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**TO: HOUSE AGRICULTURE AND NATURAL RESOURCES
FROM: Richard Chesbrough
RE: Senate Bill 25**

Senators,

My wife and I are the owner/operators of the Willamette Queen Sternwheeler located on the Willamette River here in downtown Salem. We have been in business here since 1998 providing both local residents and visitors a unique and enjoyable experience aboard our authentic paddlewheeler reminiscent of the days in the 1800s and early 1900s when the only means of transportation up and down the Willamette Valley was by riverboat.

Brief background of our unique situation:

The Willamette River has been a "navigable waterway" by federal definition and thus our vessel has always been federally documented and inspected annually by the U.S. Coast Guard. In 2011 the Corps of Engineers permanently closed the Willamette Falls Locks at Oregon City due to serious safety concerns. These Locks are the smallest and oldest in the country (built in 1873) and in dire need of major work. Last month I received an update from Jerry Carroll, Operations Project Manager for the Corps of Engineers. (see attached) The bottom-line conclusion he reaches is that funding for these repairs is unlikely since these locks are at the bottom of the Corp's priority list. What this means is that the upper Willamette is now totally blocked from the lower Willamette and thus no longer meets the federal definition of "navigable waterway" for Coast Guard jurisdiction purposes.

Every 5 years we are required to take our vessel to Portland for an out-of-water dry dock inspection. Obviously, with the Locks being closed it is impossible for us to meet this requirement. Our last dry-dock requirement was last December but we were finally able to secure an exemption and the Coast Guard sent a traveling inspector out from Washington, DC to do an in-water inspection. We were told that our hull was sound and safe to continue with our operations. However, they tell us that at some point in the not to distant future we must satisfy this dry dock requirement if we wish to continue in business. We do indeed intend to stay in business here in Salem.

We see Senate Bill 25 as an option for us to choose an Oregon State License for our vessel when that time comes and forego our USCG License. I have no doubt that the Oregon State Marine Board can and will provide the same high quality public safety oversight as the Coast Guard. In fact, a number of other States such as Wisconsin, Minnesota, New Hampshire, New York and California already have state inspection programs in place. There have been 106 waters declared non-navigable by Congress.

We respectfully request that the amended language "to the limits of tidal influence" as proposed by Senator Boquist be incorporated in Senate Bill 25. Title 33 Code of Federal Regulations as the attached document uses that definition for purposes of Coast Guard jurisdiction.

It is important to point out that not all federal jurisdiction of the Upper Willamette River would go away; only the Coast Guard jurisdiction for the inspection of passenger vessels. Currently, the only vessels affected would be the three ferries; Wheatland, Canby and Buena Vista plus the Willamette Queen. It is also important to point out that the Coast Guard does not provide any other services to boat owners in the Upper Willamette such as navigation charts, aids to navigation (buoys,lights), search and rescue,etc. These services to both recreational and commercial boat owners is provided by the various County Marine Patrols who cover the entire river from Oregon City to Eugene.

We see Senate Bill 25 as a safety net providing us a way to stay in business.

Thank you


**Richard Chesbrough
Captain/Owner**

Enclosures

NAVIGABILITY DETERMINATIONS FOR THE THIRTEENTH DISTRICT

Attached is a listing of navigability determinations for waters in the Thirteenth Coast Guard District. This listing is maintained in accordance with Title 33, Subpart 2.10 of the Code of Federal Regulations. It includes formal determinations made by the Coast Guard, as well as those made by the courts or Congress. No attempt has been made to list those waterways "subject to the jurisdiction of the United States" as that phrase is used in the Federal Boating Safety Act (Title 46 United States Code § 4301 *et. seq.*). Additionally, the extent of navigable waters under the Clean Water Act (Title 33 United States Code § 1321 *et. seq.*) may be broader. Except for waterways determined to be "navigable waters of the United States", this list does not list waters otherwise "Subject to the Jurisdiction of the United States" as that term is used in Title 33 Code of Federal Regulations § 2.05-30(b), (c), & (d).

Waters that are subject to tidal influence, whether listed or not, are considered navigable for the purposes of general Coast Guard jurisdiction to the limits of tidal influence. (See Title 33 Code of Federal Regulations § 2.05-25).

Where an "X" is shown under "NAV CG", this indicates that either the entire waterway or certain portions of it are considered to be navigable. Limits on the extent of navigability will be explained in the comment. **Navigability determinations for some waterways may be for a limited purpose** (i.e., bridge permitting, recreational vessel fee, etc.). These limitations will also be explained in the comments.

Waterways not contained on this list may or may not be navigable. Their absence indicates that no determination has been made by the Coast Guard, the courts, or by Congress concerning their navigability. This list is subject at change at any time should a new or contrary determination be made.

Navigability determinations made by the Coast Guard are for the purposes of exercising Coast Guard authority and jurisdiction only. They should not be construed as determinative of jurisdiction under admiralty and general maritime law, state law, or for jurisdiction by other federal agencies (such as the Army Corps of Engineers).

Encl: (1)

- Sec.
9. Des Moines River as toll free.
10. Waters in Louisiana Purchase as public highways.
11. Authority for compact between Middle North-west States as to jurisdiction of offenses committed on boundary waters.
12. Port Arthur Ship Canal.
- SUBCHAPTER II—WATERS DECLARED NONNAVIGABLE; CHANGE OF NAME**
21. Bayou Cocodrie, Louisiana.
22. Bayou Meto, Arkansas.
23. Bear Creek, Mississippi.
24. Big Tarkio River, Missouri.
25. Cache River, Arkansas.
26. Calumet River, Cook County, Illinois, old channel.
26a. Additional portion of Calumet River, old channel, abandoned as navigable water.
26b. Portion of Calumet River, Chicago, as non-navigable stream.
27. Chicago River at Chicago, Illinois.
27a. Chicago River, West Fork of South Branch.
27b. Chicago River, West arm of South Fork of South Branch.
28. Cram River, old channel at mouth, Delaware Bay.
29. Culvre River, Missouri.
29a. East River, Wisconsin.
30. Grand River, Missouri, above Brunswick.
31. Iowa River, Iowa, above Toolesboro.
32. Lake George, Mississippi.
33. Little River, Arkansas, from Big Lake to Marked Tree.
34. Mill Slough, Oregon.
35. Mississippi River, West Channel, opposite La Crosse, Wisconsin.
36. Mosquito Creek, South Carolina.
37. Nodaway River, Missouri.
38. Oldawaha River, Florida; Kyle and Young Canal and "Morrison Landing extension" substituted.
39. Ollala Slough, Oregon.
40. One Hundred and Two River, Missouri.
41. Orange River, Missouri.
42. Platte River, Missouri.
43. Saint Marys River, Ohio and Indiana.
44. Sturgeon Bay, Illinois.
45. Swan Creek, Toledo, Ohio.
46. Tehula Lake, Mississippi.
47. Eagle Lake, Louisiana-Mississippi.
48. Noxubee River, Mississippi.
49. Bayou Saint John in New Orleans.
50. Turtle Bay and Turtle Bayou, Texas.
51. Scajaquada Creek, New York.
52. Park River, Connecticut.
53. Benton Harbor Canal, Michigan.
53a. Additional portion of Benton Harbor Canal, abandoned as navigable water.
54. Burr Creek, Bridgeport, Connecticut.
55. Bayou Sauvage (or Chantilly) in New Orleans.
56. Fort Point Channel and South Bay, Boston, Massachusetts.
57. Pike Creek, Wisconsin.
58. Acushnet River, section of New Bedford and Faithaven Harbor, Massachusetts.
59. West River in West Haven, Connecticut.
59a. Back Cove, Portland, Maine.
59b. Bayous Terrelonne and LeCarpe, Louisiana.
59c. East River, New York.
59c-1. East and Hudson Rivers, New York.
59c-2. East River, New York.
59c-3. Queens County, New York.
59d. River Raisin, Michigan.
59e. Bayou Lafourche, Louisiana.
59e-1. Additional portion of Bayou Lafourche, Louisiana.
59f. Boston Inner Harbor and Fort Point Channel, Massachusetts.
- 59g. Steele and Washington Bayous, and Lake Washington, Mississippi.
59h. Northern Embarcadero area, San Francisco, California.
59h-1. San Francisco, California, waterfront area.
59i. Patuxent River, Maryland.
59j. Delaware River, Philadelphia County, Pennsylvania; permanent structures.
59j-1. Declaration of nonnavigability for portions of the Delaware River.
59k. Wicomico River, Maryland.
59l. Nonapplicability of prohibitions and provisions for review and approval concerning wharves and piers.
59m. Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York.
59n. Hudson River, Hudson County, New Jersey.
59n-1. Caven Point, New Jersey.
59o. Hackensack River, Hudson County, New Jersey.
59p. Kenduskeag Stream, Penobscot County, Maine.
59q. Erie Basin, Buffalo Harbor, New York.
59q-1. Union Canal, Outer Buffalo Harbor, New York.
59r. Trent River, Craven County, North Carolina.
59s. Green River, Washington.
59t. Burnham Canal, Milwaukee, Wisconsin.
59u. Lawler's Ditch, Essex County, New Jersey.
59v. Middle River, Maryland.
59w. Norton Basin and Jamaica Bay, New York.
59x. Exemption from General Bridge Act of 1946.
59y. Declaration of nonnavigability for portions of Coney Island Creek and Gravesend Bay, New York.
59z. Declaration of nonnavigability of lodges of water in Ridgefield, New Jersey.
59aa. Nonnavigability of Wisconsin River.
59ab. Declaration of nonnavigability for portions of Lake Erie.
59ab-1. Declaration of nonnavigability for Lake Erie, New York.
59ac. Declaration of nonnavigability of portion of Hudson River, New York.
59ad. Declaration of nonnavigability of portions of Cleveland Harbor, Ohio.
59ae. Portion of Sacramento River Barge Canal declared to not be navigable waters of United States.
59ae-1. Declaration of nonnavigability for portion of Sacramento Deep Water Ship Channel.
59af. Declaration of nonnavigability for portions of Pelican Island, Texas.
59ag. Declaration of nonnavigability for portions of Cuyahoga County, Ohio.
59ah. Declaration of nonnavigability for portion of Pelican Island, Texas.
59ai. Declaration of nonnavigability of a portion of the canal known as the James River and Kanawha Canal in Richmond, Virginia.
59aj. Designation of nonnavigability for portions of Gloucester County, New Jersey.
59ak. Wateree River.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1. Regulations by Secretary of the Army for navigation of waters generally

It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regula-