126
 - Door Passage Vacation
Rentals..... 920-847-2870
 - *Findlay's Holiday Inn..... 800-522-5469
 - Flath's Cottages..... 920-847-2325
 - Frog Hollow Farm
Bed & Breakfast..... 920-847-2835
 - Funk's Cottage..... 920-535-0008
 - *Gibson's
West Harbor Resort..... 920-847-2225
 - *Greengate Farm
Country Rentals..... 920-847-2502
 - Hansen's Cottages..... 920-847-2260
 - Harbor View..... 920-847-2835
 - Jackson Harbor Inn..... 920-847-2454
 - Lindgren's Sunrise Cottages..... 920-847-2021
 - McDonald Cottages..... 920-847-2396
 - Riola Shorthorn Farm
Getaway..... 920-847-2678
 - Rocky Ridge Farm..... 847-360-9313
 - Shellswick's Cottage..... 920-847-2368
 - Summer Place..... 920-847-2285
 - Sunset Resort..... 920-847-2531
 - *Townliner Motel..... 920-847-2422
 - *Viking Village Motel..... 920-847-2551
 - *Watermark Inn..... 920-847-2183
 - Westwind..... 920-847-2517
 - W.I. Homestead Lodging... 920-847-2870/2478
 - CAMPING
 - Washington Island Campground.. 920-847-2622
 - Rock Island State Park..... 920-847-2235
- * Open All Year

WASHINGTON ISLAND

Population 716



8.4 MILE ROUTE TO KARFI
SUGGESTED BIKE ROUTES
MILEAGE



Check out our WebCam!
Northport Pier and Island Ferry Docks



1-800-223-2094 • 1-920-847-2546
wisferry.com
PO Box 39 • Washington Island, WI 54246

10% post-consumer recycled paper

SINCE 1963

CHERRY TRAIN TOURS

Narrated Tours of Washington Island

Your driver informs and entertains with four stops of interest along the route.

Cherry Train LLC
800-223-2094
wisferry.com

Cherry Train Tour Schedule

| | | |
|------------------------------------|----------|----------|
| May 10 through June 28 | 11:00 am | 1:00 pm |
| June 29 through Aug. 18 | 11:00 am | 2:00 pm |
| *No tours at this time on Sundays. | 12:30 pm | *3:15 pm |
| Aug. 19 through Oct. 20 | 11:00 am | 1:00 pm |

- Open air trams
- Four stops along route, each 10-15 minutes
- Tours just under 2 hours
- Food and shops available near the island terminal
- Please allow 30 minutes for ferry crossing

Rock Island State Park Via the Karfi

ferries from Jackson Harbor to Rock Island daily, late May through mid-October.

OFFERS:
 House - the oldest in Michigan, restored and furnished.
 Boat house and exhibits
 Scenic view of the Lake
 Life of early Michigan
 Trip

| 2013 Rock Island Schedule | | | | |
|---------------------------|----------------------|----------|-------------------|----------|
| SPRING | Leave Jackson Harbor | | Leave Rock Island | |
| May 24 thru June 27 | 10:00 am | 2:00 pm | 10:15 am | 2:15 pm |
| | 12:00 noon | 4:00 pm | 12:15 pm | 4:15 pm |
| SUMMER | Leave Jackson Harbor | | Leave Rock Island | |
| June 28 thru Sept. 2 | 10:00 am | 2:00 pm | 10:15 am | 2:15 pm |
| | 11:00 am | 3:00 pm | 11:15 am | 3:15 pm |
| | 12:00 noon | 4:00 pm | 12:15 pm | 4:15 pm |
| *Friday only | 1:00 pm | 6:00 pm* | 1:15 pm | 6:15 pm* |
| FALL | Leave Jackson Harbor | | Leave Rock Island | |
| Sept. 3 thru Oct. 14 | 10:00 am | 2:00 pm | 10:15 am | 2:15 pm |
| | 12:00 noon | 4:00 pm | 12:15 pm | 4:15 pm |

2013 ROCK ISLAND ROUND TRIP COMBINATION*
 FERRIES TO BOTH WASHINGTON AND ROCK ISLANDS
 Adult Combination...\$24.00 Child Combination (6 thru 11)...\$12.00
 THESE ADDITIONAL RATES MAY APPLY:
 Cart or Wagon.....\$3.00
 Canoe or Kayak.....\$10.00
 *Rock Island Combination does not include auto ticket, or transportation from Detroit Harbor to Jackson Harbor

Buy combination tickets for both Rock Island and Washington Island ferries at Northport.



Washington Island Ferry Line, Inc.
 2013 SCHEDULE - EFFECTIVE MARCH 29, 2013

| | To Island | | From Island | |
|--|------------|---------|-------------|------------|
| FRIDAY, March 29 2013 thru FRIDAY, May 3 | 8:00 am | 1:00 pm | 7:00 am | 12:00 noon |
| | 9:30 am | 3:00 pm | 8:45 am | 2:00 pm |
| | 11:00 am | 5:00 pm | 10:15 am | 4:00 pm |
| SATURDAY, May 4 thru | 8:00 am | 2:00 pm | 7:00 am | 1:00 pm |
| | 9:00 am | 3:00 pm | 8:00 am | 2:00 pm |
| | 10:00 am | 4:00 pm | 9:00 am | 3:00 pm |
| | 11:00 am | 5:00 pm | 10:00 am | 4:00 pm |
| FRIDAY, June 28 | 12:00 noon | 6:00 pm | 11:00 am | 5:00 pm |
| | 1:00 pm | | 12:00 noon | |

| | To Island | | From Island | |
|------------------------|-----------|---------|-------------|---------|
| SATURDAY, June 29 thru | 7:30 am | 1:45 pm | 6:45 am | 1:00 pm |
| | 8:15 am | 2:15 pm | 7:30 am | 1:30 pm |
| | 9:00 am | 2:45 pm | 8:15 am | 2:00 pm |
| | 9:45 am | 3:15 pm | 9:00 am | 2:30 pm |
| SUNDAY, August 18 thru | 10:15 am | 3:45 pm | 9:30 am | 3:00 pm |
| | 10:45 am | 4:15 pm | 10:00 am | 3:30 pm |
| | 11:15 am | 4:45 pm | 10:30 am | 4:00 pm |
| | 11:45 am | 5:15 pm | 11:00 am | 4:30 pm |
| | 12:15 pm | 5:45 pm | 11:30 am | 5:00 pm |
| | 12:45 pm | 6:15 pm | 12:00 noon | 5:30 pm |
| | 1:15 pm | 6:45 pm | 12:30 pm | 6:00 pm |

| | To Island | | From Island | |
|--|------------|----------|-------------|------------|
| MONDAY, August 19 thru SUNDAY, October 20 (EXTRA TRIPS LABOR DAY WEEKEND) *not after Sept. 2 | 8:00 am | 2:00 pm | 7:00 am | 1:00 pm |
| | 9:00 am | 3:00 pm | 8:00 am | 2:00 pm |
| | 10:00 am | 4:00 pm | 9:00 am | 3:00 pm |
| | 11:00 am | 5:00 pm | 10:00 am | 4:00 pm |
| | 12:00 noon | 6:00 pm | 11:00 am | 5:00 pm |
| | 1:00 pm | 6:15 pm* | 12:00 noon | 5:30 pm* |
| MONDAY, Oct. 21 thru SUNDAY, Dec. 1 | 8:00 am | 1:00 pm | 7:00 am | 12:00 noon |
| | 9:30 am | 3:00 pm | 8:45 am | 2:00 pm |
| | 11:00 am | 5:00 pm | 10:15 am | 4:00 pm |

| | To Island | | From Island | |
|---|-----------|---------------|-------------|---------------|
| MONDAY, Dec. 2 thru WED., Jan. 1, 2014 | 9:00 am | 2:15 pm | 8:00 am | 1:00 pm |
| | 11:00 am | 4:30 pm | 10:00 am | 3:30 pm |
| THURSDAY, Jan. 2 thru THURSDAY, Mar. 27, 2014 | 9:30 am | Daily 2:30 pm | 8:00 am | Daily 1:00 pm |

| | To Island | | From Island | |
|--------------------|-----------|-------------------------|-------------|--|
| Friday Night Trips | 7:45 pm | (April 5 - November 1) | 7:00 pm | |
| | 8:15 pm | (June 28 - August 30) | 7:30 pm | |
| | 9:15 pm | (April 5 - November 1) | 8:30 pm | |
| | 10:30 pm | (June 28 - August 16) | 9:45 pm | |
| Sat. Night | 8:15 pm | (June 15 - August 31) | 7:30 pm | |
| Sun. Night | 8:15 pm | (June 23 - September 1) | 7:30 pm | |

ROUND TRIP RATES 2013

Adult Passenger.....\$13.00 Child (6 thru 11).....\$7.00
 Auto (Passengers not included).....\$26.00 Motorcycle.....\$15.00 Bicycle.....\$4.00
 Schedule is subject to weather and traffic • Pets must be in car or with leash on car deck



**People • Vehicles
 Bicycles • Tours**

Plus...

- Rock Island Ferry (Karfi)
- Cherry Train Tours

Daily Service from
 Northport Pier Mainland Dock
 215 Highway 42 and Death's Door

1-800-223-2094
wisferry.com

Northport GPS:
 Latitude, North 045° -- 17.4' / Longitude, West 086° -- 58.6'

Mason County Manufacturers Association

April 24, 2013

Assistant Attorney General
U.S. DOJ-ENRD
PO Box 7611
Washington, DC 20044-7611

Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc.

Dear Assistant Attorney General

Please accept this letter as the Mason County Manufacturer's Association (MCMA) support for the recently developed "consent decree" between Lake Michigan Carferry and the U.S. Environmental Protection Agency.

Manufacturers are very interested in continuous improvement, which is the key to their continued success, and this is no more apparent than in Mason County, home of the SS Badger. The MCMA is an association of 17 members of a variety of industries in the Ludington, MI and Mason County area. It is common for government agencies (local, state, and national) to frequently make decisions that are WIN WIN for both industry and the agencies. This "consent decree" is a positive example of a "continuous improvement" decree between business and government, which arrives at a position that allows two additional years to resolve the very complicated issue of the discharge of ash in a reasonable and cost effective manner.

In the decree LMC agrees to stop the discharge of ash in two years, which is a timeframe the EPA said is faster than could be accomplished through any other method. It allows the Badger to keep sailing and preserves 200 plus direct jobs in the two "sister cities" of Manitowoc, WI and Ludington, MI and hundreds

of indirect jobs in associated businesses. The estimated economic impact to the two cities was in excess of \$30,000,000 per year.

As an association that represents well over 2,000 jobs in Mason County, we fully endorse and support this decree and feel a positive outcome will result from this decree. It will be an example of forward thinking at the EPA and permit positive economic results in both Michigan and Wisconsin.

Congratulations on a WIN WIN decree!

Respectfully,

A handwritten signature in cursive script, appearing to read "David Grafton".

David Grafton
Chairman
Mason County Manufacturers Association
5300 West U.S. 10
Ludington, MI 49431



RING ENTERPRISES, INC. • dba/PERKINS FAMILY RESTAURANT

4525 CALUMET AVE. • P.O. BOX 432 • MANITOWOC, WI 54221-0432 • 920-684-8003

April 19, 2013

Assistant Attorney General

U.S. Department of Justice

Environment and Natural Resources Division

P.O. Box 7611

Washington, D.C. 20044-7611

Subject D.J. Ref. No. 90-5-1-1-107771 Proposed Consent Agreement Regarding United States v. Lake Michigan Trans-Lake Shortcut, Inc. d/b/a Lake Michigan Carferry Service and SS Badger

To Whom It May Concern:

I am writing to you to express the economic impact that the SS Badger has on our area. We rely very heavily in the tours season of our area and in my 22 years as owner of this local restaurant which I work daily over the years. The SS Badger plays a large role in this season along with the number of employed staff of the restaurant and related jobs in our community.

I am very concerned that the opportunity to continuation of the service that the SS Badger may not be able to continue.

That in fact we have had a number of employment closings plants (Kewaunee Nuclear Plant and Fischer Hamilton to name just a few in this past year).

I am trying to keep employees that have been employed by us for many years; however it is becoming more difficult. We do not need the possibility of the SS Badger compounding this challenging times we are facing.

Thank you in advance for your consideration and approval of the Consent Agreement.

Mark Ring

A handwritten signature in black ink, appearing to be "Mark Ring", written over a horizontal line.

A Franchise of Perkins Family Restaurants

TRANS-LAKE-LMTLS-COMMENTS005257

LUDINGTON & SCOTTVILLE AREA CHAMBER OF COMMERCE

April 18, 2013

Assistant Attorney General
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General, Environmental and Natural Resources Division

I am writing in regards to the following case: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger. As the President & CEO of the Ludington & Scottville Area Chamber of Commerce and on behalf of the Board of Directors, I respectfully request that you approve the Consent Decree.

Shutting down the SS Badger would be devastating to the economic recovery in many communities in the upper Midwest, including the Ludington area. The SS Badger is an economic lifeline to Manitowoc, WI and Ludington, MI, as well as many of the nearby surrounding areas. It provides 200 jobs directly and supports another 500 indirectly and has a combined overall economic impact of \$35 million for both cities. Not only does the Badger provide critical transport and cargo shipping for Midwest businesses, but it also helps sustain the region's tourism.

Without the SS Badger transporting residents, tourists and cargo each year, thousands of cars and trucks would be forced to make the eight-hour trip around Lake Michigan, clogging already congested roadways and adding significantly more air pollution to the region. In fact, the Badger prevents the use of 1 million gallons of fuel each year and eliminates the emission of pollutants that would otherwise contribute to smog and climate change.

I urge you to approve the Consent Decree that allows Lake Michigan Carferry Services to bring the SS Badger into compliance over the next two years and continue to support the hardworking men and women of our community who rely on the jobs provide by this iconic business.

Sincerely,



Kathryn Maclean
President & CEO

the Chamber Manitowoc County

City of Kiel
City of Manitowoc
City of Two Rivers
Town of Cato
Town of Centerville
Town of Cooperstown
Town of Eaton
Town of Franklin
Town of Gibson
Town of Kossuth
Town of Liberty
Town of Manitowoc
Town of Manitowoc Rapids
Town of Maple Grove
Town of Meeme
Town of Mishicot
Town of Newton
Town of Rockland
Town of Schleswig
Town of Two Creeks
Town of Two Rivers
Village of Cleveland
Village of Francis Creek
Village of Kellnersville
Village of Maribel
Village of Mishicot
Village of Reedsville
Village of St. Nazianz
Village of Valders
Village of Whitelaw

April 24, 2013

Assistant Attorney General
U.S. DOH-ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: D.J.Ref.No. 90-5-1-1-10771

Dear Sir,

As the Executive Director of The Chamber of Manitowoc County, I am writing to you today in support of the continued operation of the S.S. Badger and the agreement that has been reached as stated in the consent decree referenced above.

The S.S. Badger is an important part of Manitowoc County's economic activity. Studies show that the Badger contributes over \$14 million annually to the City of Manitowoc and has contributed over \$570 million to the Wisconsin and Michigan economies since 1992 when Lake Michigan Carferry took over operations.

Lake Michigan is Wisconsin's most important natural resource, which provides our drinking water, supports our fisheries and is the center of Wisconsin's recreation economy. The above stated consent decree is the solution to the continuation of the great service the Badger offers and the preservation of our great lake.

We believe that consent decree will be mutually beneficial to all concerned parties. We appreciate your attention to this very important matter and await your approval.

Sincerely,



Karen Szyman
Executive Director

**Alliance for the Great Lakes ♦ Environmental Law & Policy Center ♦
National Parks Conservation Association ♦ National Wildlife Federation ♦
Natural Resources Defense Council ♦ Sierra Club**

April 26, 2013

By Email
Assistant Attorney General,
Environment and Natural Resources Division
U.S. DOJ-ENRD
P.O. Box 7611
Washington, D.C. 20044-7611
pubcomment-ees.enrd@usdoj.gov

Re: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

The Environmental Law & Policy Center, Alliance for the Great Lakes, National Parks Conservation Association, National Wildlife Federation, Natural Resources Defense Council and Sierra Club (collectively "Environmental Organizations") provide the following comments for your consideration on the proposed consent decree to cease coal ash discharges into the Great Lakes from the S.S. Badger, a coal-fired, stream-driven ferry that operates on Lake Michigan, principally during the summer months. The Environmental Organizations have numerous members who are affected by and concerned about water pollution that may cause or contribute to impairments of Lake Michigan. Among these members are many people who swim and fish in Lake Michigan, who eat fish caught in Lake Michigan and who drink water from Lake Michigan. The Environmental Organizations represent hundreds of thousands of members concerned about and engaged in restoring and protecting Lake Michigan and the Great Lakes.

We respectfully request that the proposed consent decree be strengthened to ensure that the S.S. Badger and its owners stop dumping coal ash into Lake Michigan by 2014. More than four years have already passed since the owners of the S.S. Badger committed to end the coal ash dumping. The S.S. Badger should finally clean up its operations and stop polluting Lake Michigan.

The Obama Administration has made an unprecedented commitment to protect the Great Lakes through the Great Lakes Restoration Initiative. The Great Lakes are one of the world's great natural treasures. They contain the planet's largest amount of surface fresh water (22%), provide drinking water for almost 40 million people, provide a rich aquatic habitat and ecosystem for many species, support a \$7 billion annual fishing industry and offer recreational opportunities for millions of people. This amazing ecosystem is an invaluable resource and a remarkable natural wonder. Lake Michigan should not be used as a coal ash dumping ground.

The Environmental Organizations are pleased that the federal government is taking action to bring an end to the S.S. Badger's illegal dumping of coal ash waste into the Great Lakes. However, we respectfully request that the proposed decree be strengthened to avoid a repetition of the recent history of attempted exemptions. The S.S. Badger dumps more than 500 tons of coal ash into Lake Michigan each year. The coal ash contains mercury and other pollutants that can be consumed by fish and distributed throughout the Great Lakes food chain.

Under the coal ash waiver provision, which was inserted into the 2008 Vessel General Permit (VGP), all discharges and dumping of coal ash into waters of the United States by any vessel must cease by December 19, 2012. The proposed consent agreement would nonetheless allow the S.S. Badger to continue dumping coal ash in Lake Michigan through 2014.

The Environmental Organizations believe that the consent decree, as proposed, is insufficient to protect Lake Michigan and public health and the environment, compel a final end to the S.S. Badger's polluting activities, and command respect for environmental laws. This coal ash pollution of Lake Michigan should be brought to a swift and certain end. To ensure this, the Environmental Organizations request that the proposed consent decree be strengthened and clarified in the following ways:

1. The Consent Decree should clearly and explicitly state both parties' intentions and full agreement that there will be no further extensions of time, beyond the new 2014 deadline, for the Defendant Lake Michigan Trans-Lake Shortcut to eliminate all coal ash discharges from the S.S. Badger. No such extensions should be sought by either or both of the parties under Fed. R. Civ. P. 60(b)(6) or under any other provision of law if and when the proposed consent decree is approved by the Federal District Court where the complaint has been filed. The S.S. Badger dumps hundreds of tons of dangerous coal ash containing arsenic, lead, mercury and other pollutants into Lake Michigan. These chemicals are carcinogens in drinking water, damage aquatic life and render fish less healthy to consume.

The Defendant Lake Michigan Trans-Lake Shortcut, owners of the S.S. Badger, had five years under the VGP to retrofit the ferry with a new boiler that would end future coal ash dumping or to take other actions to end its coal ash dumping into Lake Michigan. Instead of fixing the problem, however, the Defendant has sought more time and, through this proposed consent decree, has obtained a further extension.

The S.S. Badger's owners should not be allowed to benefit from their lack of diligence in complying with the 2012 deadline they previously indicated they could meet. Force majeure and dispute resolution provisions in the proposed consent decree must be carefully limited to ensure that the new 2014 deadline is firm and that there are not any additional extension requests from the S.S. Badger's owners.

The S.S. Badger has been allowed to pollute the Great Lakes for too long, and the Great Lakes environment and the millions of people who depend on Lake Michigan have had enough. This consent decree should make absolutely clear that the Defendant Lake Michigan Trans-Lake Shortcut will either clean up the S.S. Badger's operations and stop polluting Lake Michigan by the end of the 2014 operating season, or shut down. The parties should specifically, clearly and explicitly state in the consent decree that they will not request any additional extensions beyond the 2014 summer season.

2. There should be more substantial percentage reductions of coal ash dumping in 2013 and 2014, respectively, in order to provide a stronger path toward complete compliance and the end of this coal ash pollution of Lake Michigan. Coal ash discharges and dumping should be reduced on a more expedited pace than provided by the proposed consent decree, especially in view of the existence of best available technology that eliminates coal ash discharges completely. The proposed decree contains no specific percentage reduction in 2013 and only a 15 percent reduction in 2014. The United States Department of Justice (U.S. DOJ) and the United States Environmental Protection Agency (U.S. EPA) should consider providing for higher percentage reductions of coal ash discharges in order to better protect Lake Michigan.

All other such powered vessels operating on the Great Lakes are fueled by diesel, a power source that dates back to the 1950s. The S.S. Badger is apparently the only coal-fired ferry vessel currently operating on the Great Lakes. Technology is available and has been available for decades to either repower the ship or retain the coal ash and coal ash slurry on board the vessel until it can be properly and legally disposed. Actions to reduce and eliminate this pollution should have been completed during the five-year period that the S.S. Badger was provided in order to come into compliance under the 2008 VGP.

The S.S. Badger should be required to commence pollution reduction work more promptly and vigorously. Greater specificity and higher percentage reductions will provide a clearer and stronger path toward full compliance and ending this coal ash dumping into Lake Michigan.

3. The penalties should be increased in order to incentivize full compliance by 2014 and better ensure the end of the S.S. Badger's coal ash pollution of Lake Michigan. The penalties under the proposed consent decree do not appear sufficient to fully incentivize the Defendant to come into compliance with the law.

The U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. Badger's continued pollution. Higher penalties are appropriate due to the unique value of the Great Lakes and the serious threats from coal ash containing mercury and other pollutants. The \$25,000 civil penalty for the 2012 violations and the stipulated penalty amounts now proposed during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are apparently lower than the S.S. Badger's estimated costs to remove and landfill the coal ash.

The \$25,000 civil penalty also sends the wrong signal to other potential violators to comply with the environmental laws. This penalty appears to be less than what compliance would have cost and sends a signal that illegally discharging can be profitable. Under the Clean Water Act, the single-day maximum statutory penalty for violating a permit limit is \$37,500. The proposed civil penalty of \$25,000 is less than the maximum penalty for a one-day violation even though there were multiple days of exceedances cited in the United States' complaint.

If the civil and stipulated penalties are not sufficient to assure such compliance, they can become, in effect, simply a cost of doing business and pollution as usual. The U.S. DOJ and U.S. EPA should consider increasing the 2013 and 2014 stipulated penalties in order to avoid an incentive for the S.S. Badger to simply "pay to pollute" during the next two years, rather than promptly take actions to fix the problem.

4. There should be more frequent and transparent reporting. The Defendant should be required to file discharge monitoring reports on a monthly basis like other point sources. These discharge monitoring reports should state the volume and nature of the discharges.

The S.S. Badger should be required to report its monthly progress toward elimination of coal ash dumping. Each report should include both self-reported and externally verified evidence of progress such as proof of expenditures for ash capture technology, draft contracts for landfilling, etc. The volume and mercury content of coal ash discharged during the two-year compliance period through 2014 should be publicly reported to ensure transparency and public accountability. These reports should be certified by an independent third party and should be made publicly available on an easily accessible website. Confidentiality claims must not prevent the public from being fully informed of the amount of coal ash pollution that the S.S. Badger dumps into the Lake Michigan.

All of the reports required to be filed under the proposed consent decree (see Paragraphs 30 and 48) should be made available to the public. There should be no provision for withholding confidential business information given that these studies are part of an agreement to bring the S.S. Badger into compliance with the law. The Defendant has no right to conceal facts that may be relevant to determining the extent of its efforts to comply with the Clean Water Act and any other applicable laws.

Furthermore, Appendix A, Paragraph I of the proposed consent decree states: "All discharges of coal ash or coal ash slurry into Lake Michigan are prohibited from causing or contributing to exceedances of water quality standards for Lake Michigan...." The Environmental Organizations seek clarification as to the meaning and operation of this provision to the extent that if the S.S. Badger discharges any coal ash or coal ash slurry, that would violate water quality standards in the immediate vicinity of the discharge, and there is no indication that a mixing zone is applicable to the discharges from the S.S. Badger.

Finally, Paragraph 30 of the proposed consent decree provides: "The schedule shall, at a minimum, set forth deadlines for completing design, commencing construction, completing construction, commencing installation, and completing installation." The Environmental Organizations recommend that the "schedule" be incorporated by reference into the proposed consent decree to avoid potential disputes as to the enforceability of any of the individual work deadlines set forth in Paragraph 30.

* * *

Thank you for your consideration of these comments. If you have any questions or suggestions, please contact: Howard Learner, attorney for and Executive Director of the Environmental Law & Policy Center at 312-673-6500, HLearner@elpc.org; and Joel Brammeier, President and CEO of the Alliance for the Great Lakes, at 312-939-0838, JBrammeier@greatlakes.org.

Sincerely,

HOWARD LEARNER

Howard A. Learner, President and Executive Director,
Environmental Law & Policy Center

Joel Brammeier

Joel Brammeier, President and CEO
Alliance for the Great Lakes

Lynn McClure

Lynn McClure, Midwest Regional Director
National Parks Conservation Association

Andrew Buchsbaum

Andrew Buchsbaum, Great Lakes Regional Director,
National Wildlife Federation

Henry Henderson

Henry Henderson, Midwest Regional Director
Natural Resources Defense Council

Melissa Damaschke

Melissa Damaschke, Great Lakes Program Director
Sierra Club



VIKING ARMS INN

Assistant Attorney General, ENRD

Reference Case# D.J. Ref. No. 90-5-1-1-10771

Case Name:

United State v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger.

April 3, 2013

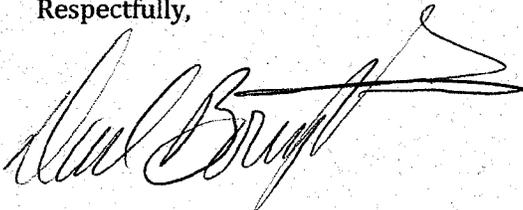
Dear Mr. Assistant Attorney General,

This correspondence is written to you in hopes of an approval of the current consent decree that is on your desk regarding the case listed above. Please forgive the format of this letter since it is not something I do normally but I feel it's very important for me to let you know how strongly I feel about the passage of this case. The SS Badger has traveled the waters of Lake Michigan now for 59 years. The waters in my home of Ludington, MI. the home port of the SS Badger are some of the clearest waters you'll find in Michigan not to mention the most pristine beaches as well. These attributes are some that I take very seriously and if I felt anything threaten this I would be one of the first to speak out against it. I have looked at numerous facts in this case and I am still a huge supporter of the SS Badger. My feelings are if you look at the facts and not the theatrics you as well would see what the truth is.

I am a business owner in Ludington, and yes if the SS Badger was to stop its daily seasonal runs it would be catastrophic for our town of 8000 plus year long residents. You may question how I would know this. I was in business when the SS Badger was in bankruptcy and shut down for a year and a half and I did see the ill effects of that. Our business was down 30% in that short time span, therefore I can only imagine what would happen if the ship stopped all together.

There have been a lot of unjustified and untrue statements that are coming from people and organizations that have a lot to gain if the SS Badger ceases to operate. I am asking for you to look at the facts and make the only decision that makes any sense. Please pass the Consent Decree and perhaps help keep a part of Lake Michigan Maritime History running.

Respectfully,



David Bourgette, Innkeeper

**Known For Exceptional
Quality & Hospitality**



VIKING ARMS INN

**Dawn & David Bourgette
Innkeepers**

930 E. Ludington Ave.
Ludington, MI 49431

(231) 843-3441

f For Reservations only **e**
(800) 748-0173

vikingarmsinn.com
innkeeper@vikingarmsinn.com

NATIONAL ASSOCIATION OF TEACHERS OF SINGING

Incorporated

Vernon Yenne, PRESIDENT

William A. Vessels, EXECUTIVE DIRECTOR

April 15, 2013

Cora Enman
Great Lakes Regional Governor, Retired
207 S. Kinney Avenue
Mt. Pleasant, MI 48858
(517) 772-4054

Assistant Attorney General
United States DOJ - ENRD
P.O. Box 7611
Washington D.C. 20044-7611

Reference Case Number 90-5-1-1-10771

Case Name: United States vs Lake Michigan Inland Lake Shortcut, Inc.,
d/b/a Lake Michigan Carferry and S.S. Badger

Dear Assistant Attorney General,

I support the continued service by the ferry service. Travel to the west from mid-michigan, particularly in summer, has three options. You can drive through great Chicago construction, drive north over the Mackinac Bridge, or take the ferry. The last choice involves several 100 miles less of driving which helps save auto-related pollutants. Transport of components for wind tower generators has cut back on diesel truck emissions and been a more direct route for the manufacturer to ship. No doubt in my thinking that other opportunities will arise.

There also exists a historic significance to the S.S. Badger that deserves to be preserved. Changing the fuel source is one way to preserve a bit of history. Cancelling the service would destroy that history.

I support continued service from the Lake Michigan Carferry and the SS Badger. I appreciate your consideration and hope for a positive outcome.

Sincerely,
Cora Enman
Assoc Prof. Emerita, CMU

National Office: 2800 University Boulevard North, Jacksonville, Florida 32211 (904) 744-9022

April 3, 2013

Good day,

This letter is being written in regards to United States v. Lake Michigan Trans-Lake Shortcut, Inc, D.J. Ref. No. 90-5-1-1-10771.

We are in complete support of the federal court accepting the proposed consent decree between the Environmental Protection Agency and the SS Badger. Allowing two more years for the Lake Michigan Carferry to develop a coal ash retention system seems to be a logical solution from every standpoint. That is, from every standpoint except Senator Dick Durbin of Illinois, who seems to be using every possible negative argument against the consent decree, most of them baseless and exaggerated.

The consent decree would not only meet the EPA's requirement to eliminate the coal ash discharge, but it would also give LMC an opportunity to continue crossing Lake Michigan as it is given time to find safe and economical methods of storing the coal ash.

The SS Badger is not only important to Ludington, Michigan and Manitowoc, Wisconsin, its historical significance is important to the nation. The carferry is the last surviving coal-fired steamship in operation in the United States. Generations of families have made the trip across the lake on the Badger. It is part of the fabric of our past, and it deserves the opportunity to continue this unique, time-honored tradition.

Thank you for your time and consideration.

Sincerely,



Bruce Micinski
President, Lake County Historical Society



Jenny Micinski


Branch MI 49402

ENDODONTIC ASSOCIATES LIMITED

ABBAS TABIBI, D.D.S., M.S.
ROBERT S. EDMUNDS, D.D.S., M.S.
RAMON AGUIRRE, D.D.S., M.S.
KIRK A. DULAC, D.D.S., M.S.D.
ALEJANDRO M. AGUIRRE, D.D.S., M.S.
THOMAS E. NEAFUS, D.D.S., M.S.
BADRI JUREIDINI, D.D.S., M.S.
JEFFREY L. RYAN, D.D.S., M.S.

Brooklyn Center Office
Brookdale Corporate Center
6300 Shingle Creek Parkway
Suite 365
Brooklyn Center, MN 55430
Phone: (763) 537-5795
FAX: (763) 537-2796

Coon Rapids Office
Mercy Health Care Center
3960 Coon Rapids Boulevard
Suite 320
Coon Rapids, MN 55433
Phone: (763) 427-1720
FAX: (763) 427-5659

Edina Office
Centennial Lakes
Medical Center
7373 France Avenue South
Suite 608
Edina, MN 55435
Phone: (952) 832-0404
FAX: (952) 832-0131

Elk River Office
Waterfront West
Professional Building
9075 Quaday Avenue NE
Suite 103
Otsego, MN 55330
Phone: (763) 398-3320
FAX: (763) 398-3325

North Oaks Office
Village Center
Professional Building
700 Village Center Drive
Suite 150
North Oaks, MN 55127
Phone: (651) 481-8443
FAX: (651) 481-8380

Plymouth Office
WestHealth
Medical Building
2805 Campus Drive
Suite 445
Plymouth, MN 55441
Phone: (763) 694-9588
FAX: (763) 694-9794

Roseville Office
Roseville
Professional Building
2233 Hamline Avenue N
Suite 111
Roseville, MN 55113
Phone: (651) 379-0687
FAX: (651) 633-5148

Administrative Offices
11464 Robinson Drive NW
Coon Rapids, MN 55433
Phone: (763) 767-6202
FAX: (763) 767-6259

To:
Assistant Attorney General, Environmental and Natural Resources
Division

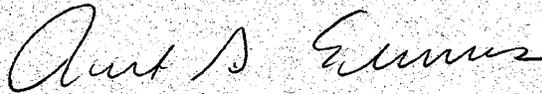
Subject
Reference Case Number:
D.J. Ref. No. 90-5-1-1-10771

Case Name: United States v. Lake Michigan Trans-Lake Shortcut,
Inc., d/b/a Lake Michigan Carferry Services and SS Badger

Dear Sirs,

This letter is written in support of the proposed Consent Decree referenced above. The Badger and the Lake Michigan Car Ferry Service have and will continue to provide a service for the States of Michigan and Wisconsin and all of the upper Midwest states and communities served by them.
Discontinuation of the service for modest amounts of ash discharge is unwarranted.

Robert S. Edmunds D.D.S.



American Association of Endodontists
Specialist Members

www.ealmn.com

TRANS-LAKE-LMTLS-COMMENTS005362

From: Howard Learner
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Howard Learner; Ettinger.Albert@gmail.com; Karen Torrent; 'jbrammeier@greatlakes.org'; Lyman Welch; Lynn McClure (lmcclure@npca.org); 'Andy Buchsbaum'; Henderson, Henry; Riley, Rebecca; Jack Darin (jack.darin@sierraclub.org); Melissa Damaschke
Sent: 4/26/2013 1:27:19 PM
Subject: Joint Comments of Six Environmental Organizations Regarding the Proposed Consent Decree in *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771
Attachments: SS Badger.Great Lakes Environmental Groups Comments to USDOJ on Proposed Consent Decree.April 26.2013.pdf

To the Assistant Attorney General – Environment and Natural Resources Division:

Please consider the attached letter with joint comments of the Environmental Law & Policy Center, Alliance for the Great Lakes, National Parks Conservation Association, National Wildlife Federation, Natural Resources Defense Council and Sierra Club (“Environmental Organizations”) regarding the proposed consent decree in *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771.

Please let me know if you have any difficulties reading the attached joint comments letter. Please also confirm by email that this joint comment letter was timely received.

Thank you for your consideration.

Howard Learner

Howard A. Learner
Executive Director
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, Illinois 60601
HLearner@elpc.org
(312) 673-6500
Please visit ELPC’s website at www.elpc.org

**Alliance for the Great Lakes ♦ Environmental Law & Policy Center ♦
National Parks Conservation Association ♦ National Wildlife Federation ♦
Natural Resources Defense Council ♦ Sierra Club**

April 26, 2013

By Email
Assistant Attorney General,
Environment and Natural Resources Division
U.S. DOJ-ENRD
P.O. Box 7611
Washington, D.C. 20044-7611
pubcomment-ees.enrd@usdoj.gov

Re: *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

The Environmental Law & Policy Center, Alliance for the Great Lakes, National Parks Conservation Association, National Wildlife Federation, Natural Resources Defense Council and Sierra Club (collectively “Environmental Organizations”) provide the following comments for your consideration on the proposed consent decree to cease coal ash discharges into the Great Lakes from the S.S. Badger, a coal-fired, stream-driven ferry that operates on Lake Michigan, principally during the summer months. The Environmental Organizations have numerous members who are affected by and concerned about water pollution that may cause or contribute to impairments of Lake Michigan. Among these members are many people who swim and fish in Lake Michigan, who eat fish caught in Lake Michigan and who drink water from Lake Michigan. The Environmental Organizations represent hundreds of thousands of members concerned about and engaged in restoring and protecting Lake Michigan and the Great Lakes.

We respectfully request that the proposed consent decree be strengthened to ensure that the S.S. Badger and its owners stop dumping coal ash into Lake Michigan by 2014. More than four years have already passed since the owners of the S.S. Badger committed to end the coal ash dumping. The S.S. Badger should finally clean up its operations and stop polluting Lake Michigan.

The Obama Administration has made an unprecedented commitment to protect the Great Lakes through the Great Lakes Restoration Initiative. The Great Lakes are one of the world’s great natural treasures. They contain the planet’s largest amount of surface fresh water (22%), provide drinking water for almost 40 million people, provide a rich aquatic habitat and ecosystem for many species, support a \$7 billion annual fishing industry and offer recreational opportunities for millions of people. This amazing ecosystem is an invaluable resource and a remarkable natural wonder. Lake Michigan should not be used as a coal ash dumping ground.

The Environmental Organizations are pleased that the federal government is taking action to bring an end to the S.S. Badger’s illegal dumping of coal ash waste into the Great Lakes. However, we respectfully request that the proposed decree be strengthened to avoid a repetition of the recent history of attempted exemptions. The S.S. Badger dumps more than 500 tons of coal ash into Lake Michigan each year. The coal ash contains mercury and other pollutants that can be consumed by fish and distributed throughout the Great Lakes food chain.

Under the coal ash waiver provision, which was inserted into the 2008 Vessel General Permit (VGP), all discharges and dumping of coal ash into waters of the United States by any vessel must cease by December 19, 2012. The proposed consent agreement would nonetheless allow the S.S. Badger to continue dumping coal ash in Lake Michigan through 2014.

The Environmental Organizations believe that the consent decree, as proposed, is insufficient to protect Lake Michigan and public health and the environment, compel a final end to the S.S. Badger's polluting activities, and command respect for environmental laws. This coal ash pollution of Lake Michigan should be brought to a swift and certain end. To ensure this, the Environmental Organizations request that the proposed consent decree be strengthened and clarified in the following ways:

1. The Consent Decree should clearly and explicitly state both parties' intentions and full agreement that there will be no further extensions of time, beyond the new 2014 deadline, for the Defendant Lake Michigan Trans-Lake Shortcut to eliminate all coal ash discharges from the S.S. Badger. No such extensions should be sought by either or both of the parties under Fed. R. Civ. P. 60(b)(6) or under any other provision of law if and when the proposed consent decree is approved by the Federal District Court where the complaint has been filed. The S.S. Badger dumps hundreds of tons of dangerous coal ash containing arsenic, lead, mercury and other pollutants into Lake Michigan. These chemicals are carcinogens in drinking water, damage aquatic life and render fish less healthy to consume.

The Defendant Lake Michigan Trans-Lake Shortcut, owners of the S.S. Badger, had five years under the VGP to retrofit the ferry with a new boiler that would end future coal ash dumping or to take other actions to end its coal ash dumping into Lake Michigan. Instead of fixing the problem, however, the Defendant has sought more time and, through this proposed consent decree, has obtained a further extension.

The S.S. Badger's owners should not be allowed to benefit from their lack of diligence in complying with the 2012 deadline they previously indicated they could meet. Force majeure and dispute resolution provisions in the proposed consent decree must be carefully limited to ensure that the new 2014 deadline is firm and that there are not any additional extension requests from the S.S. Badger's owners.

The S.S. Badger has been allowed to pollute the Great Lakes for too long, and the Great Lakes environment and the millions of people who depend on Lake Michigan have had enough. This consent decree should make absolutely clear that the Defendant Lake Michigan Trans-Lake Shortcut will either clean up the S.S. Badger's operations and stop polluting Lake Michigan by the end of the 2014 operating season, or shut down. The parties should specifically, clearly and explicitly state in the consent decree that they will not request any additional extensions beyond the 2014 summer season.

2. There should be more substantial percentage reductions of coal ash dumping in 2013 and 2014, respectively, in order to provide a stronger path toward complete compliance and the end of this coal ash pollution of Lake Michigan. Coal ash discharges and dumping should be reduced on a more expedited pace than provided by the proposed consent decree, especially in view of the existence of best available technology that eliminates coal ash discharges completely. The proposed decree contains no specific percentage reduction in 2013 and only a 15 percent reduction in 2014. The United States Department of Justice (U.S. DOJ) and the United States Environmental Protection Agency (U.S. EPA) should consider providing for higher percentage reductions of coal ash discharges in order to better protect Lake Michigan.

All other such powered vessels operating on the Great Lakes are fueled by diesel, a power source that dates back to the 1950s. The S.S. Badger is apparently the only coal-fired ferry vessel currently operating on the Great Lakes. Technology is available and has been available for decades to either repower the ship or retain the coal ash and coal ash slurry on board the vessel until it can be properly and legally disposed. Actions to reduce and eliminate this pollution should have been completed during the five-year period that the S.S. Badger was provided in order to come into compliance under the 2008 VGP.

The S.S. Badger should be required to commence pollution reduction work more promptly and vigorously. Greater specificity and higher percentage reductions will provide a clearer and stronger path toward full compliance and ending this coal ash dumping into Lake Michigan.

3. The penalties should be increased in order to incentivize full compliance by 2014 and better ensure the end of the S.S. Badger's coal ash pollution of Lake Michigan. The penalties under the proposed consent decree do not appear sufficient to fully incentivize the Defendant to come into compliance with the law.

The U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. Badger's continued pollution. Higher penalties are appropriate due to the unique value of the Great Lakes and the serious threats from coal ash containing mercury and other pollutants. The \$25,000 civil penalty for the 2012 violations and the stipulated penalty amounts now proposed during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are apparently lower than the S.S. Badger's estimated costs to remove and landfill the coal ash.

The \$25,000 civil penalty also sends the wrong signal to other potential violators to comply with the environmental laws. This penalty appears to be less than what compliance would have cost and sends a signal that illegally discharging can be profitable. Under the Clean Water Act, the single-day maximum statutory penalty for violating a permit limit is \$37,500. The proposed civil penalty of \$25,000 is less than the maximum penalty for a one-day violation even though there were multiple days of exceedances cited in the United States' complaint.

If the civil and stipulated penalties are not sufficient to assure such compliance, they can become, in effect, simply a cost of doing business and pollution as usual. The U.S. DOJ and U.S. EPA should consider increasing the 2013 and 2014 stipulated penalties in order to avoid an incentive for the S.S. Badger to simply "pay to pollute" during the next two years, rather than promptly take actions to fix the problem.

4. There should be more frequent and transparent reporting. The Defendant should be required to file discharge monitoring reports on a monthly basis like other point sources. These discharge monitoring reports should state the volume and nature of the discharges.

The S.S. Badger should be required to report its monthly progress toward elimination of coal ash dumping. Each report should include both self-reported and externally verified evidence of progress such as proof of expenditures for ash capture technology, draft contracts for landfilling, etc. The volume and mercury content of coal ash discharged during the two-year compliance period through 2014 should be publicly reported to ensure transparency and public accountability. These reports should be certified by an independent third party and should be made publicly available on an easily accessible website. Confidentiality claims must not prevent the public from being fully informed of the amount of coal ash pollution that the S.S. Badger dumps into the Lake Michigan.

All of the reports required to be filed under the proposed consent decree (see Paragraphs 30 and 48) should be made available to the public. There should be no provision for withholding confidential business information given that these studies are part of an agreement to bring the S.S. Badger into compliance with the law. The Defendant has no right to conceal facts that may be relevant to determining the extent of its efforts to comply with the Clean Water Act and any other applicable laws.

Furthermore, Appendix A, Paragraph I of the proposed consent decree states: “All discharges of coal ash or coal ash slurry into Lake Michigan are prohibited from causing or contributing to exceedances of water quality standards for Lake Michigan...” The Environmental Organizations seek clarification as to the meaning and operation of this provision to the extent that if the S.S. Badger discharges any coal ash or coal ash slurry, that would violate water quality standards in the immediate vicinity of the discharge, and there is no indication that a mixing zone is applicable to the discharges from the S.S. Badger.

Finally, Paragraph 30 of the proposed consent decree provides: “The schedule shall, at a minimum, set forth deadlines for completing design, commencing construction, completing construction, commencing installation, and completing installation.” The Environmental Organizations recommend that the “schedule” be incorporated by reference into the proposed consent decree to avoid potential disputes as to the enforceability of any of the individual work deadlines set forth in Paragraph 30.

* * *

Thank you for your consideration of these comments. If you have any questions or suggestions, please contact: Howard Learner, attorney for and Executive Director of the Environmental Law & Policy Center at 312-673-6500, HLearner@elpc.org; and Joel Brammeier, President and CEO of the Alliance for the Great Lakes, at 312-939-0838, JBrammeier@greatlakes.org.

Sincerely,

Handwritten signature of Howard Learner in black ink.

Howard A. Learner, President and Executive Director,
Environmental Law & Policy Center

Handwritten signature of Joel Brammeier in blue ink.

Joel Brammeier, President and CEO
Alliance for the Great Lakes

Handwritten signature of Lynn McClure in black ink.

Lynn McClure, Midwest Regional Director
National Parks Conservation Association

Handwritten signature of Andrew Buchsbaum in black ink.

Andrew Buchsbaum, Great Lakes Regional Director,
National Wildlife Federation

Handwritten signature of Henry Henderson in black ink.

Henry Henderson, Midwest Regional Director
Natural Resources Defense Council

Handwritten signature of Melissa Damaschke in black ink.

Melissa Damaschke, Great Lakes Program Director
Sierra Club

From: Lyman Welch
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Joel Brammeier; Lynn McClure (lmcclure@npca.org); 'msmith@nwf.org'; Riley, Rebecca (rriley@nrdc.org); Howard Learner; melissa.damaschke@sierraclub.org; Jennifer McKay; Melinda Hughes-Wert; nschroeck@wayne.edu; tracey@ecocenter.org; dahkohler@environmentamerica.org; Crafton, Jill W. (JWCrafton@rkmc.com); sharley@cleanwater.org; Doug Welker; Peggy (hildaheeron@aol.com); J Dorner (jdorner@lwvil.org); Cheryl Nenn; Andy Knott; Irene Senn (imbsenn@gmail.com); Gary Wager (glwager@gmail.com)
Sent: 4/26/2013 12:21:52 AM
Subject: Joint environmental group comment on United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.gif; image002.gif; Joint Badger Environmental Comment Letter 042513-Final.pdf

Attached please find a joint comment letter signed by 20 organizations concerning the proposed consent decree in United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771. Please let me know if there is any problem reading the attachment. I would appreciate email confirmation that this letter was timely received.

Lyman C. Welch | Water Quality Program Director | lwelch@greatlakes.org
Alliance for the Great Lakes | www.greatlakes.org
17 N. State Street, Suite 1390 | Chicago, IL 60602 | 312.445.9739

Protect Your Lakes at <http://takeaction.greatlakes.org/subscribe>



Alliance for the Great Lakes -- Clean Water Action -- Ecology Center -- Environment Illinois -- Environmental Law & Policy Center -- Great Lakes Environmental Law Center -- Great Lakes Committee, Izaak Walton League -- Kalamazoo River Cleanup Coalition -- League of Women Voters of Illinois -- Michigan Citizens for Water Conservation -- Milwaukee Riverkeeper -- National Parks Conservation Association -- National Wildlife Federation -- Natural Resources Defense Council -- Nature Abounds -- Religious Coalition for the Great Lakes -- Sierra Club -- Tip of the Mitt Watershed Council -- Upper Peninsula Environmental Coalition -- The Watershed Center ~ Grand Traverse Bay

April 25, 2013

Assistant Attorney General
U.S. DOJ-ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

On behalf of the undersigned organizations, we respectfully request that you strengthen the proposed consent decree that requires the owners of the S.S. Badger to stop dumping coal ash into Lake Michigan. Our organizations represent thousands of members working to restore and protect Lake Michigan. Lake Michigan provides drinking water and recreation for millions and should not be used as a dumping ground. With four years already passed since the owners of the S.S. Badger committed to end the ash dumping, there can be no more excuses or delays.

We are pleased that the United States has gone to court to bring an end to the S.S. Badger's decade-long history of dumping its coal ash waste into Lake Michigan. However, we respectfully request that the proposed decree be strengthened to avoid a repetition of a recent history of attempted exemption. The S.S. Badger dumps more than 500 tons of coal ash into Lake Michigan each year – a quantity greater than the total waste dumped annually by the 125 other largest ships operating on the Great Lakes. The coal ash contains mercury and other pollutants that can be consumed by fish and distributed throughout the Great Lakes food web.

Under a previous agreement negotiated between the owners of the S.S. Badger and the EPA, the S.S. Badger was given a December 2012 deadline to end its coal ash dumping. The proposed consent agreement would allow the Badger to continue dumping coal ash in Lake Michigan through 2014.

This coal ash pollution of Lake Michigan should be brought to a swift and certain end. The S.S. Badger should clean up its operations and stop polluting Lake Michigan. To ensure this, we request that you consider strengthening the proposed consent decree in the following four areas:

- There should be an explicit agreement stated by both parties that there will be no more extensions from the new 2014 deadline. The S.S. Badger's owners have already had over four years to fix the problem and should not be allowed to benefit from their lack of diligence in complying with the 2012 deadline they previously said they could meet. Force majeure and dispute resolution provisions must be carefully limited to ensure the new deadline is firm, and there are not additional extension requests from the S.S. Badger's owners in the future.
- U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. Badger's continued pollution. Strong penalties are appropriate due to the unique value of the Great Lakes drinking water supply and the serious threat from coal ash containing mercury and other pollutants. The \$25,000 penalty for the 2012 violations and amounts now proposed as stipulated penalties during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are much lower than the Badger's \$705,226 estimated cost to remove and landfill the ash. The U.S. DOJ and U.S. EPA should consider increasing these penalties to avoid an incentive for the S.S. Badger to simply "pay to pollute" during the next two years, rather than take action to fix the problem.
- The U.S. DOJ and the U.S. EPA should consider greater percentage reductions of coal ash discharges to better protect Lake Michigan. Currently, the proposed decree contains no specific percentage reduction in 2013 and only a 15 percentage reduction in 2014. Greater specificity and larger reductions are required to provide a clearly defined pollution reduction path toward compliance and ending coal ash dumping into Lake Michigan.
- More frequent and transparent reporting is required. The S.S. Badger should be required to report its monthly progress toward elimination of coal ash dumping. Each report should include both self-reported and externally verified evidence of progress toward elimination of dumping, such as proof of expenditures for ash capture technology, draft contracts for landfilling, etc. The volume and mercury content of ash discharged through 2014 must be publicly reported to ensure transparency and public accountability. These reports should be certified by an independent third party and should be made publicly available on an easily accessible website. Confidentiality claims must not prevent the public from being fully informed of the amount of pollution the S.S. Badger dumps into Lake Michigan.

If you have any questions regarding these comments, please do not hesitate to contact Joel Brammeier, President and CEO of the Alliance for the Great Lakes, at 312-939-0838, email at: jbrammeier@greatlakes.org or Howard Learner, Executive Director of the Environmental Law & Policy Center, at 312-673-6500 or by email at HLearner@elpc.org.

Sincerely,

Joel Brammeier, President & CEO
Alliance for the Great Lakes

Susan Harley, Michigan Policy Director
Clean Water Action

Tracey Easthope, Director, Environmental Health Project
Ecology Center

Dan Kohler, Regional Director
Environment America

Howard Learner, Executive Director
Environmental Law & Policy Center

Nick Schroeck, Executive Director
Great Lakes Environmental Law Center

Jill Crafton, Chair
Great Lakes Committee, Izaak Walton League

Gary Wager, Executive Director
Kalamazoo River Cleanup Coalition

Jan Dorner, President
League of Women Voters of Illinois

Peggy Case, President
Michigan Citizens for Water Conservation

Cheryl Nenn, Riverkeeper
Milwaukee Riverkeeper

Lynn McClure
National Parks Conservation Association, Midwest Region

Rebecca Riley
Natural Resources Defense Council

Marc Smith, Senior Policy Manager
National Wildlife Federation

Melinda Hughes-Wert, President
Nature Abounds

Irene Senn, Coordinator
Religious Coalition for the Great Lakes

Melissa Damaschke, Great Lakes Program Director
Sierra Club

Jennifer McKay, Policy Specialist
Tip of the Mitt Watershed Council

Doug Welker, Board Member
Upper Peninsula Environmental Coalition

Andy Knott, Executive Director
The Watershed Center ~ Grand Traverse Bay

From: Howard Learner
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Howard Learner; Ettinger.Albert@gmail.com; Karen Torrent; 'jbrammeier@greatlakes.org'; Lyman Welch; Lynn McClure (lmcclure@npca.org); 'Andy Buchsbaum'; Henderson, Henry; Riley, Rebecca; Jack Darin (jack.darin@sierraclub.org); Melissa Damaschke
Sent: 4/26/2013 1:27:19 PM
Subject: Joint Comments of Six Environmental Organizations Regarding the Proposed Consent Decree in *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771
Attachments: SS Badger.Great Lakes Environmental Groups Comments to USDOJ on Proposed Consent Decree.April 26.2013.pdf

To the Assistant Attorney General – Environment and Natural Resources Division:

Please consider the attached letter with joint comments of the Environmental Law & Policy Center, Alliance for the Great Lakes, National Parks Conservation Association, National Wildlife Federation, Natural Resources Defense Council and Sierra Club (“Environmental Organizations”) regarding the proposed consent decree in *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771.

Please let me know if you have any difficulties reading the attached joint comments letter. Please also confirm by email that this joint comment letter was timely received.

Thank you for your consideration.

Howard Learner

Howard A. Learner
Executive Director
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, Illinois 60601
HLearner@elpc.org
(312) 673-6500
Please visit ELPC’s website at www.elpc.org

**Alliance for the Great Lakes ♦ Environmental Law & Policy Center ♦
National Parks Conservation Association ♦ National Wildlife Federation ♦
Natural Resources Defense Council ♦ Sierra Club**

April 26, 2013

By Email
Assistant Attorney General,
Environment and Natural Resources Division
U.S. DOJ-ENRD
P.O. Box 7611
Washington, D.C. 20044-7611
pubcomment-ees.enrd@usdoj.gov

Re: *United States v. Lake Michigan Trans-Lake Shortcut, Inc.*, D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

The Environmental Law & Policy Center, Alliance for the Great Lakes, National Parks Conservation Association, National Wildlife Federation, Natural Resources Defense Council and Sierra Club (collectively “Environmental Organizations”) provide the following comments for your consideration on the proposed consent decree to cease coal ash discharges into the Great Lakes from the S.S. Badger, a coal-fired, stream-driven ferry that operates on Lake Michigan, principally during the summer months. The Environmental Organizations have numerous members who are affected by and concerned about water pollution that may cause or contribute to impairments of Lake Michigan. Among these members are many people who swim and fish in Lake Michigan, who eat fish caught in Lake Michigan and who drink water from Lake Michigan. The Environmental Organizations represent hundreds of thousands of members concerned about and engaged in restoring and protecting Lake Michigan and the Great Lakes.

We respectfully request that the proposed consent decree be strengthened to ensure that the S.S. Badger and its owners stop dumping coal ash into Lake Michigan by 2014. More than four years have already passed since the owners of the S.S. Badger committed to end the coal ash dumping. The S.S. Badger should finally clean up its operations and stop polluting Lake Michigan.

The Obama Administration has made an unprecedented commitment to protect the Great Lakes through the Great Lakes Restoration Initiative. The Great Lakes are one of the world’s great natural treasures. They contain the planet’s largest amount of surface fresh water (22%), provide drinking water for almost 40 million people, provide a rich aquatic habitat and ecosystem for many species, support a \$7 billion annual fishing industry and offer recreational opportunities for millions of people. This amazing ecosystem is an invaluable resource and a remarkable natural wonder. Lake Michigan should not be used as a coal ash dumping ground.

The Environmental Organizations are pleased that the federal government is taking action to bring an end to the S.S. Badger’s illegal dumping of coal ash waste into the Great Lakes. However, we respectfully request that the proposed decree be strengthened to avoid a repetition of the recent history of attempted exemptions. The S.S. Badger dumps more than 500 tons of coal ash into Lake Michigan each year. The coal ash contains mercury and other pollutants that can be consumed by fish and distributed throughout the Great Lakes food chain.

Under the coal ash waiver provision, which was inserted into the 2008 Vessel General Permit (VGP), all discharges and dumping of coal ash into waters of the United States by any vessel must cease by December 19, 2012. The proposed consent agreement would nonetheless allow the S.S. Badger to continue dumping coal ash in Lake Michigan through 2014.

The Environmental Organizations believe that the consent decree, as proposed, is insufficient to protect Lake Michigan and public health and the environment, compel a final end to the S.S. Badger's polluting activities, and command respect for environmental laws. This coal ash pollution of Lake Michigan should be brought to a swift and certain end. To ensure this, the Environmental Organizations request that the proposed consent decree be strengthened and clarified in the following ways:

1. The Consent Decree should clearly and explicitly state both parties' intentions and full agreement that there will be no further extensions of time, beyond the new 2014 deadline, for the Defendant Lake Michigan Trans-Lake Shortcut to eliminate all coal ash discharges from the S.S. Badger. No such extensions should be sought by either or both of the parties under Fed. R. Civ. P. 60(b)(6) or under any other provision of law if and when the proposed consent decree is approved by the Federal District Court where the complaint has been filed. The S.S. Badger dumps hundreds of tons of dangerous coal ash containing arsenic, lead, mercury and other pollutants into Lake Michigan. These chemicals are carcinogens in drinking water, damage aquatic life and render fish less healthy to consume.

The Defendant Lake Michigan Trans-Lake Shortcut, owners of the S.S. Badger, had five years under the VGP to retrofit the ferry with a new boiler that would end future coal ash dumping or to take other actions to end its coal ash dumping into Lake Michigan. Instead of fixing the problem, however, the Defendant has sought more time and, through this proposed consent decree, has obtained a further extension.

The S.S. Badger's owners should not be allowed to benefit from their lack of diligence in complying with the 2012 deadline they previously indicated they could meet. Force majeure and dispute resolution provisions in the proposed consent decree must be carefully limited to ensure that the new 2014 deadline is firm and that there are not any additional extension requests from the S.S. Badger's owners.

The S.S. Badger has been allowed to pollute the Great Lakes for too long, and the Great Lakes environment and the millions of people who depend on Lake Michigan have had enough. This consent decree should make absolutely clear that the Defendant Lake Michigan Trans-Lake Shortcut will either clean up the S.S. Badger's operations and stop polluting Lake Michigan by the end of the 2014 operating season, or shut down. The parties should specifically, clearly and explicitly state in the consent decree that they will not request any additional extensions beyond the 2014 summer season.

2. There should be more substantial percentage reductions of coal ash dumping in 2013 and 2014, respectively, in order to provide a stronger path toward complete compliance and the end of this coal ash pollution of Lake Michigan. Coal ash discharges and dumping should be reduced on a more expedited pace than provided by the proposed consent decree, especially in view of the existence of best available technology that eliminates coal ash discharges completely. The proposed decree contains no specific percentage reduction in 2013 and only a 15 percent reduction in 2014. The United States Department of Justice (U.S. DOJ) and the United States Environmental Protection Agency (U.S. EPA) should consider providing for higher percentage reductions of coal ash discharges in order to better protect Lake Michigan.

All other such powered vessels operating on the Great Lakes are fueled by diesel, a power source that dates back to the 1950s. The S.S. Badger is apparently the only coal-fired ferry vessel currently operating on the Great Lakes. Technology is available and has been available for decades to either repower the ship or retain the coal ash and coal ash slurry on board the vessel until it can be properly and legally disposed. Actions to reduce and eliminate this pollution should have been completed during the five-year period that the S.S. Badger was provided in order to come into compliance under the 2008 VGP.

The S.S. Badger should be required to commence pollution reduction work more promptly and vigorously. Greater specificity and higher percentage reductions will provide a clearer and stronger path toward full compliance and ending this coal ash dumping into Lake Michigan.

3. The penalties should be increased in order to incentivize full compliance by 2014 and better ensure the end of the S.S. Badger's coal ash pollution of Lake Michigan. The penalties under the proposed consent decree do not appear sufficient to fully incentivize the Defendant to come into compliance with the law.

The U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. Badger's continued pollution. Higher penalties are appropriate due to the unique value of the Great Lakes and the serious threats from coal ash containing mercury and other pollutants. The \$25,000 civil penalty for the 2012 violations and the stipulated penalty amounts now proposed during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are apparently lower than the S.S. Badger's estimated costs to remove and landfill the coal ash.

The \$25,000 civil penalty also sends the wrong signal to other potential violators to comply with the environmental laws. This penalty appears to be less than what compliance would have cost and sends a signal that illegally discharging can be profitable. Under the Clean Water Act, the single-day maximum statutory penalty for violating a permit limit is \$37,500. The proposed civil penalty of \$25,000 is less than the maximum penalty for a one-day violation even though there were multiple days of exceedances cited in the United States' complaint.

If the civil and stipulated penalties are not sufficient to assure such compliance, they can become, in effect, simply a cost of doing business and pollution as usual. The U.S. DOJ and U.S. EPA should consider increasing the 2013 and 2014 stipulated penalties in order to avoid an incentive for the S.S. Badger to simply "pay to pollute" during the next two years, rather than promptly take actions to fix the problem.

4. There should be more frequent and transparent reporting. The Defendant should be required to file discharge monitoring reports on a monthly basis like other point sources. These discharge monitoring reports should state the volume and nature of the discharges.

The S.S. Badger should be required to report its monthly progress toward elimination of coal ash dumping. Each report should include both self-reported and externally verified evidence of progress such as proof of expenditures for ash capture technology, draft contracts for landfilling, etc. The volume and mercury content of coal ash discharged during the two-year compliance period through 2014 should be publicly reported to ensure transparency and public accountability. These reports should be certified by an independent third party and should be made publicly available on an easily accessible website. Confidentiality claims must not prevent the public from being fully informed of the amount of coal ash pollution that the S.S. Badger dumps into the Lake Michigan.

All of the reports required to be filed under the proposed consent decree (see Paragraphs 30 and 48) should be made available to the public. There should be no provision for withholding confidential business information given that these studies are part of an agreement to bring the S.S. Badger into compliance with the law. The Defendant has no right to conceal facts that may be relevant to determining the extent of its efforts to comply with the Clean Water Act and any other applicable laws.

Furthermore, Appendix A, Paragraph I of the proposed consent decree states: “All discharges of coal ash or coal ash slurry into Lake Michigan are prohibited from causing or contributing to exceedances of water quality standards for Lake Michigan...” The Environmental Organizations seek clarification as to the meaning and operation of this provision to the extent that if the S.S. Badger discharges any coal ash or coal ash slurry, that would violate water quality standards in the immediate vicinity of the discharge, and there is no indication that a mixing zone is applicable to the discharges from the S.S. Badger.

Finally, Paragraph 30 of the proposed consent decree provides: “The schedule shall, at a minimum, set forth deadlines for completing design, commencing construction, completing construction, commencing installation, and completing installation.” The Environmental Organizations recommend that the “schedule” be incorporated by reference into the proposed consent decree to avoid potential disputes as to the enforceability of any of the individual work deadlines set forth in Paragraph 30.

* * *

Thank you for your consideration of these comments. If you have any questions or suggestions, please contact: Howard Learner, attorney for and Executive Director of the Environmental Law & Policy Center at 312-673-6500, HLearner@elpc.org; and Joel Brammeier, President and CEO of the Alliance for the Great Lakes, at 312-939-0838, JBrammeier@greatlakes.org.

Sincerely,



Howard A. Learner, President and Executive Director,
Environmental Law & Policy Center



Joel Brammeier, President and CEO
Alliance for the Great Lakes



Lynn McClure, Midwest Regional Director
National Parks Conservation Association



Andrew Buchsbaum, Great Lakes Regional Director,
National Wildlife Federation



Henry Henderson, Midwest Regional Director
Natural Resources Defense Council



Melissa Damaschke, Great Lakes Program Director
Sierra Club

From: Lyman Welch
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Joel Brammeier; Lynn McClure (lmcclure@npca.org); 'msmith@nwf.org'; Riley, Rebecca (rriley@nrdc.org); Howard Learner; melissa.damaschke@sierraclub.org; Jennifer McKay; Melinda Hughes-Wert; nschroeck@wayne.edu; tracey@ecocenter.org; dahkohler@environmentamerica.org; Crafton, Jill W. (JWCrafton@rkmc.com); sharley@cleanwater.org; Doug Welker; Peggy (hildaheeron@aol.com); J Dorner (jdorner@lwvil.org); Cheryl Nenn; Andy Knott; Irene Senn (imbsenn@gmail.com); Gary Wager (glwager@gmail.com)
Sent: 4/26/2013 12:21:52 AM
Subject: Joint environmental group comment on United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.gif; image002.gif; Joint Badger Environmental Comment Letter 042513-Final.pdf

Attached please find a joint comment letter signed by 20 organizations concerning the proposed consent decree in United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771. Please let me know if there is any problem reading the attachment. I would appreciate email confirmation that this letter was timely received.

Lyman C. Welch | Water Quality Program Director | lwelch@greatlakes.org
Alliance for the Great Lakes | www.greatlakes.org
17 N. State Street, Suite 1390 | Chicago, IL 60602 | 312.445.9739

Protect Your Lakes at <http://takeaction.greatlakes.org/subscribe>



Alliance for the Great Lakes -- Clean Water Action -- Ecology Center -- Environment Illinois -- Environmental Law & Policy Center -- Great Lakes Environmental Law Center -- Great Lakes Committee, Izaak Walton League -- Kalamazoo River Cleanup Coalition -- League of Women Voters of Illinois -- Michigan Citizens for Water Conservation -- Milwaukee Riverkeeper -- National Parks Conservation Association -- National Wildlife Federation -- Natural Resources Defense Council -- Nature Abounds -- Religious Coalition for the Great Lakes -- Sierra Club -- Tip of the Mitt Watershed Council -- Upper Peninsula Environmental Coalition -- The Watershed Center ~ Grand Traverse Bay

April 25, 2013

Assistant Attorney General
U.S. DOJ-ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

On behalf of the undersigned organizations, we respectfully request that you strengthen the proposed consent decree that requires the owners of the S.S. Badger to stop dumping coal ash into Lake Michigan. Our organizations represent thousands of members working to restore and protect Lake Michigan. Lake Michigan provides drinking water and recreation for millions and should not be used as a dumping ground. With four years already passed since the owners of the S.S. Badger committed to end the ash dumping, there can be no more excuses or delays.

We are pleased that the United States has gone to court to bring an end to the S.S. Badger's decade-long history of dumping its coal ash waste into Lake Michigan. However, we respectfully request that the proposed decree be strengthened to avoid a repetition of a recent history of attempted exemption. The S.S. Badger dumps more than 500 tons of coal ash into Lake Michigan each year – a quantity greater than the total waste dumped annually by the 125 other largest ships operating on the Great Lakes. The coal ash contains mercury and other pollutants that can be consumed by fish and distributed throughout the Great Lakes food web.

Under a previous agreement negotiated between the owners of the S.S. Badger and the EPA, the S.S. Badger was given a December 2012 deadline to end its coal ash dumping. The proposed consent agreement would allow the Badger to continue dumping coal ash in Lake Michigan through 2014.

This coal ash pollution of Lake Michigan should be brought to a swift and certain end. The S.S. Badger should clean up its operations and stop polluting Lake Michigan. To ensure this, we request that you consider strengthening the proposed consent decree in the following four areas:

- There should be an explicit agreement stated by both parties that there will be no more extensions from the new 2014 deadline. The S.S. Badger's owners have already had over four years to fix the problem and should not be allowed to benefit from their lack of diligence in complying with the 2012 deadline they previously said they could meet. Force majeure and dispute resolution provisions must be carefully limited to ensure the new deadline is firm, and there are not additional extension requests from the S.S. Badger's owners in the future.
- U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. Badger's continued pollution. Strong penalties are appropriate due to the unique value of the Great Lakes drinking water supply and the serious threat from coal ash containing mercury and other pollutants. The \$25,000 penalty for the 2012 violations and amounts now proposed as stipulated penalties during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are much lower than the Badger's \$705,226 estimated cost to remove and landfill the ash. The U.S. DOJ and U.S. EPA should consider increasing these penalties to avoid an incentive for the S.S. Badger to simply "pay to pollute" during the next two years, rather than take action to fix the problem.
- The U.S. DOJ and the U.S. EPA should consider greater percentage reductions of coal ash discharges to better protect Lake Michigan. Currently, the proposed decree contains no specific percentage reduction in 2013 and only a 15 percentage reduction in 2014. Greater specificity and larger reductions are required to provide a clearly defined pollution reduction path toward compliance and ending coal ash dumping into Lake Michigan.
- More frequent and transparent reporting is required. The S.S. Badger should be required to report its monthly progress toward elimination of coal ash dumping. Each report should include both self-reported and externally verified evidence of progress toward elimination of dumping, such as proof of expenditures for ash capture technology, draft contracts for landfilling, etc. The volume and mercury content of ash discharged through 2014 must be publicly reported to ensure transparency and public accountability. These reports should be certified by an independent third party and should be made publicly available on an easily accessible website. Confidentiality claims must not prevent the public from being fully informed of the amount of pollution the S.S. Badger dumps into Lake Michigan.

If you have any questions regarding these comments, please do not hesitate to contact Joel Brammeier, President and CEO of the Alliance for the Great Lakes, at 312-939-0838, email at: jbrammeier@greatlakes.org or Howard Learner, Executive Director of the Environmental Law & Policy Center, at 312-673-6500 or by email at HLearner@elpc.org.

Sincerely,

Joel Brammeier, President & CEO
Alliance for the Great Lakes

Susan Harley, Michigan Policy Director
Clean Water Action

Tracey Easthope, Director, Environmental Health Project
Ecology Center

Dan Kohler, Regional Director
Environment America

Howard Learner, Executive Director
Environmental Law & Policy Center

Nick Schroeck, Executive Director
Great Lakes Environmental Law Center

Jill Crafton, Chair
Great Lakes Committee, Izaak Walton League

Gary Wager, Executive Director
Kalamazoo River Cleanup Coalition

Jan Dorner, President
League of Women Voters of Illinois

Peggy Case, President
Michigan Citizens for Water Conservation

Cheryl Nenn, Riverkeeper
Milwaukee Riverkeeper

Lynn McClure
National Parks Conservation Association, Midwest Region

Rebecca Riley
Natural Resources Defense Council

Marc Smith, Senior Policy Manager
National Wildlife Federation

Melinda Hughes-Wert, President
Nature Abounds

Irene Senn, Coordinator
Religious Coalition for the Great Lakes

Melissa Damaschke, Great Lakes Program Director
Sierra Club

Jennifer McKay, Policy Specialist
Tip of the Mitt Watershed Council

Doug Welker, Board Member
Upper Peninsula Environmental Coalition

Andy Knott, Executive Director
The Watershed Center ~ Grand Traverse Bay

From: Lyman Welch
To: ENRD, PUBCOMMENT-EES (ENRD)
CC: Joel Brammeier; Lynn McClure (lmcclure@npca.org); 'msmith@nwf.org'; Riley, Rebecca (rriley@nrdc.org); Howard Learner; melissa.damaschke@sierraclub.org; Jennifer McKay; Melinda Hughes-Wert; nschroeck@wayne.edu; tracey@ecocenter.org; dahkohler@environmentamerica.org; Crafton, Jill W. (JWCrafton@rkmc.com); sharley@cleanwater.org; Doug Welker; Peggy (hildaheeron@aol.com); J Dorner (jdorner@lwvil.org); Cheryl Nenn; Andy Knott; Irene Senn (imbsenn@gmail.com); Gary Wager (glwager@gmail.com)
Sent: 4/26/2013 12:21:52 AM
Subject: Joint environmental group comment on United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771
Attachments: image001.gif; image002.gif; Joint Badger Environmental Comment Letter 042513-Final.pdf

Attached please find a joint comment letter signed by 20 organizations concerning the proposed consent decree in United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771. Please let me know if there is any problem reading the attachment. I would appreciate email confirmation that this letter was timely received.

Lyman C. Welch | Water Quality Program Director | lwelch@greatlakes.org
Alliance for the Great Lakes | www.greatlakes.org
17 N. State Street, Suite 1390 | Chicago, IL 60602 | 312.445.9739

Protect Your Lakes at <http://takeaction.greatlakes.org/subscribe>



Alliance for the Great Lakes -- Clean Water Action -- Ecology Center -- Environment Illinois -- Environmental Law & Policy Center -- Great Lakes Environmental Law Center -- Great Lakes Committee, Izaak Walton League -- Kalamazoo River Cleanup Coalition -- League of Women Voters of Illinois -- Michigan Citizens for Water Conservation -- Milwaukee Riverkeeper -- National Parks Conservation Association -- National Wildlife Federation -- Natural Resources Defense Council -- Nature Abounds -- Religious Coalition for the Great Lakes -- Sierra Club -- Tip of the Mitt Watershed Council -- Upper Peninsula Environmental Coalition -- The Watershed Center ~ Grand Traverse Bay

April 25, 2013

Assistant Attorney General
U.S. DOJ-ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General:

On behalf of the undersigned organizations, we respectfully request that you strengthen the proposed consent decree that requires the owners of the S.S. Badger to stop dumping coal ash into Lake Michigan. Our organizations represent thousands of members working to restore and protect Lake Michigan. Lake Michigan provides drinking water and recreation for millions and should not be used as a dumping ground. With four years already passed since the owners of the S.S. Badger committed to end the ash dumping, there can be no more excuses or delays.

We are pleased that the United States has gone to court to bring an end to the S.S. Badger's decade-long history of dumping its coal ash waste into Lake Michigan. However, we respectfully request that the proposed decree be strengthened to avoid a repetition of a recent history of attempted exemption. The S.S. Badger dumps more than 500 tons of coal ash into Lake Michigan each year – a quantity greater than the total waste dumped annually by the 125 other largest ships operating on the Great Lakes. The coal ash contains mercury and other pollutants that can be consumed by fish and distributed throughout the Great Lakes food web.

Under a previous agreement negotiated between the owners of the S.S. Badger and the EPA, the S.S. Badger was given a December 2012 deadline to end its coal ash dumping. The proposed consent agreement would allow the Badger to continue dumping coal ash in Lake Michigan through 2014.

This coal ash pollution of Lake Michigan should be brought to a swift and certain end. The S.S. Badger should clean up its operations and stop polluting Lake Michigan. To ensure this, we request that you consider strengthening the proposed consent decree in the following four areas:

- There should be an explicit agreement stated by both parties that there will be no more extensions from the new 2014 deadline. The S.S. Badger's owners have already had over four years to fix the problem and should not be allowed to benefit from their lack of diligence in complying with the 2012 deadline they previously said they could meet. Force majeure and dispute resolution provisions must be carefully limited to ensure the new deadline is firm, and there are not additional extension requests from the S.S. Badger's owners in the future.
- U.S. DOJ and the U.S. EPA should consider increasing the civil penalties for the S.S. Badger's continued pollution. Strong penalties are appropriate due to the unique value of the Great Lakes drinking water supply and the serious threat from coal ash containing mercury and other pollutants. The \$25,000 penalty for the 2012 violations and amounts now proposed as stipulated penalties during the next two years (\$32,500 in 2013 and \$65,000 in 2014) are much lower than the Badger's \$705,226 estimated cost to remove and landfill the ash. The U.S. DOJ and U.S. EPA should consider increasing these penalties to avoid an incentive for the S.S. Badger to simply "pay to pollute" during the next two years, rather than take action to fix the problem.
- The U.S. DOJ and the U.S. EPA should consider greater percentage reductions of coal ash discharges to better protect Lake Michigan. Currently, the proposed decree contains no specific percentage reduction in 2013 and only a 15 percentage reduction in 2014. Greater specificity and larger reductions are required to provide a clearly defined pollution reduction path toward compliance and ending coal ash dumping into Lake Michigan.
- More frequent and transparent reporting is required. The S.S. Badger should be required to report its monthly progress toward elimination of coal ash dumping. Each report should include both self-reported and externally verified evidence of progress toward elimination of dumping, such as proof of expenditures for ash capture technology, draft contracts for landfilling, etc. The volume and mercury content of ash discharged through 2014 must be publicly reported to ensure transparency and public accountability. These reports should be certified by an independent third party and should be made publicly available on an easily accessible website. Confidentiality claims must not prevent the public from being fully informed of the amount of pollution the S.S. Badger dumps into Lake Michigan.

If you have any questions regarding these comments, please do not hesitate to contact Joel Brammeier, President and CEO of the Alliance for the Great Lakes, at 312-939-0838, email at: jbrammeier@greatlakes.org or Howard Learner, Executive Director of the Environmental Law & Policy Center, at 312-673-6500 or by email at HLearner@elpc.org.

Sincerely,

Joel Brammeier, President & CEO
Alliance for the Great Lakes

Susan Harley, Michigan Policy Director
Clean Water Action

Tracey Easthope, Director, Environmental Health Project
Ecology Center

Dan Kohler, Regional Director
Environment America

Howard Learner, Executive Director
Environmental Law & Policy Center

Nick Schroeck, Executive Director
Great Lakes Environmental Law Center

Jill Crafton, Chair
Great Lakes Committee, Izaak Walton League

Gary Wager, Executive Director
Kalamazoo River Cleanup Coalition

Jan Dorner, President
League of Women Voters of Illinois

Peggy Case, President
Michigan Citizens for Water Conservation

Cheryl Nenn, Riverkeeper
Milwaukee Riverkeeper

Lynn McClure
National Parks Conservation Association, Midwest Region

Rebecca Riley
Natural Resources Defense Council

Marc Smith, Senior Policy Manager
National Wildlife Federation

Melinda Hughes-Wert, President
Nature Abounds

Irene Senn, Coordinator
Religious Coalition for the Great Lakes

Melissa Damaschke, Great Lakes Program Director
Sierra Club

Jennifer McKay, Policy Specialist
Tip of the Mitt Watershed Council

Doug Welker, Board Member
Upper Peninsula Environmental Coalition

Andy Knott, Executive Director
The Watershed Center ~ Grand Traverse Bay

Maher, Robert (ENRD)

From: Bill Anderson [banderson38@charter.net]
Sent: Wednesday, April 24, 2013 7:25 PM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: Reference Case Number: D.J. Ref. No. 90-5-1-1-10771

To: Assistant Attorney General, Environmental Natural Resources Division
Case Name: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services

I am writing urging the approval of the Consent Agreement that would allow Lake Michigan Carferry, Inc. to remediate the environmental issues concerning the EPA.

There are strong reasons for authorizing the *SS Badger* to continue providing cross-lake carferry service to Wisconsin and Michigan which include its economic impact, its iconic value and its historic significance:

- 1) Its economic impact is well-documented beginning with an impact research study completed by the Business & Industrial Development Center while I served as president of West Shore Community College. Although its primary purpose is serving the tourism industry, its capacity to transport large truck-laden cargo has become increasingly important. I rode over on the first sailing to Manitowoc last spring and was amazed at the size of vehicular loads being transported in the hold of the ship. I asked one truck driver what was the length of his rig and he responded, 150 feet. And now with the growing investment in wind energy, the *Badger* has extended its sailing season to accommodate the needs of shippers for huge windmill blades and other oversize pieces of the tower structure.
- 2) The *Badger* is an icon any city would treasure. When I served in the cabinets of two Michigan Governors as State Director of the Michigan Department of History, Arts and Libraries, my approach was to physically reach out to communities and representatives of local government, chambers of commerce and all cultural venues. Thus I canvassed the State of Michigan on an on-going basis. It was only natural that people would ask me where I was from. I told them my residence was in a small northwestern town and it was unlikely they knew about it. They then would typically press me to tell them the name of my hometown. When I said Ludington, they looked at me like I was the village idiot. And the great, great majority replied, of course we know Ludington, that's where the *Badger* sails out of.
- 3) Ludington is a maritime community with a rich maritime history that lives on today. Cross-lake carferry service was inaugurated in 1897 and with the exception of a short interlude has been in constant service for nearly 114 years. Because of the *Badger*, Ludington's harbor is regularly dredged by the US Corps of Engineers and is designated as the port of refuge on this side of Lake Michigan. The *Badger* is on the National Register and in the near future we will open a new Port of Ludington Maritime Museum which is being developed in our historic Coast Guard Station, also on the National Register. The community honors its maritime heritage with three impressive sculptures at Waterfront Park. We are planning to celebrate this rich history by launching a maritime heritage trail connecting all of these historical assets and our de-commission Coast Guard cutter and our two lighthouses.

Thank you for considering our community's appeal. This community strongly feels spiritual owners of our carferry.

Bill Anderson, chairman
Ludington/Mason County Cultural Economic Development Task Force

Maher, Robert (ENRD)

From: Betty/Dennis Tabor [REDACTED]
Sent: Wednesday, April 24, 2013 10:18 PM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: Save the Badger042413.jpg

Department of Justice,

Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J.
Ref. No. 90-5-1-1-10771

Attached is a letter of support for the proposed consent decree to allow the S.S. Badger to continue its cross lake operations across Lake Michigan between Ludington, MI and Manitowoc, WI. This letter is from the Wednesday Night Supper Group of the United Methodist Church, 5810 Bryant Rd., Ludington, MI 49431

We, the undersigned, support the proposed consent decree that will end coal ash discharge from the Badger before 2015.

We support the carferry service of the SS Badger sailing between the port of Ludington, Michigan and the port of Manitowoc, Wisconsin. This is a heritage of these two communities where adults and children of today can go back in time such as at Greenfield Village in Dearborn, Michigan and Mackinac Island, Michigan.

We support the carferry service as it provides employment for people in these two communities. Related tourist services such as motels and restaurants also help sustain the economy of these two communities.

April 24, 2013 The Wednesday Night Supper Group of the United Methodist Church, 5810 Bryant Rd., Ludington, Michigan 49431

Betty J. Taber
 Dennis D. Taber
 Janice Wolf
 Marge Joyce
 Jo Ann Smith
 Mrs Bud
 Bruce Ann Wark
 E. Jeanne Mease
 Chris Wegener
 Lane Sorenson
 Joanne Hornung
 Judith Riker
 Harold A. Hansen
 Jan Stapler
 Lynne Bohn
 Jackie Peterson
 Beverly Curtis
 Shirley Linscott
 Ruth Campbell
 Jean Stagner

Charlotte Donaldson
 Mary Schierholt
 June Hillman
 Anne Estle
 Laurie E. Abrahamson
 Lori Lipton
 Cheryl Abrahamson
 Rick V. Petersen
 Donald McWhorter
 Donald W. Wagner
 Robert A. Larson
 Karen O'Brien
 Willa Jean Best
 Shirley West
 Janice Soper
 Rev Pondrie
 Karen O'Henson
 Penni Jensen
 Karen Disegra

Maher, Robert (ENRD)

From: Joseph J James [josephjames@bellsouth.net]
Sent: Thursday, April 25, 2013 12:01 PM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771 - Comment - <http://www.epa.gov/r5water/npdestek/badger/>
Attachments: Overview of ATP's Torrefaction Process.ppt

Dear EPA:

I would like to comment on the above-referenced matter.

Our company uses an innovative form of torrefaction technology to convert plant and wood biomass into a clean and renewable coal alternative. Note the attached PPT. Because, there is almost no mercury or sulfur in wood, our torrefied fuels and their ashes are much cleaner and more safe than coal. In addition, the SS Badger's boilers would operate more efficiently by using 13-14,000 BTU fuel, much higher in BTU's than the 8-9,000 BTU coal currently used. We can make a fuel in that higher BTU range.

The purpose of my comment is to make sure that EPA knows that there are clean and renewable coal alternatives available to the SS Badger.

Regards,

JJJ

Joseph J. James
President
Agri-Tech Producers, LLC (ATP)
116 Wildewood Club Court
Columbia, South Carolina 29223
Phone: (803) 462-0153
Cell: (803) 413-6801
Fax: (803) 462-9676
E-Mail: josephjames@bellsouth.net
Website: www.agri-techproducers.com
Skype Name: josephjames

Maher, Robert (ENRD)

From: Nancy Schema [NSchema@hfmhealth.org]
Sent: Thursday, April 25, 2013 2:09 PM
To: ENRD, PUBCOMMENT-EES (ENRD)
Cc: jnickels@manitowoc.org
Subject: D.J. Ref. No. 90-5-1-1-10771
Attachments: DJ REF No. 90-5-1-1-10771.pdf

Assistant Attorney General
Environmental and Natural Resources Division

In Re: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger
D.J. Ref. No. 90-5-1-1-10771

Please be advised that on April 24, 2013, the Board of Directors of Holy Family Memorial, Inc. in Manitowoc, Wisconsin, unanimously passed the following Resolution in support of the proposed Consent Agreement between the U.S. Environmental Protection Agency and Lake Michigan Carferry Services/SS Badger. A copy of said Resolution is also attached hereto. Thank you for your consideration.



RESOLUTION

Holy Family Memorial, Inc. Supports the Proposed Consent Agreement between the U.S. Environmental Protection Agency and Lake Michigan Carferry Services/SS Badger

WHEREAS, the Board of Directors of *Holy Family Memorial, Inc.* expresses its support for the proposed Consent Agreement between the U.S. Environmental Protection Agency and Lake Michigan Carferry Services/***S.S. Badger*** as being in the best public interest and an appropriate resolution to the longstanding issue of this historic vessel discharging coal ash into Lake Michigan; and

WHEREAS, the ***S.S. Badger*** is very important to the economies of its home ports in Michigan and Wisconsin, and to nearby communities up and down the coastline; and

WHEREAS, the ship carries an estimated 100,000 passengers each sailing season, and has an estimated \$35 million annual economic impact to communities in the two states; and

WHEREAS, businesses rely on the ***S.S. Badger*** as an alternative to reduce costs associated with other modes of transportation of goods around Lake Michigan; and

WHEREAS, the ***S.S. Badger*** has a direct economic impact on *Holy Family Memorial, Inc.* by way of supporting employment of those who use our health care services; and

WHEREAS, our community draws its drinking water from Lake Michigan, and is home to some of the finest beaches on Lake Michigan and best sport fishing on the Great Lakes, we are acutely aware of the importance of protecting the water quality of this tremendous natural resource; and

WHEREAS, we believe that the proposed Consent Agreement, which establishes a two-year timetable for ceasing the discharge of ash, strikes a fair balance between environmental protection and the economic needs of a region that benefits from the continued economic activity provided by the *S.S. Badger*,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of *Holy Family Memorial, Inc.* supports the Consent Agreement between the U.S. Environmental Protection Agency and the Lake Michigan Carferry Service/*S.S. Badger* which will allow their continued positive economic impact on *Holy Family Memorial, Inc.*; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forward to the U.S. Environmental Protection Agency urging them to enter into the agreement.

William R. Casey
Chairman, Board of Directors

Mark P. Herzog
President and CEO

Nancy Schema
Executive Assistant
Holy Family Memorial
920-320-3485
920-320-3500 (fax)
nschema@hfmhealth.org



RESOLUTION

Holy Family Memorial, Inc. Supports the Proposed Consent Agreement between the U.S. Environmental Protection Agency and Lake Michigan Carferry Services/SS Badger

WHEREAS, the Board of Directors of *Holy Family Memorial, Inc.* expresses its support for the proposed Consent Agreement between the U.S. Environmental Protection Agency and Lake Michigan Carferry Services/*S.S. Badger* as being in the best public interest and an appropriate resolution to the longstanding issue of this historic vessel discharging coal ash into Lake Michigan; and

WHEREAS, the *S.S. Badger* is very important to the economies of its home ports in Michigan and Wisconsin, and to nearby communities up and down the coastline; and

WHEREAS, the ship carries an estimated 100,000 passengers each sailing season, and has an estimated \$35 million annual economic impact to communities in the two states; and

WHEREAS, businesses rely on the *S.S. Badger* as an alternative to reduce costs associated with other modes of transportation of goods around Lake Michigan; and

WHEREAS, the *S.S. Badger* has a direct economic impact on *Holy Family Memorial, Inc.* by way of supporting employment of those who use our health care services; and

WHEREAS, our community draws its drinking water from Lake Michigan, and is home to some of the finest beaches on Lake Michigan and best sport fishing on the Great Lakes, we are acutely aware of the importance of protecting the water quality of this tremendous natural resource; and

WHEREAS, we believe that the proposed Consent Agreement, which establishes a two-year timetable for ceasing the discharge of ash, strikes a fair balance between environmental protection and the economic needs of a region that benefits from the continued economic activity provided by the *S.S. Badger*;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of *Holy Family Memorial, Inc.* supports the Consent Agreement between the U.S. Environmental Protection Agency and the Lake Michigan Carferry Service/*S.S. Badger* which will allow their continued positive economic impact on *Holy Family Memorial, Inc.*; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forward to the U.S. Environmental Protection Agency urging them to enter into the agreement.



William R. Casey
Chairman, Board of Directors



Mark P. Herzog
President and CEO

Maher, Robert (ENRD)

From: Brandy Henderson [brandyh@ludington.org]
Sent: Thursday, April 25, 2013 5:12 PM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: D.J. Ref. No. 90-5-1-1-10771

Pure Ludington

Ludington Area Convention & Visitors Bureau

Assistant Attorney General
U.S. DOJ - ENRD
P.O. Box 7611
Washington, DC 20044-7611

RE: D.J. Ref. No. 90-5-1-1-10771

Dear Assistant Attorney General, Environmental and Natural Resources Division

I am writing in regards to the following case: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger. As the Executive Director & CEO of the Ludington Area Convention & Visitors Bureau and on behalf of the Board of Directors, I respectfully request that you approve the Consent Decree.

Not only is the SS Badger an icon in our community, but it also helps sustain the region's tourism. Shutting down the Badger would be devastating to the economic recovery in many communities in the upper Midwest, but importantly it's home port, Ludington. The SS Badger brings over 100,000 people to our area each year, which supports many of our tourist based businesses in Mason County and beyond. The Badger is an economic lifeline to Manitowoc, WI and Ludington, MI, as well as many of the nearby surrounding areas. Providing 200 jobs directly and supporting another 500 indirectly, the SS Badger also has a overall economic impact of \$21 million in Ludington alone.

Beyond facts and figures, this ship means so much to the families who visit our town, but more importantly to those of us who live here in Ludington and Mason County. Our friends and families have worked on the ship, we know when summer has arrived with the honk of the ships horn and we all have waved and welcomed that ship back into port for years! Our community prides itself on charm and nostalgia and there is nothing more engrained in our culture than the SS Badger.

I urge you to approve the Consent Decree that allows Lake Michigan Carferry Services to bring the Badger into compliance over the next two years and supports the hardworking men and women of our community who rely on the jobs provide by this iconic business. Save Our Ship!

Sincerely,

Brandy Henderson

Brandy Henderson • Executive Director/CEO

Ludington Area Convention & Visitors Bureau

5300 West US 10 • Ludington, MI 49431

Direct: 231-845-5430 ext. 109 • Toll-free: 800-542-4600 • Fax: 231-845-6857

brandyh@ludington.org • PureLudington.com

Facebook • Twitter • Watch Our Video

The Official Destination Marketing Organization for Mason County, Michigan

Maher, Robert (ENRD)

From: Joe Serwach [joe@organikconsulting.com]
Sent: Friday, April 26, 2013 9:37 AM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: Public Comments on United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771.
Attachments: Save Our Great Lakes Comments & Proposed Amendments to Consent Decree 4-26-13.docx; ATT00001.htm; ADDENDUM A - Michigan Water Pollution Control Act.pdf; ATT00002.htm; ADDENDUM B - 2006 MDEQ Letter to USCG re state dumping ban and cargo washing regulations.pdf; ATT00003.htm; ADDENDUM C - Mich Legislative Service Bureau Research Memorandum 11-2011.pdf; ATT00004.htm; ADDENDUM D - 1966 Wisconsin Articles.pdf; ATT00005.htm; ADDENDUM H - HR 2838 Section 707 titled Special Consideration for Historic Vessels.pdf; ATT00006.htm; ADDENDUM I - Articles re Coast Guard Amendment.pdf; ATT00007.htm; ADDENDUM J - Articles re LNG Grant.pdf; ATT00008.htm

Attached are our public comments and supporting documentation.



April 26, 2013

Sent via electronic mail to: pubcomment-ees.enrd@usdoj.gov
Assistant Attorney General,
U.S. DOJ-ENRD,
P.O. Box 7611,
Washington, DC
20044-7611.

Re: Comments & Proposed Amendments of Save Our Great Lakes regarding United States v. Lake Michigan Trans-Lake Shortcut, Inc., D.J. Ref. No. 90-5-1-1-10771.

Dear Assistant Attorney General:

On behalf of Save Our Great Lakes, a Michigan non-profit corporation, we submit the following Comments & Proposed Amendments to the proposed Consent Decree referenced above.

SUMMARY OF PROPOSED AMENDMENTS

1. Require legal certification of compliance with state law by affected states as a condition of proposed coal ash dumping in 2013 and 2014.
2. Expressly mandate a 2014 end date for all illegal coal ash discharges into Lake Michigan and require all parties to agree not to seek any extension beyond 2014.
3. Require SS Badger *et al* to cease lobbying federal and state officials for an exemption or other regulatory treatment that would allow them to continue coal ash dumping beyond 2014.
4. Increased civil penalties which provide an economic incentive to come into compliance.
5. Impose a specific discharge reduction percentage in 2013 and a greater than 15% reduction in 2014.

PROPOSED AMENDMENTS WITH RATIONALE

1. Require legal certification of compliance with state law by affected states as a condition of proposed coal ash dumping in 2013 and 2014.

- Require the affected states of Michigan and Wisconsin to certify whether the terms of the proposed consent decree (*i.e.* continued coal ash dumping into Lake Michigan) of decree comply with state law prior to court approval.
- Do not allow the SS Badger to sail prior to receipt by the court of a certification from the affected states of Michigan and Wisconsin that the proposed terms comply with applicable state law and/or amend the order such that no coal ash dumping shall occur during the 2013 or 2014 that is not in compliance with applicable state law as identified by the environmental department of the affected states of Michigan and Wisconsin.
- Rationale:
 - Michigan has a more than 40 year old criminal ban on the dumping of any material in the Great Lakes by a watercraft. See relevant sections of Michigan's Watercraft Pollution Control Act at MCL 324.9501; MCL 324.9502 attached as ADDENDUM A).
 - The statute makes the dumping of any material from a watercraft punishable by a fine of up to \$500 per occurrence and up to 92 days in jail. See Lake Carriers Assn v MDNR, 407 Mich 424 (1979) upholding the ban. See also Michigan Department of Environmental Quality letter to the U.S. Coast Guard from July 2006 citing this statutory ban for the state's objection to so-called cargo washing regulations attached as ADDENDUM B.
 - The United States E.P.A. ("EPA") has historically circumvented federal Clean Water Act requirements that it obtain a state law certification from the State of Michigan regarding proposed coal ash discharges by the SS Badger first during the Vessel General Permit ("VGP") process of 2008 (by adding discharge authority after state law certification of the VGP occurred) and then by using the consent decree process in 2013 rather than issuing a draft permit decision that would have required state law certification from the State of Michigan. See Michigan Legislative Service Bureau memorandum issued to State Rep. Marcia Hovey-Wright dated November 2011 for a definitive account of state law on this issue attached as ADDENDUM C.

2. Expressly Mandate a 2014 end date for all illegal coal ash discharges into Lake Michigan and require all parties to agree not to seek any extension beyond 2014.

- There should be an explicit agreement that neither the owners of the SS Badger or the federal government shall seek any further extensions to the cessation of coal ash pollution by the S.S. Badger following the 2014 summer season.

- Rationale:

- The owners of the SS Badger have had more than ample time and warning of the requirement to discontinue dumping upwards of 8,000 pounds per day of coal ash into Lake Michigan and they have a long history of seeking extensions and exemptions from compliance deadlines.
- As far back as 1966, the owners of the SS Badger publicly pledged to reduce their dumping of refuse into Lake Michigan in an article which references U.S. Sen. Gaylord Nelson witnessing a “[p]ump spewing black viscous liquid for miles from a large diameter pipe. The dumping of trash went on continuously during the lake crossing.” *See Sheboygan Press and other Wisconsin newspaper articles from December of 1966 attached as ADDENDUM D.*
- In 2001, over 12 years ago, SS Badger owner Robert Manglitz publicly acknowledged the need to convert the SS Badger to diesel power to reduce emissions. *See Ludington Daily News letter to the editor dated March 2001 attached as ADDENDUM E.*
- During the 2008 EPA VGP process SS Badger stated in public documents coal ash discharges could be discontinued by May 2012. The EPA then granted (without state certification by or notice to the State of Michigan) an additional grace period for the discontinuation of discharges through December 2012. *See Proposed VGP: EPA’s Response to Public Comments dated December 19, 2008, p 6-558 attached as ADDENDUM F.* In short, the SS Badger asked for three (3) sailing seasons to discontinue coal ash discharges and received four (4) from the EPA.
- During the 2008-2012 time frame, SS Badger actively lobbied the federal government to seek a historic designation of its engine that would have allowed it to continue coal ash dumping indefinitely. *See discussion below.*
- In 2012-13, the owners of the SS Badger filed an application for an individual NPES discharge permit from the EPA seeking an additional five (5) years of authority to dump upwards of 500 tons per sailing season of coal ash into Lake Michigan . To summarize, the SS Badger in 2008 stated that it could discontinue coal ash dumping in three (3) years; it received an extra year, and in 2012 it stated that it needed an additional five (5) years stretching the original requested time frame for compliance from three (3) years to nine (9).
- In short, the owners of the SS Badger have no credibility as it relates to deadlines for coming into compliance with state and federal law and their lobbying history strongly suggests that they will seek additional time to continue coal ash dumping after the 2014 sailing season.

3. Require SS Badger *et al* to cease lobbying federal and state officials for an exemption or other regulatory treatment that would allow them to continue coal ash dumping beyond 2014.

- The owners of the S.S. Badger should agree to and/or be required to refrain from lobbying federal and state executive and legislative branch officials for continued exemptions from existing law state and federal law, delays from coming into compliance with applicable state and federal law, and/or otherwise seeking regulatory or legislative treatment that would have the effect of allowing them to continue dumping coal ash into Lake Michigan past 2014.
- Rationale:
 - The owners of the SS Badger have an extensive history of seeking special favors and regulatory treatment from state and federal officials. *See examples below.*
 - Now that this matter is under the jurisdiction of the federal courts via a consent decree voluntarily negotiated by U.S. Department of Justice and the owners of the SS Badger, all such state and federal lobbying efforts directed at executive and legislative branch officials that would in any way have the effect of changing the terms of the consent decree should be immediately discontinued under the doctrine of separation of powers.
 - On information and belief and based on public records, the owners of the SS Badger have engaged in lobbying efforts at the state and federal level including but not limited to:
 - Seeking and receiving specific legislative exemptions from state air quality laws in the 1980s. *See MCL324.5513 attached as ADDENDUM G (note that all Michigan environmental statutes were re-codified as the Natural Resources and Environmental Protection Act in 1994). See also Wisconsin Statute 285.304(4).*
 - Seeking and later disclaiming the need for \$2 Million in funds from the State of Michigan for re-powering the ship to diesel in 2001. *See ADDENDUM E.*
 - Seeking and receiving a four (4) year authorization to continue coal ash dumping from the EPA in the 2008 VGP. Please note that according to State of Michigan regulators this authorization occurred *after* the state issued a certification letter to the EPA and, thus, was never reviewed let alone approved by relevant state officials as required by the federal Clean Water Act. *See Addendum C.*
 - During this four (4) year grace period in which the company agreed to discontinue dumping coal ash, the owners of the SS Badger successfully lobbied the U.S. House of Representatives to amend the Coast Guard Authorization bill to state that any ship/coal ash burning engine which had been *nominated* for historic landmark status (yet another SS Badger lobbying effort) would be allowed to continue operating under the terms of 2008 VGP "for the life the vessel." *See Section 707 of HR 2838 as passed by the U.S. House, Section 707 being an amendment offered by U.S. Rep. Bill Huizenga titled "Special Consideration for Vessels of Historic Significance, attached as ADDENDUM H.*

- This 2012 amendment to HR 2838 cited above literally seeks for the SS Badger a lifetime exemption from federal and state clean water laws. This also constitutes a blatant legislative end-run around an agreement that the owners of the SS Badger made to the EPA during the 2008 VGP process and it directly contradicts their statements in 2008 that it could discontinue dumping coal ash into Lake Michigan by 2011. *See media accounts of Coast Guard Amendment attached as ADDENDUM I*
- In 2012, the owners of the SS Badger sought and received a grant from the State of Wisconsin to study the feasibility of conversion to natural gas, a conversion which its lobbying/law firm flatly stated was not economically feasible in its 2012-13 filings for an individual NPDES discharge permit. *See media accounts of the grant attached as Addendum J.*

4. Increased civil penalties which provide an economic incentive to come into compliance.

- The U.S. DOJ and the U.S. EPA should increase the civil penalties for the S.S. Badger's continued pollution to a level that provides an incentive to comply with state and federal law rather than continue its historic pattern of violations.
- Rationale:
 - The current proposed penalties are far less than SS Badger's publicly stated cost estimates for capturing and land-filling coal ash rather than continuing to discharge it into Lake Michigan.
 - At these penalty levels, the owners of the SS Badger would have a perverse economic incentive to continue illegal coal ash dumping rather than coming into compliance with state and federal law. Given the SS Badger's history of seeking and running past compliance deadlines as outlined above, there should be a meaningful penalty which provides the appropriate economic incentive for them to come into compliance.

5. Impose a specific discharge reduction percentage in 2013 and a greater than 15% reduction in 2014.

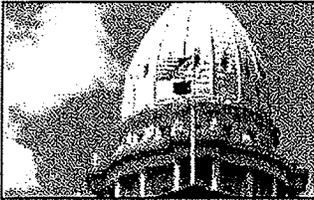
- The U.S. DOJ and the U.S. EPA should impose steeper percentage reductions in the S.S. Badger's coal ash dumping over the next two (2) years in order to have a stronger path towards compliance. There is no specified percentage reduction in 2013 and only a 15% reduction specified for 2014.
- Rationale:
 - Without a specific target for 2013, the SS Badger will likely not make any significant reductions in coal ash discharges for the coming sailing season. Moreover, the less progress that is made over the next two years in reducing coal ash discharges only increases the chances that the owners of the SS Badger will seek yet another extension and/or delay in coming into compliance after the 2014 sailing season.

- We propose a 25% reduction in 2013 and a 50% reduction in 2014, assuming all other conditions are met, with a complete elimination in 2015.

Respectfully submitted,

A handwritten signature in black ink that reads "Joe Serwach". The signature is written in a cursive style with a large, sweeping initial "J".

Joe Serwach
President
Save Our Great Lakes



MICHIGAN LEGISLATIVE WEBSITE

Michigan Compiled Laws Complete Through PA 15 of 2013

[Home](#)
[Register](#)
[Why Register?](#)
[Login](#)
[News](#)
[Help](#)

**NAVIGATE
SECTIONS**

MCL Chapter Index

Chapter 324

Act 451 of 1994

451-1994-II

451-1994-II-2

451-1994-II-2-

 WATERCRAFT-
POLLUTION

451-1994-II-2-

 WATERCRAFT-
POLLUTION-95

Section 324.9501

Legislature
Bills

Appropriation Bills/Passed

Calendars

Committees

Committee Bill Records

Committee Meetings

Concurrent Resolutions

Initiatives

Joint Resolutions

Journals

Legislators

Public Act (Signed Bills)

Resolutions

Session Schedules

Basic Search

Advanced Search

Laws

Often Req Laws

Req Outdated Acts

Basic MCL Search

Advanced MCL Search

Public Act MCL Search

Michigan Constitution

Chapter Index

Executive Orders

Executive Reorgs

Historical Documents

MCL Tables

More

Michigan Color Themes

Publications

Related Sites

Section 324.9501

friendly link
 Printer Friendly

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT
(EXCERPT)
Act 451 of 1994**
324.9501 Definitions.

Sec. 9501.

As used in this part:

(a) "Approved holding tank" means a holding tank certified by the United States coast guard under part 159 of subchapter O of chapter I of title 33 of the code of federal regulations, 33 C.F.R. part 159.

(b) "Discharge" means spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(c) "Docking facility" means a public, private, or commercial marina, yacht club, dock, or wharf used for mooring, serving, or otherwise handling watercraft.

(d) "Litter" means rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, oil, or other foreign substances of every kind and description.

(e) "Marine sanitation device" means equipment designed for installation on board a watercraft or installed on board a watercraft to receive, retain, treat, or discharge sewage.

(f) "Oil" means oil of any kind or in any form, including petroleum, fuel oil, sludge, and oil refuse.

(g) "Police officer" means a police officer as defined in section 42 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.42 of the Michigan Compiled Laws, and a conservation officer.

(h) "Portable" means not permanently affixed to a watercraft and capable of being immediately removed from a watercraft.

(i) "Sewage" means human body wastes, treated or untreated.

(j) "Watercraft" means a contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this state, passenger or other cargo-carrying vessels, and

Syndication 

Bills  

Meetings  

Laws  

Recently Viewed

- mdl 324 9501
- mdl 324 9502
- mdl 324 9503
- mdl 324 9504
- mdl 324 9505
- mdl 324 9506
- mdl 324 9507
- mdl 324 9508
- mdl 324 9510
- mdl 324 9508

privately owned recreational watercraft.

(k) "Waters of this state" means waters within the territorial limits of this state including the waters of the Great Lakes that are under the jurisdiction of this state.

History: 1994, Act 451, Eff. Mar. 30, 1995

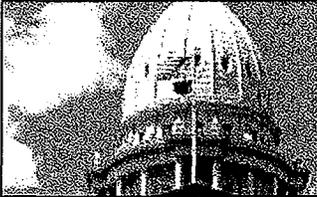
Popular Name: Act 451

Popular Name: NREPA

© 2009 Legislative Council, State of Michigan

| | | | |
|---------------------------------------|--------------------------------|--|------------------------------|
| Acceptable Use Policy | Privacy Policy | Copyright Infringement | Comment Form |
|---------------------------------------|--------------------------------|--|------------------------------|

The Michigan Legislature Website is a free service of the Legislative Internet Technology Team in cooperation with the Michigan Legislative Council, the Michigan House of Representatives, and the Michigan Senate. The information obtained from this site is not intended to replace official versions of that information and is subject to revision. The Legislature presents this information, without warranties, express or implied, regarding the accuracy of the information, timeliness, or completeness. If you believe the information is inaccurate, out-of-date, or incomplete or if you have problems accessing or reading the information, please send your concerns to the appropriate agency using the online Comment Form in the bar above this text.



MICHIGAN LEGISLATIVE WEBSITE

Michigan Compiled Laws Complete Through PA 15 of 2013

[Home](#) [Register](#) [Why Register?](#) [Login](#) [News](#) [Help](#)

NAVIGATE SECTIONS

MCL Chapter Index

- Chapter 324
- Act 451 of 1994
- 451-1994-II
- 451-1994-II-2
- 451-1994-II-2-
- WATERCRAFT-POLLUTION
- 451-1994-II-2-
- WATERCRAFT-POLLUTION-95
- Section 324.9502

Legislature

- Bills
- Appropriation Bills/Passed
- Calendars
- Committees
- Committee Bill Records
- Committee Meetings
- Concurrent Resolutions
- Initiatives
- Joint Resolutions
- Journals
- Legislators
- Public Act (Signed Bills)
- Resolutions
- Session Schedules
- Basic Search
- Advanced Search

Laws

- Often Req Laws
- Req Outdated Acts
- Basic MCL Search
- Advanced MCL Search
- Public Act MCL Search
- Michigan Constitution
- Chapter Index
- Executive Orders
- Executive Reorgs
- Historical Documents
- MCL Tables

More

- Michigan Color Themes
- Publications
- Related Sites

Section 324.9502

friendly link Printer Friendly

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.9502 Prohibition of discharges into water.

Sec. 9502.

(1) A person shall not place, throw, deposit, discharge, or cause to be discharged into or onto the waters of this state, any litter, sewage, oil, or other liquid or solid materials that render the water unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

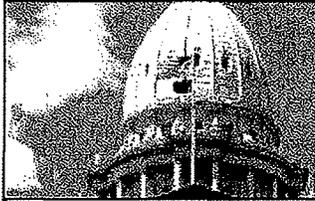
(2) A person shall not discharge, dump, throw, or deposit garbage, litter, sewage, or oil from a recreational, domestic, or foreign watercraft used for pleasure or for the purpose of carrying passengers, cargo, or otherwise engaged in commerce on the waters of this state.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

© 2009 Legislative Council, State of Michigan



MICHIGAN LEGISLATIVE WEBSITE

Michigan Compiled Laws Complete Through PA 15 of 2013

[Home](#) [Register](#) [Why Register?](#) [Login](#) [News](#) [Help](#)

NAVIGATE SECTIONS

MCL Chapter Index

Chapter 324

Act 451 of 1994

451-1994-II

451-1994-II-2

451-1994-II-2-

WATERCRAFT-POLLUTION

451-1994-II-2-

WATERCRAFT-POLLUTION-95

Section 324.9510

Section 324.9510

friendly link Printer Friendly

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT) Act 451 of 1994

324.9510 Violation of part or rules as misdemeanor; penalty.

Sec. 9510.

A person who violates this part or the rules promulgated under this part is guilty of a misdemeanor punishable by imprisonment for not more than 92 days or a fine of not more than \$500.00, or both.

History: 1994, Act 451, Eff. Mar. 30, 1995

Popular Name: Act 451

Popular Name: NREPA

© 2009 Legislative Council, State of Michigan

Legislature

Bills
Appropriation Bills/Passed
Calendars
Committees
Committee Bill Records
Committee Meetings
Concurrent Resolutions
Initiatives
Joint Resolutions
Journals
Legislators
Public Act (Signed Bills)
Resolutions
Session Schedules
Basic Search
Advanced Search

Laws

Often Req Laws
Req Outdated Acts
Basic MCL Search
Advanced MCL Search
Public Act MCL Search
Michigan Constitution
Chapter Index
Executive Orders
Executive Reorgs
Historical Documents
MCL Tables

More

Michigan Color Themes
Publications
Related Sites

Maher, Robert (ENRD)

From: Greg McCullough [gmccull@house.mi.gov]
Sent: Friday, April 26, 2013 10:25 AM
To: 'pubcomment-ees.enrd@usdoj.gov'
Subject: FW: United States v. Lake Michigan Car Ferry
Attachments: 11_01370_Memo.pdf; dojbadger.doc.rtf

From: Greg McCullough
Sent: Friday, April 26, 2013 10:23 AM
To: 'pubcomment-ees.enrd@usdoj.gov'
Subject: United States v. Lake Michigan Car Ferry

Dear United States Department of Justice,

Please find attached comments of Michigan State Representative Marcia Hovey-Wright regarding the proposed consent decree.

Sincerely,

Greg McCullough
Office of State Representative
Marcia Hovey-Wright
517/373-2646



92ND DISTRICT
STATE CAPITOL
P.O. BOX 30014
LANSING, MI 48909-7514
PHONE: (517) 373 2646
FAX: (517) 373 9646
E-MAIL marciahovewright@house.mi.gov

MICHIGAN HOUSE OF
REPRESENTATIVES

MARCIA HOVEY-WRIGHT
STATE
REPRESENTATIVE

April 25, 2013

United States Department of Justice
Case Number: D.J. Ref. No. 90-5-1-10771
Case Name: United States v. Lake Michigan Trans-Lake shortcut, Inc., D.J.Ref. No. 90-5-1-1-10771

U.S. Department of Justice:

I am writing to voice my opposition to the proposed consent decree between the U.S. Department of Justice and the operators of the SS Badger. As the representative of Michigan's House District 92, it is my responsibility to advocate for the health and well-being of people living in Muskegon and surrounding lakefront communities — namely, the people who will be most harmed by this agreement.

While the proposed consent decree does require the eventual end of coal ash discharges into Lake Michigan, it allows the dumping to go on throughout 2013 and 2014. In essence, the decree permits the operators of the Badger to continue to break Michigan's ban on dumping by watercraft for two more seasons.

This is unfair to the operators of other watercraft in the waters surrounding Michigan. It grants an arbitrary regulatory advantage to the Badger, while putting its competitors, such as the Lake Express, at a disadvantage. The federal government should not be in the business of favoring one company over another.

More importantly, the decree is not in the interest of people living near the lake or who rely on the lake for recreation or commerce. Lake Michigan is not a dumping ground, and we shouldn't allow a company to treat it like a landfill. It is one of the greatest natural resources of not just Michigan, but the entire nation.

As people entrusted to protect the public, we should be working in the interest of the people, not the interest of corporations. At minimum, I ask that you stipulate that the Badger not violate Michigan's anti-dumping law as part of the consent decree.

If you would like to discuss this further, I welcome a dialogue.

Sincerely,

Marcia Hovey-Wright

State Representative

92nd District



Recycled
Paper

MEMORANDUM

Date: November 14, 2011
To: The Honorable Marcia Hovey-Wright, State Representative
Attn: Greg McCullough
From: Michael Campana, Research Analyst
Re: **Discharges from the S.S. Badger (Request #11-01370)**

In response to your request, the Research Services Division is providing background information on the regulation of discharges from the S.S. Badger ferry. In particular, you were interested in where the ferry may legally discharge coal ash, if any state laws in Michigan or Wisconsin apply to this discharge, and information on any congressional action regarding this discharge. I have reviewed federal and state regulations on this issue as well as current activity in the U.S. Congress. I have also discussed this issue with Bill Creal, Chief of the Michigan Department of Environmental Quality's (DEQ) Water Resources Division.

Discharges of the coal ash slurry from the S.S. Badger are currently authorized under federal law but are apparently prohibited by Michigan law in state waters. The S.S. Badger may discharge coal ash slurry until December 19, 2012 under the Vessel General Permit issued by the U.S. Environment Protection Agency (EPA). That permit limits discharges to areas farther than 5 nautical miles from shore and more than 100 feet deep while the ferry is traveling at 6 knots or more. However, the DEQ holds that the discharge from the S.S. Badger is prohibited under current Michigan law. The discharge may be subject to a state permit exemption in Wisconsin. Wisconsin generally would require a permit for this type of discharge, but it does not appear that a permit has been issued. There is an active bill in Congress that would allow the coal ash slurry discharges from the S.S. Badger to continue after December 19, 2012, under the same conditions those discharges are currently made.

Federal Regulations

Under the federal Clean Water Act, most discharges to surface water, such as lakes or rivers, from a pipe or other "point source" must be authorized under a National Pollutant Discharge Elimination System (NPDES) permit to protect water quality. Ships and other vessels are defined as point sources. For the most part, the EPA has delegated this permitting authority to states. The Michigan Department of Environmental Quality (DEQ) has been delegated the authority to administer the NPDES program in Michigan. NPDES permits may be issued as an individual

permit written for a specific entity or as a general permit written to authorize similar discharges from many entities at once.

The discharge of the coal ash slurry from the S.S. Badger is currently authorized under a general permit from the EPA. In 2008, the EPA issued the Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels. This permit is unusual as it was issued directly by the EPA, not by delegated state programs. Prior to issuing this permit, the EPA had not regulated discharges incidental to the normal operation of vessels. In 2006, a federal court struck down the thirty-year old federal rule exempting these discharges in a case involving ballast water discharges from vessels.

The Vessel General Permit specifically addresses coal ash slurry discharges from the S.S. Badger. Under the permit, "the discharge of coal ash slurry from coal fired propulsion systems on a ferry is authorized...until December 19, 2012" (Section 5.3.1.1). However, the ferry owner/operator must minimize the coal ash slurry discharge using certain techniques and use low-sulfur coal (Section 5.3.2.3). In addition, the discharge may only occur more than 5 nautical miles from shore in waters over 100 feet deep, and with the ferry underway at a speed of at least 6 knots. These provisions were apparently written to address specific issues with the S.S. Badger.

I have attached a copy of the current Vessel General Permit.

Congressional Activity

On November 4th, The U.S. House of Representatives approved an amendment to the Coast Guard and Maritime Transportation Act of 2011 (H.R. 2838), offered by Rep. Huizenga, that would essentially eliminate the December 19, 2012 deadline and allow the S.S. Badger to operate indefinitely under the conditions of the Vessel General Permit. The bill is currently in the U.S. Senate. I have attached a copy of the amendment (Amendment 9 on page 13 of the attached House Report).

Michigan Regulation

Michigan statute prohibits discharges of waste into state waters without a permit. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA) prohibits the direct or indirect discharge of any substance into state waters that is or may become injurious to people, wildlife, livestock, the value or use of riparian lands, or domestic, commercial, industrial, agricultural, recreational, or other uses of state waters (MCL 324.3109). Part 31 further states:

A person shall not discharge any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department.

(MCL 324.3112)

Human sewage is the only discharge from a vessel that is specifically exempted from needing a permit under administrative rules (R 323.2109).

Additional restrictions on discharges from vessels are found in Part 95, Watercraft Pollution, of the NREPA. This part contains the following two prohibitions:

- A person shall not place, throw, deposit, discharge, or cause to be discharged into or onto the waters of this state, any litter, sewage, oil, or other liquid or solid materials that render the water unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.
- A person shall not discharge, dump, throw, or deposit garbage, litter, sewage, or oil from a recreational, domestic, or foreign watercraft used for pleasure or for the purpose of carrying passengers, cargo, or otherwise engaged in commerce on the waters of this state.

(MCL 324.9502)

Administrative rules promulgated under Part 31 state that the DEQ will not issue a permit under Part 31 if the discharge is not in conformance with Part 95 (R 323.2141). According to Mr. Creal, the coal ash discharges from the S.S. Badger are prohibited under Part 95.

I have attached a copy of Part 95.

Wisconsin Regulation

Wisconsin requires a permit for most discharges into state waters, but exempts certain discharges from vessels. Wisconsin statute states:

The discharge of any pollutant into any waters of the state or the disposal of sludge from a treatment work by any person is unlawful unless such discharge or disposal is done under a permit issued by the department...

(Wisconsin Statutes 283.31)

However, Wisconsin Statutes goes on to state that the Wisconsin Department of Natural Resources (DNR) "may by rule exempt certain classes or categories of vessels..." Wisconsin administrative rules specifically exempt:

- Sewage discharged from vessels.
- Discharges from properly functioning marine engines.

(NR 200.03)

It is not clear if the latter exemption would apply to the coal ash slurry discharges from the S.S. Badger. The current list of permit holders available from the Wisconsin DNR website does not include a permit for the S.S. Badger.

401 Certification

Federal water quality laws do not preempt state water quality laws. Rather, states may place additional state-specific restrictions in a federal permit under the federal Clean Water Act. Referred to as a 401 certification, these additional restrictions are designed to ensure that any federally-approved discharge into state waters would not violate state laws or state water quality standards.

Michigan did place additional restrictions on discharges permitted under the EPA Vessel General Permit. These restrictions were limited to additional restrictions on ballast water discharges and on discharges to certain outstanding state resource waters as well as more general statements reserving the state's authority to enforce violations and prohibiting discharges that cause or contribute to an exceedance of state water quality standards. According to Mr. Creal, the EPA added the provisions for the S.S. Badger discharge after Michigan had submitted its 401 certification for the permit.

Wisconsin did not place any additional restrictions for discharges into Wisconsin waters authorized under the Vessel General Permit.

* * * * *

If you would have any further questions about the regulation of discharges from the S.S. Badger, please feel free to contact the Research Services Division at 35200. In addition, if you would like any information about the related, but apparently distinct, U.S. Coast Guard regulation of dry bulk cargo residue discharges into the Great Lakes or EPA proposed regulation of coal combustion residuals, please let me know.

Attachments

Maher, Robert (ENRD)

From: Brad Van Dommelen [Brad@TraverseCity.com]
Sent: Friday, April 26, 2013 11:05 AM
To: ENRD, PUBCOMMENT-EES (ENRD)
Subject: Lake Michigan Car Ferry Consent Decree

To: Assistant Attorney General, Environmental and Natural Resources Division
Re: United States v. Lake Michigan Trans-Lake Shortcut, Inc., d/b/a Lake Michigan Carferry Services and SS Badger

I am writing in support of the Consent Decree requiring the SS Badger to end their ash discharge within two years. As a destination marketing organization promoting the natural beauty of our region and recognizing the importance of a healthy environment, including our valued Great Lakes, we are encouraged by the SS Badger's plan to retain their ash. At the same time we are also concerned about the loss of economic activity should the SS Badger not be allowed to continue operations. The SS Badger has provided generations of families a great experience on a historic vessel crossing Lake Michigan to provide commerce to both shores that is critical to our state's economy and hundreds of families that directly benefit and thousands more that indirectly benefit through the economic activity generated from tourism and commerce.

Protecting our Great Lakes is an important issue and a concern for all of us. This Consent Decree strikes a balance for commerce and a pathway for protection within a relatively quick timeframe. We hope that you will approve this Consent Decree to provide the two years for the SS Badger to modify their operations to fully retain their ash discharge.

Sincerely,

Brad Van Dommelen

President / CEO

Traverse City Convention & Visitors Bureau

101 W. Grandview Parkway
Traverse City, MI 49684
Office: 231-947-1120
Fax: 231-955-3913
Email: Brad@TraverseCity.com

