



U.S. Department of Justice

Environment and Natural Resources Division

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Robert C. Bundy
Dorsey & Whitney LLP
1031 West Fourth Avenue
Suite 600
Anchorage, AK 99501
By Fax: (907) 276-4152

Re: United States v. Ionia Management, S.A.

Dear Mr. Bundy:

The government has received and reviewed the materials submitted by Ionia Management on December 14, 2009, regarding the topics outlined in your letter of November 11, 2009. While the submission provides sufficient information in a number of respects, we believe that some topics would benefit from further discussion at a hearing of some type.

With respect to the SWOMS system and its inability to accurately detect fluid levels in the incinerator waste oil tank, it would be useful to hear from Ionia Management how the size of the tank relates to the accuracy of the measurements by the SWOMS sensor and what options there might be for use of alternative types of sensors or other solutions (beyond what appears to be recalibration of the sensors conducted on July 7, 2009 on the M/T Theo T, according to Table 1 of Ionia's submission). It further would be useful to know what Ionia's timeline is for considering and/or implementing possible solutions, as it seems to have taken months (ostensibly due to the ships' trading routes) to determine the nature of the problem with respect to the incinerator waste oil tank.

At the last hearing, there was concern about the adequacy of the questions contained in the fleet-wide engineering survey as it existed at that time. There is no indication in the current submission as to whether any changes or additions have been made. In Table 5, summarizing "Feedback from Shipboard Personnel regarding Implementation of EMP," on page 18 of Ionia's submission, there are two comments noted as having been received as suggestions through the required Fleet Engineering Survey:

- "Pollution prevention equipment to be checked or calibrated and follow company's procedures;" and
- "Engine crew must be trained and familiar with the onboard systems."

While both suggestions are obviously useful, they do not address the issue of "how to make the OWS, OCM, associated systems and waste management processes tamper proof," which is one of the key purposes of the survey and important in helping Ionia prevent future violations of MARPOL. It would be useful to hear Ionia's thoughts, and perhaps the IEC's as well, on how the current survey can be tailored to obtain that information and whether any changes were made since July 2009.

Additionally, in the training presentation materials provided at Appendix 5 of Ionia's submission, there appear to be some inaccuracies in the summary of the case involving the M/T Kriton. Some are relatively insignificant to the purpose of the presentation – for example, the statement that the Special Master was appointed by the Department of Justice as opposed to the Court. Others seem to be more significant, in terms of who was involved in and ultimately held responsible for the conduct leading to Ionia's conviction. It might be useful to discuss those inaccuracies to ensure that they do not interfere with the message being sent to the crew members being trained and are not, even inadvertently, minimizing the seriousness of the events surrounding the case.

For these reasons, the government recommends that a hearing, in some form, be held to address these subjects and any others that you, as the Special Master, or the IEC and ICC see fit. Should you decide that a hearing is unnecessary in January 2010, the government recommends that the decision be specific to the January hearing and that any petition to forgo the mandated hearing in June 2010 be decided on facts assessed closer to that time.

Sincerely,



Lana N. Pettus
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