September 2, 2016

RDML Linda Fagan, District Commander
United States Coast Guard, First Coast Guard District
408 Atlantic Avenue
Boston, MA 02110

RE: Docket # USCG-2016-0132 Anchorage Grounds, Hudson River

Dear Commander Fagan,

Historic Hudson River Towns (HHRT) has been at the forefront in the lower Hudson Valley since 1994 promoting tourism, assisting with waterfront development initiatives and encouraging the creation of multiple access points from the River to the local communities’ central business districts. Our membership consists of 20 local jurisdictions along the Hudson River from the City of Yonkers north to Beacon and Newburgh. On behalf of our membership, we submit this letter in opposition to the proposed development of additional anchorage points alongside the navigation channel.

In 2012, National Geographic Magazine listed the Hudson River Valley as one of the top twenty tourist attractions in the world, due, in large part, to the picturesque setting encountered as one travels the river. According to Travel Hudson Valley.com, tourism in the Hudson Valley is a $4.75 billion industry, supporting more than 81,000 direct jobs and generating $318 million in local taxes. It is the fifth largest economic industry in New York State. HHRT is of the belief that the additional anchorage locations threaten the tourism industry and waterfront development in the Hudson Valley.

The Hudson River is the aesthetic driver in attracting tourists to the region and for many local jurisdictions it is viewed as the community’s front door. Protecting the Hudson River as a natural resource is a critical component of the tourism industry which this proposal minimalizes and threatens.

Having a row of “parked” barges along the Yonkers, Hastings-on-Hudson, Dobbs Ferry, Haverstraw and Montrose waterfronts, as well as elsewhere in the Hudson, will surely compromise the aesthetic quality of the River and reverse what many have worked so long and hard to achieve. In addition, the uncertainty of the proposal raises considerable concern as to the need and purpose.
In a letter dated September 1, 2016 to Rear Admiral Gerd Glag, Director of NOAA Office of Coast Survey, the Hudson River Pilots Association requested new bathymetric charts to assist with piloting tugs and barges outside the channel, where passing ships need to transit. The letter states, “The ships we pilot carry cargos such as scrap steel, grain, heavy lift project cargo, and the new player on the block, millions of barrels of Bakken crude oil being shipped out of the Port of Albany.” “The increasing frequency of these large ships transiting an unusually long, narrow channel (as well as barges/ATB’s carrying crude oil) creates difficult navigational challenges that we encounter on a daily basis.”

Advocates of this proposal have couched the request for additional anchorage sites to make river travel safer for commercial shipping and provide a degree of environmental protection. Brian Vahey, Senior Manager of the Atlantic Region of the American Waterway Operators in an interview on FIOS Cable News, reiterated this point and went on to claim that anchorages in themselves do not create more commercial traffic. He further stated that commercial barge and tug traffic is determined by the “demand” for the products being shipped. The accuracy of Mr. Vahey’s statements must be thoroughly scrutinized as this process unfolds.

In 2012, the Global Partners terminal at the Port of Albany received a permit from the NYS DEC to increase its oil handling capacity to 1.8 billion gallons per year, or approximately 118,000 barrels a day. It has been reported that in December 2014 that Global Partners is contracted to deliver 91 million barrels of crude to the Phillips 66 refinery in Bayway, New Jersey by barge over five years.

Buckeye Partners within the last two years has also received a permit to increase their capacity from 400 million gallons per year to 1.0 billion gallons per year, again relying on rail and barge to transport the crude out of the Port of Albany. It has been reported that the tanker Afrodite now makes two trips to the terminal every eight days to transport approximately 100,000 barrels of crude to other ports of call.

These changes in capacity have allowed the Port of Albany to receive between 20-25% of the Bakken crude production from North Dakota. In December 2015, the Federal Government lifted the ban on exporting crude oil, allowing the products transported through the Port of Albany to now be delivered to receiving facilities outside the country. The products being shipped on and along the Hudson are no longer driven solely by the demand for domestic consumption but rather by the international market.

While the additional anchorage locations do not seem to directly contribute to product demand, they do facilitate greater movement as noted in a letter dated January 21, 2016 to RDML Linda Fagan, USCG from the Maritime Association of the Port of New York/New Jersey stating that, “Navigational safety, environmental protection and supply chain management practices requires adequate anchorages.” (Italics added) The additional anchorage sites facilitate the continuous movement of crude oil through the Port of Albany.

Mr. Vahey, when asked about the duration a vessel would remain in an anchorage site, responded they would be used for a “few hours” or until an emergency or inclement weather ended, permitting the tug operator to continue passage. However, in the above referenced letter, it is reported that “Vessels
proceeding from New York to Albany occasionally anchor overnight in the vicinity of Kingston....to await daylight hours for passing through the constructed part of the river.” Further, in an e-mail from Craig Lapieje, copy attached, dated August 9, 2016 to HHRT, when asked about the duration of a “parked” tug or barge, it was indicated that “We anticipate users of the contemplated anchorage grounds would be there for a “short duration” and we could develop rulemaking that would limit a vessel’s time in an anchorage. This could be measured in hours. There are some anchorage grounds within the Port of New York that have a “not to exceed 48 hours without the approval from the capital of the Port....” If one takes into consideration that the final rulemaking has not determined the duration a tug or barge can be moored in an anchorage, that is the industry’s desire to implement supply chain management practices, that the NYSDEC has permitted the transfer of crude oil in the Port of Albany at unprecedented levels; one can easily envision the anchorage locations serving as floating tank farms until domestic refineries or other ports of call are capable of accepting the product. Such a discrepancy in time allowed at anchorage raises serious environmental and other safety concerns and must be thoroughly analyzed.

The Maritime Association references navigational safety, which is of primary concern to all given the recent series of tragic events at the Tappan Zee Bridge project. However, anchoring additional barges adjacent to the channel would increase the potential for a hazardous conflict between recreational boaters, pleasure ships and anchored vessels, as the available channel has now been more tightly defined. We have all witnessed the result of a narrowly defined channel lined with barges with two fatal incidents at the site of the new Tappan Zee Bridge construction project.

What is of greater concern to navigational safety that has not been referenced is the volatility of a barge laden with Bakken crude anchored overnight and the hazard that it creates. The Associated Press reported on January 3, 2014 that the US Department of Transportation has warned the public and emergency responders that Bakken crude has been identified as high-quality crude with a low flash point and vapor pressure similar to gasoline, which is what makes it a desirable commodity. In addition, as reported in the April 30, 2014 report on Transporting Crude Oil in New York State, the amount of dissolved natural gas and volatile organic compounds within the crude develops gas pressure inside the transport vessel. Human error while berthed can lead to a catastrophic event, igniting or spilling the barge’s contents into the Hudson. Our member communities along the Hudson River are not prepared to serve as first responders in the event of a catastrophic tug or barge incident.

The Oil Pollution Act of 1990 requires all barges carrying crude to be double hulled and that feature is is credited with preventing the tanker Stena Primorsk from spilling its cargo into the Hudson River when it ran aground in 2012. But that is not to say that a barge/oil or a barge/barge incident, such as a collision of two steel vessels as we witnessed not too long ago at the Tappan Zee Bridge, would have the same result.

On February 23, 2014, a barge carrying crude ran into a towboat on the Mississippi River between Baton Rouge and New Orleans. 30,000 gallons of crude spilled into the river and the US Coast Guard closed a 65 mile stretch to all river traffic. Imagine the Hudson River closed to commercial and recreational use
for 65 days by the USCG and the impact that would have on the tourism industry and quality of life in Hudson Valley.

Lastly, the Maritime Association states that the proposal is partially needed to address environmental concerns for the river. Their January 2016 letter admits that, “As a custom and practice, the Tug and Barge industry has been anchoring outside federally designated anchorage grounds in the Hudson River for decades.” A recently issued USCG Marine Safety Information Bulletin warned commercial vessels not to anchor outside federally designated anchorages, “Except in cases of great emergency, no vessel shall be anchored in the navigable water of the Port of New York outside of the anchorage areas established.” Where we have not connected the dots is to understand that the Hudson River bottom has not been surveyed since 1939 and the anchor intrusion into these unpermitted anchorage areas disturbs sediment that can be highly contaminated. This disturbance contributes to the environmental degradation of the river at a time when many are attempting to improve water quality and restore safe swimming, fishing and recreational boating in the Hudson.

In closing, on behalf of the Historic Hudson River Board of Directors and its membership, we request the following:

A) The US Coast Guard should immediately schedule a series of preliminary public hearings/meeting in no less than four locations in the Hudson Valley to receive public input on this request and preempt the development of a “proposal” that triggers publication in the Federal Register as the “Notice of Proposed Rulemaking”. There are too many uncertainties surrounding the need and purpose behind the request for additional anchorages and US Coast Guard has an obligation to the residents of the State of New York to fully vet this request publically.

B) As part of the public hearing/meeting process, the US Coast Guard must consider the environmental, human and aesthetic characteristics that are unique to the Hudson River Valley and adequately address each item through the NEPA process, providing all stakeholders with an opportunity to be heard at hearings and through the submission of written comments. Let’s not repeat the past indiscretion surrounding the permitting process for the Phillips 66 Partners in Bayway, New Jersey as they enhanced their facility to accommodate additional rail car delivery of Bakken Crude without the necessary and valuable input from adversely affected communities in New York State through which the rails cars travelled.

C) The US Coast Guard is required to update the Area Contingency Plan identified in the 2014 State report entitled “Transporting Crude Oil in New York State” to address how a multi-jurisdictional response to a catastrophic event such as a spill, fire or barge breakaway would be coordinated. According to the report, the ACP is developed with input from stakeholders ranging from local official to wildlife experts and is to be reviewed annually.

D) Immediately enforce the prohibition of improper anchorage of barges and tugboats outside the channel in unregulated areas. Pilots that violate this should be subject to a fine used for the environmental protection of the River.

E) Conduct the bathymetric assessment as requested by the Hudson River Pilots Association in the fall of 2015 to properly survey the river both in and outside the federal channel and determine.
the qualities of the sediment to see if temporary emergency anchorages would be environmentally sound.

F) Request that the appropriate agencies and maritime organizations develop a program of alternative supply chain management practices that avoid the need to berth fully laden barges in the Hudson River.

G) Immediately extend the deadline for receiving public comment on the June 9, 2016 Federal Register, Advance Notice of Proposed Rulemaking. Many municipal boards and councils meet only once or twice over the summer months and with school closed, many take summer vacations. Adequate time needs to be provided after Labor Day when people are around.

Historic Hudson River Towns appreciates the opportunity to submit this letter and remains committed to supporting our member communities in opposition of the proposed anchorage sites.

Sincerely,

Jerry Farrella
Executive Director
Historic Hudson River Towns
www.hudsonriver.com

CC: HHRT Membership
    Mark W. Blanchard

Enc.

HHRT_Anchoragesite(MB Comments09.02.16)
Good Day Mr. Faiella,

Thank you for your E-mail of August 07, 2016, with the Historic Hudson River Towns’ questions in regards to Federal Register (FR) notice, 81 FR 37168, titled “Anchorage Grounds, Hudson River; Yonkers, NY to Kingston, NY.” Please find our answers below.

As you may know, the Coast Guard is responsible for considering adjustments to improve navigational and environmental safety of waterways, including those requested by groups of mariners. Accordingly, with the FR publication of an Advance Notice of Proposed Rulemaking (ANPRM) we have initiated the early stage of a methodical and public rulemaking process to learn all possible navigational, environmental, terrestrial, and other effects of adding anchorages on the Hudson River. The ANPRM is a preliminary step, the goal of which is to gather information that defines the multiple stakeholder considerations we need to incorporate when considering a potential anchorage ground. As the actual proposal is developed, it must first be publicized as a Notice of Proposed Rulemaking (NPRM) in the FR. We anticipate this could occur as early as spring of 2017.

The ANPRM solicitation has been extremely successful. Because we have received an excellent response with 762 comments to date, we are learning about the many process stakeholders and their concerns. Given the number of requests for public meetings, we anticipate incorporating public meetings into the NPRM process, again as soon as spring 2017.

We view public participation as essential to effective rulemaking, and will carefully consider all comments and feedback received. I encourage you to submit your comments to the official docket, docket number USCG-2016-0132, using the Federal eRulemaking Portal at www.regulations.gov before the deadline of 7 September 2016.

Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted and if we publish rulemaking documents related to this notice.

Answers:

1. Is the proposal a preemptive move to accommodate an anticipated increase in traffic?

   No. The Coast Guard is considering establishing new anchorage grounds on the Hudson River after we received requests from the Maritime Association of the Port of NY/NJ Tug and Barge Committee, the Hudson River Port Pilot’s Association, and the American Waterways Operators. These request letters are available in the rulemaking docket at <http://www.regulations.gov> and typing “USCG-2016-0132” in the Search box and selecting “Search”.

2. If there is an increase in the demand for commercial river traffic, what is the driving force and how long is it anticipated to occur?
The Coast Guard is still in the preliminary stages of this rulemaking process, as we develop this proposal we will be evaluating and studying data related to this question. The legal authority for the collection, compilation and publication of waterborne commerce statistics by the Army Corps of Engineers is Section 11 of the Rivers and Harbors Appropriations Act of 1922 (42 Stat. 1043), as amended, and codified in 33 U.S.C. 555. The latest data available is from 2014 (second attachment). There is a Freight Traffic Index with cargo data from 2005-2014. See the USACE Waterborne Commerce Statistics Center website at [http://www.navigationdatacenter.us/wcsc/wcsc.htm](http://www.navigationdatacenter.us/wcsc/wcsc.htm) for additional data. Live vessel traffic data is also visible at [www.marinetrack.com](http://www.marinetrack.com) or other websites that provide AIS (Automatic Identification System) data feeds and searching the vessel names at [http://www.navigationdatacenter.us/veschar/vescharsearch.htm](http://www.navigationdatacenter.us/veschar/vescharsearch.htm) or at the USCG Port State Information Exchange website at [https://cgmix.uscg.mil/psix/](https://cgmix.uscg.mil/psix).

3. What changes in product transport is contributing to any increase in barge activity?

   Please refer to #2.

4. How will the proposed anchorage points be used? Will the barges that are “parked” in these locations be full or empty?

   The anticipated users of the contemplated anchorage grounds are commercial vessels and their attending tug, tow, or push boats and that they could either be full or empty of cargo.

5. What is the duration of their "parked" time at the anchorage points?

   We anticipated users of the contemplated anchorage grounds would be there for a "short duration" and we could develop rulemaking that would limit a vessel’s time in an anchorage. This could be measured in hours. There are some anchorages grounds within the Port of New York that have "not to exceed 48 hours without approval from the Captain of the Port (COTP) regulations”. Please refer to 33 CFR 110.155 (third attachment)

6. Will the barges be attended to or left there unattended?

   We anticipated that barges would remain attended by their push boat and we could develop rulemaking that would not allow unattended barges.

7. Any proposed mechanism for monitoring the tethering to the anchorage points?

   This will be a designated area on the water where ships will lower their anchors to the sea floor to hold their position. There are four types of anchorages common throughout ports of the U.S.. We are contemplating proposing “anchorage grounds”. The USCG uses this type of anchorage to manage most vessel activity.

8. If so, who will monitor the tethering?

   Please refer to #7.

9. How will the barges be delineated at night time if anchored over night?

   Vessel would be required to conform to the regulations cited in 33 CFR 83.30 while at anchor.

   (a) A vessel at anchor shall exhibit where it can best be seen:
(i) In the fore part, an all-round white light or one ball;

(ii) At or near the stern and at a lower level than the light prescribed in paragraph (i) of this Rule, an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

10. Any concern for winter conditions and river freezing?

Yes. Please refer to anchorage ground 19-A near Hyde Park as an example (third attachment 33CFR110.155). There is no anchoring in this anchorage ground from December 16 thru the last day of February because of ice conditions.

11. How much dredging will need to take place to create the anchorage locations?

None.

12. If dredging is proposed, what will be done with the spoils?

N/A.

13. Has any assessment been done to determine if any contaminants will be disturbed?

N/A.

14. Has a NEPA or SEQRA assessment been performed and where can it be found?

Once a proposal is developed and publicized as a Notice of Proposed Rulemaking (NPRM) in the FR (spring 2017) we will conduct and environmental review in compliance with the National Environmental Policy Act (NEPA). The NEPA process begins when a federal agency develops a proposal to take a major federal action. These actions are defined at 40 CFR 1508.18.

15. Has there been any discussion with the local jurisdictions regarding consistency with their NYS Department of State approved Local Waterfront Revitalization Plans?

As we said above, we have initiated the early stage of a methodical and public rulemaking process to learn all possible navigational, environmental, terrestrial, and other effects of adding anchorages on the Hudson River with the Advance Notice of Proposed Rule Making. We anticipate incorporating public meetings and other outreach forums in the spring of 2017 once a NPRM is developed.

16. Has there been any evaluation of estuary disturbances?

Please refer to #14.

Please let me know if you have any additional questions. I also received your voice mail and I am happy to
discuss over the phone as well.

Very Respectfully,

Craig Lapiejkjo
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-----Original Message-----
From: Jerry Faiella [mailto:jerryfaiella@gmail.com]
Sent: Sunday, August 07, 2016 3:20 PM

www.hudsonriver.com <https://urldefense.proofpoint.com/v2/url?u=http-3A__www.hudsonriver.com&d=CwMFAQc%3D%3D&c=0NKf44GVknAU-XkWXjNxQ&r=JNFiDOEjbNgIBdjLPBytFgMSA46rvAW6M-4d1b2gSFs&m=R4rEsOl4dT0porDlvDmGsmZJ_RZxC-89LQmFjzUC7Y&s=JJd2-msvDtuaiiDIBWCuNy1yd-MX6-Y__nsAxR6mXpeY&e=>

3 attachments

- 81 FR 37168.pdf
  202K

- 2014 Waterborne Commerce Hudson River.pdf
  1325K

- 33 CFR 110.155 NY Anchorages.pdf
  138K