

Savannah River Maritime Commission

Position Statement on the Proposed Savannah River Channel Capacity Study For the Jasper Ocean Terminal October 1, 2013

Pursuant to the Memorandum of Understanding between the South Carolina members of the Joint Project Office (JPO) for the Jasper Ocean Terminal (SC JPO Members) and the Savannah River Maritime Commission (Commission or SRMC) dated August 28, 2012, the SC JPO Members have requested a position statement from the Commission regarding the proposed Savannah River channel capacity study for the Jasper Ocean Terminal (Study). The Commission's authority and jurisdiction over the Study is grounded in S.C. Code Ann. § 54-6-10, which directs the Commission to "represent this State in *all matters* pertaining to the *navigability, depth, dredging*, wastewater and sludge disposal, *and related collateral issues* in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels" and further that "on an interstate basis and specifically in regard to the State of Georgia, the responsibilities granted to the Savannah River Maritime Commission ... *supersede any other concurrent responsibilities of a particular state agency or department.*" S.C. Code Ann. § 54-6-10(A), (F) (emphasis added).

The Commission reiterates that the next necessary step in the development of the Jasper Ocean Terminal is the analysis for channel capacity and navigation. These analyses should be undertaken sooner rather than later, as they already have been delayed for far too long, consequently delaying the entire project.

This Position Statement revises and updates the prior statements issued June 14, 2013, January 8, 2013, and October 2, 2012. The JPO proposes to undertake a channel capacity study in two phases. First, the U.S. Army Corps of Engineers (Corps) proposes to update data used in the analysis for the Savannah Harbor Expansion Project (SHEP), which authorizes a channel at a depth of -47 feet mean low water (MLW) in the inner harbor and -49 feet MLW in the outer harbor. Second, Moffatt & Nichol (M&N), the JPO's consultant will take that data and perform additional analyses.

In addition to a PowerPoint presented previously provided, the SC JPO Members provided the Commission with copies of a Planning Assistance to States Agreement proposed by the Corps dated September 4, 2013 (PASA) and a memorandum from M&N dated July 31, 2013 (M&N Memo). At this time, the Commission can base its decision and position on information presented to the Commission, which consists of a PowerPoint presentation from M&N, the PASA, and the M&N Memo. Many details and information have not been provided to the Commission, and it appears that the some of these details remain to be determined. The Commission's concern is that a study will be performed that is insufficient, inadequate, and provides no value or utility to the decisionmaking process, resulting in a new channel capacity study that further delays the project. It is in the best interests of both states to perform a quality study now.

The step one component of the Study—the Corps phase—seeks to "determine the impacts on the vessel queuing times on the Savannah River as the result of the addition of a potential new 7 [million] TEU marine container terminal located in Jasper County, South Carolina." PASA Scope of Work at 2. The Corps' analysis is limited. The Corps will use the SHEP data as the base case and will

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“only look at vessel delays for the approved SHEP.” PASA Scope of Work at 3. The Corps also will develop a vessel mix and operating protocols to determine vessel queuing.¹ According to the PASA Scope of Work, three modeling cases will be performed.

- Case 1 involves existing conditions with the SHEP.
- Case 2 involves conditions with the SHEP without a Jasper Ocean Terminal in 2030.
- Case 3 involves conditions with the SHEP with a Jasper Ocean Terminal in 2045.

The assumptions are that the Georgia Ports Authority will reach capacity around 2030 and that the Jasper Ocean Terminal will reach capacity around 2045 based on additional and increased economic growth.²

According to the Corps’ Institute for Water Resources, by 2030 approximately 26% of the TEU capacity will be transported by vessels of a size of 12,000 TEUs or greater. U.S. Army Corps of Eng’rs, Inst. for Water Resources, U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels 15 (July 20, 2012). The East Coast container vessel fleet to be deployed in 2035 is expected to include 136 12,000+ TEU vessels (of 458 7,600+ TEU vessels—approximately 30%). U.S. Army Corps of Eng’rs, Inst. for Water Resources, U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels 19 (July 20, 2012). The Corps has stated that “[m]aximum vessel size has increased from about 7600 TEUs in 2000 to about 14,000 TEUs in 2012 with 18,000 TEU vessels on order for delivery in 2013.” U.S. Army Corps of Eng’rs, Inst. for Water Resources, U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels 43 (July 20, 2012). Moreover, M&N previously indicated that these larger Post-Panamax vessels are crucial to the success of a Jasper Ocean Terminal. M&N, An Update on the Jasper Ocean Terminal 7, 12 (March 11, 2011). Thus, any prudent or useful analysis must include a vessel mix with a significant presence of 12,000+ TEU vessels.

The report issued by the Corps as contemplated in the PASA is just the first step in the analysis. Under the PASA, the Corps will provide additional data that can be utilized by M&N in undertaking the second step of the analysis. The M&N Memo provides no real description or discussion of what analysis M&N will undertake. The M&N Memo states that the scope of work for this second phase is as follows.

Once the JPO receives the resulting dataset [from the Corps], [M&N] will analyze the results & identify channel modifications that could have a significant impact on reducing the queuing times (e.g., increasing channel depths, widening, etc.). The analysis will include a review of the causation for delays, identification of potential

¹ Notably, the Corps PASA indicates that meetings will be held with the Georgia Ports Authority, South Carolina Ports Authority, and Savannah Maritime Association, but specifically omits any planned consultation with this Commission (which has authority over channel capacity and navigation in the Savannah River and speaks on behalf of the State of South Carolina on these subjects) and the South Carolina Commissioners of Pilotage for the Lower Coastal Area, whose pilots will be navigating the Savannah River.

² It is the Commission’s understanding that an underlying assumption of the PASA is that the Jasper Ocean Terminal will only accommodate additional growth and that the Georgia Ports Authority will not lose any TEU capacity to the Jasper Ocean Terminal.

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correlations between components of the simulation, and development of any inferences that can be made in comparison. A subjective analysis will then be performed by M&N to interpret the effects on the queuing times by these modifications to the river.

Given the paucity of detail, it is unclear whether, as described, the M&N analysis will provide either the Commission or the JPO with the information and analysis it requires. The Corps is undertaking a limited analysis (due in part to restrictions stemming from federal law) that involves updating the SHEP HarborSym model with a better and more recent dataset. Standing alone, the Corps analysis is insufficient for utilization in the decisionmaking process regarding channel capacity and navigation for a Jasper Ocean Terminal. For example, the Corps has stated that a “port is considered ‘post-Panamax ready’ if it has a channel depth of about 50 feet with allowances for tide, as well as sufficient channel width, turning basin size, dock and crane capacity.” U.S. Army Corps of Eng’rs, Inst. for Water Resources, U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels Report Summary 5 (July 20, 2012). The Assistant Secretary of the Army testified before Congress in 2011 that “[m]any of the world’s shipping companies are constructing larger, more efficient container vessels that **require channel depths of 50 to 55 feet.**” Test. of Ass’t Sec’y Darcy, House Comm. On Transp., Subcomm. On Water Resources and Env’t (Oct. 26, 2011) (emphasis added). But the analysis to be undertaken by the Corps in this instance is limited to a channel depth of -47 feet MLW. This deficiency may be remedied, however, through the second step in the analysis. M&N previously proposed that the analysis for channel capacity include consideration of channel depths of 50 and 52 feet beyond the SHEP baseline of 47 feet. A deeper channel depth is consistent with the goal of constructing a Jasper Ocean Terminal that will accommodate the future fleet of container vessels expected to call on the East Coast well beyond 2030. M&N, An Update on the Jasper Ocean Terminal 7, 12 (March 11, 2011) 12, 21 (noting that the SHEP is a “first step” and anticipating an additional deepening to accommodate Post-Panamax vessels at the Jasper Ocean Terminal).

Therefore, the Commission approves and authorizes the SC JPO Members and the South Carolina Ports Authority moving forward with the PASA consistent with this Position Statement.

Further, the Commission approves and authorizes the SC JPO Members and the South Carolina Ports Authority to move forward with M&N for a second phase provided that and subject to the following considerations and conditions.

1. The Study must include an analysis of the “inner harbor” and the “outer harbor” as complementary to the other. This is due, in part, to the differing tide amplitudes and wave motions that a ship experiences at various locations creating different conditions and thus the need for different depths for the same ship.
2. The baseline depth for which a deepened channel to accommodate a future Jasper Ocean Terminal must be based on the SHEP as described in the Final Environmental Impact Statement and as incorporated into the settlement agreement (*i.e.*, a depth of -47 feet MLW for the inner harbor and -49 feet MLW for the outer harbor), and the Study must evaluate deeper channel depths, including but not limited to depths of -50 feet MLW and -52 feet MLW for the inner harbor. These must be considered in conjunction with various additional scenarios with other navigational improvements.

3. The Study must include evaluation of the channel capacity in 2025, 2035, and 2045.
4. During the development of the scope for the second step analysis, at a minimum M&N must consult with representatives of Savannah Maritime Association, South Carolina Ports Authority, Georgia Ports Authority, Jasper County, the Commission, and the South Carolina Commissions of Pilotage for the Lower Coastal Area (Pilotage Commission).³
5. The Study must identify and address underkeel clearances, turning basins, passing lanes, sensitive shipments (such as liquefied natural gas), approaches and reaches, navigation aids, and maneuvering restrictions in establishing adequate widths and depths for the design vessels to ensure sufficient capacity and navigation for functional two-way ship traffic.
6. The Study should identify types and characteristics for the design vessels to be analyzed, such as Post-Panamax vessels in excess of 12,000 TEU carrying capacity with corresponding beam, length, draft, tonnage, displacement, and other relevant data points.⁴
7. M&N must provide a draft of the proposed Study to, at a minimum, Savannah Maritime Association, South Carolina Ports Authority, Georgia Ports Authority, Jasper County, the Commission, and the Pilotage Commission for a period of sixty (60) days to receive comments and consultation.

Should M&N need assistance in developing the specific scope of work or parameters for the analysis, the Commission will provide such aid upon request.

The final Study must be provided to the Commission, and the SC JPO Members may only take action in furtherance of the Study and its conclusions, including any action that is based on a conclusion in the Study, after written approval and authorization from the Commission.

The Commission recognizes the importance of moving forward with this Study as it is the next step in the critical path of the project and serves as a prerequisite to all other decisionmaking. It is thus important to ensure that this Study is performed appropriately, based on a proper analytical framework and assumptions, and has the “buy in” from the respective regulatory authorities. Anything less could render the Study an impediment to forward progress.

³ The scope of work currently drafted seems to only contemplate Savannah-based pilots participating in the study process. However, a vessel calling on a port in South Carolina—including the Jasper Ocean Terminal—may be guided by a pilot licensed by the Pilotage Commission. S.C. Code Ann. Regs. 136-075.B. It is unwise to exclude South Carolina-licensed pilots from this study process. Therefore, the Pilotage Commission must concur in the assumptions for the Studies related to channel capacity, pilotage, and navigation.

⁴ Multiple design vessels should be utilized in the analysis. For example, while a 12,000+ TEU Post-Panamax vessel, which the Corps defines as having a beam of 160 feet, length of 1,200 feet, and draft of 50 feet, may be used. Given industry trends, larger vessel classes must be used as well. For example, a 14,500+ TEU vessel with general characteristics of a beam of 184 feet, length of 1,300 feet, and draft of 52.5 feet should also be used. If M&N needs assistance in developing an acceptable vessel mix and vessel characteristics, the Commission makes its expertise and assistance available for consultation.