



16713/5/2
April 11, 2012

Jonathan K. Waldron, Esq.
Blank Rome LLP
Watergate
600 New Hampshire Avenue, NW
Washington, DC 20037

Dear Mr. Waldron:

We refer to your letter of February 23, 2012, with its enclosures, by which you requested a United States build determination pursuant to 46 C.F.R. § 67.97 concerning the construction of two new Aframax tankers (the "Vessel" or "Vessels") with certain foreign-built components. The Vessels are to be built for SeaRiver Maritime, Inc. by Aker Philadelphia Shipyard, Inc. ("APSI") at its shipyard in Philadelphia, Pennsylvania.

Upon receipt we referred your letter to the Coast Guard's Naval Architecture Division ("NAD"), as has become our customary practice, in order to benefit from their review and analysis in making the determination requested. We did so as well with your subsequent submissions dated March 5, 2012, and March 23, 2012, which were submitted in response to our requests for additional information. A copy of the NAD report, dated April 4, 2012, has been attached hereto as Exhibit A in support of this determination.

You have requested that we confirm that the use of the identified foreign-built components will not adversely affect the coastwise eligibility of the Vessels. The applicable standards which must be met in order for the Vessels to be deemed to have been built in the United States, and consequently, eligible for a coastwise endorsement entitling them to be operated in the domestic trades of the United States, are set forth at 46 C.F.R. § 67.97 which establishes two criteria, both of which must be met, as follows:

"To be considered built in the United States a vessel must meet both of the following criteria:

- (a) All major components of its hull and superstructure are fabricated in the United States;
and
- (b) The vessel is assembled entirely in the United States."

The term "hull" is defined at 46 C.F.R. § 67.3, in pertinent part, as follows:

“Hull” means the shell, or outer casing, and internal structure below the main deck which provide both the flotation envelope and structural integrity of the vessel in its normal operations...”

The term “superstructure” is defined at 46 C.F.R. § 67.3 as follows:

“*Superstructure*” means the main deck and any other structural part above the main deck.”

Foreign Fabricated Components of the Hull or Superstructure

The first criterion of the test, at subparagraph (a) of 46 C.F.R. § 67.97, requires a determination whether any major component of the Vessel’s hull or superstructure will not be fabricated in the United States. The customary standard applied in such determinations is to assess whether or not the combined weight of components of the hull or superstructure which are proposed to be fabricated overseas would exceed 1 ½ percent of the Vessel’s discounted lightship steelweight. If so, it would be deemed to constitute the fabrication of major components outside of the United States. Consequently, the Vessel’s discounted lightship steelweight must first be established.

At our request, you submitted supplemental information by e-mail dated March 5, 2012, to clarify more precisely the weight offered in your initial submission as the basis for your application of approximately 16,000 metric tons. That supplemental information confirmed a slightly lower true weight of 15,889 metric tons, as your e-mail accompanying it indicated. The NAD’s best determination of the discounted lightship steelweight was 15,924.6 metric tons. We will use the NAD’s slightly lower estimation of weight than your initial approximation for the purposes of this determination but, as will be seen below, the very slight reduction from 16,000 metric tons will have no material impact on the percentage of that weight that foreign fabricated components represent.

The total weight of foreign fabricated components of the hull or superstructure (which, in this case, will consist of stern bulb (43.0 mt), bulbous bow (69.0 mt), T-bar structural members (28.0 mt) and watertight closures (25.56 mt)) will amount to approximately 165.6 mt, or approximately 1.0 percent (1.039 percent) of the discounted steelweight, for the first Vessel. Because all T-bar structural members for the second Vessel will be fabricated in the United States, as your submissions have indicated, the total weight of foreign fabricated components, and the resultant percentage, will be even lower for that Vessel.

Rudder Horn and Mounting Plates

You have also inquired about the foreign fabrication of a single rudder horn and mounting plates that will be installed on each Vessel, each consisting of approximately 20.0 mt of casting and 5.0 mt of mounting plates formed from steel plate. Relying upon past rulings that have found that such items are not integral parts of the hull, you have not included them in the calculation of the above percentages. As the review by the NAD has confirmed that the rudder horn and mounting plates proposed to be used in this particular case create a non-structural appendage, we concur that those weights need not be included.

Use of Shipbuilding Angles

You have indicated that APSI proposes to use certain "shipbuilding angles", also referred to as "inverted angles" or "unequal angles", which are "off the shelf" products obtained from foreign steelmakers in standard widths, lengths and shapes and not custom designed in any way for use in these Vessels or any particular vessel or line of vessels. As your supplemental e-mail of March 23, 2012, reaffirmed, the shipbuilding angles intended for use in this case "do not differ in any way" from the ones used in the case of the Veteran Class MT-46 tankers produced by APSI and approved, in that instance, by determination letter dated May 24, 2006.

The Coast Guard has long held that there is no regulatory or statutory limit on the amount of foreign materials, such as steel, which may be used in the construction of a vessel considered to be built in the United States provided that the steel has not been worked in any way and that it is imported in standard shapes and sizes as produced at the mill. That appears to be the case here, as it was determined to have been in the case of the tankers referred to.

Machinery Modules

APSI also proposes to use certain foreign-assembled engine room equipment modules consisting of primary equipment and connection piping, valves, and local electrical controls. These modules are to be mounted on a foundation that is subsequently welded or bolted to the deck or bulkhead of the Vessels. The modules themselves will be attached to the Vessels at APSI's shipyard in Philadelphia. In light of past determinations where this process has been considered, including in connection with the tankers referred to above which were the subject of the decision in Philadelphia Metal Trades Council v. Allen, 2008 WL 4003380 9E.D. Pa. (August 21, 2008), we do not find that the second criterion of the test for vessels deemed to have been built in the United States, at subparagraph (b) of 46 C.F.R. § 67.97, is negatively implicated by the use of these foreign-assembled modules.

* * *

Based upon all of the foregoing, and provided that actual construction is consistent with the parameters and considerations which govern these findings, we confirm that construction of the Vessels as described will not adversely affect their eligibility to be documented with coastwise endorsements and employed in the domestic trades of the United States.

Sincerely,

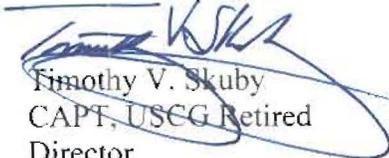

Timothy V. Skuby
CAPT, USCG Retired
Director

EXHIBIT A

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant (CG-5212)
United States Coast Guard

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16713
April 4, 2012

MEMORANDUM

From: Jaideep SIRKAR *Jaideep Sirkar*
Chief, Naval Architecture Division (CG-5212)

Reply to: CG-5212
Attn of: (202) 372-1366

To: National Vessel Documentation Center

Subj: Aker/SeaRiver tankers – Preliminary U.S. Build Determination

Refs: (a) D. Cameron (NVDC) e-mail of 26 Feb 2012, to T. Jordan (CG-5212), forwarding ref (b)
(b) Blank-Rome letter (with 5 attachments) of February 23, 2012, to NVDC
(c) Ship 019 Steel Weight Comparison spreadsheet (dated JOM 02/17/12)
(d) R. Waldron (Blank-Rome) e-mail of 5 Mar 2012, to D. Cameron (NVDC)
(e) R. Waldron (Blank-Rome) e-mail of 23 Mar 2012, to D. Cameron (NVDC)

1. Reference (a) requests our review and comment regarding two Aframax tankers that will be built by Aker Philadelphia Shipyard (APSI) for SeaRiver Maritime, Inc. APSI is requesting a U.S. build determination to confirm the coastwise eligibility of the vessels.

2. As described in reference (b), APSI intends to utilize a certain amount of foreign source steel, machinery, and other outfitting items in the construction of the tankers. References (c) through (e) provided additional information regarding the steel weight estimates. Reference (b) also categorizes the rudder horn as non-hull structure; in this regard, you specifically request our opinion whether or not the rudder horn casting and mounting plates are part of the hull structure.

Characterization of rudder horn and mounting plates

3. Because of the variety of rudder designs and the manner in which they might interface with the hull structure, there is no universal rule. In principle, where the rudder is supported by an external structure, such as a rudder horn, we consider the horn to be an appendage (i.e., non-hull structure), and we would accept the mounting plates (which connect the horn to the internal hull structure) to be part of the appendage. In designs where the rudder stock penetrates the hull in a tube casting built into the hull, we would consider the casting to be part of the hull structure, and include it in the discounted steel weight.¹

4. With respect to the subject tankers, we concur that the rudder horn is a non-structural appendage.

Basis of our review per 46 CFR 67.3

5. With respect to the definitions of "hull" and "superstructure" in 46 CFR 67.3, and consistent with our previous reviews of this nature:

- (a) We consider any door or hatch cover to be an essential part of the "floatation envelope" of the hull if load line regulations require it to be weathertight or watertight. In general, this includes weather-exposed doors and hatches on the lower tiers of a superstructure or deckhouse (but excludes such doors and hatch covers on higher tiers, and interior doors);
- (b) We consider thruster tunnels and seachests to be part of the floatation envelope of the hull;
- (c) In accordance with our discussion in paragraph (3) above, we consider castings that form an integral part of the hull (such as propeller & rudder tubes, stem & stern frames, etc) to be

¹ A similar logic applies to propeller shafting: stern tube castings built into the hull are structural; castings on external struts and bosses are appendages.

April 4, 2012

structural components of the hull, and included in the discounted steel weight. Castings external to the hull (such as rudder horns, struts and bosses, fairings, etc) are considered non-structural appendages. Hawsepipes are neither hull structure nor part of the floatation envelope;

- (d) We consider "superstructure" to include deckhouses and pilothouses, but not breakwaters, crane or mast houses, or ventilation or exhaust trunks (these being "outfitting" components); and
- (e) We consider any component to be part of the vessel's "structural integrity" if it is essential to the overall longitudinal/transverse strength of the hull, superstructure, or deckhouse. In general, this includes hull plating, exterior superstructure and deckhouse plating (and associated stiffeners), decks, and internal load-bearing bulkheads and columns (but excludes non-load-bearing bulkheads that essentially only serve to partition interior spaces). This also includes load-bearing foundations and reinforcements of hull, deck, or superstructure in way of cargo handling or stowage arrangements.

Review comments

- 6. The hull will be constructed by APSI, using both U.S. and foreign source steel and components. Reference (c) presents weight data in a table of component "blocks," including deckhouse and casing. Total block weight is 15,899 Mtons.
- 7. The bow and stern bulbs will be foreign-fabricated. Their weights are reported as 69.0 and 43.0 Mtons, respectively.
- 8. The rudder horn (with mounting plates) will be foreign-fabricated; its weight is reported as 25.0 Mtons. However, as discussed above, we consider this design to be an external (non-structural) hull appendage, so it is not included in the discounted steel weight.
- 9. The first tanker will be constructed with 28.0 Mtons of foreign-fabricated T-bars. However, all such T-bars in the second tanker will be U.S.-fabricated.
- 10. It appears that the freeboard deck is designated as the vessel's "Upper Deck," and the first deckhouse tier above that is designated as the "A Deck." Load line regulations require that doors and hatches on these decks be weathertight. Attachment (3) to reference (b) lists the weathertight and watertight closures (hatches and doors) on these decks, and reports their total weight as 25.56 Mtons. It is assumed that this weight is *not* included in the "block" weights of reference (c).

Discounted steel weight and "major component" weight

- 11. As noted above, reference (c) presents a hull steel weight of 15,899 Mtons. It is assumed that this is the basic welded steel weight of hull plating and stiffeners, and includes the bow and stern bulbs and fabricated T-bars. In addition to this would be 25.56 Mtons for the weathertight/watertight closures as required by load line regulations. Therefore, our best determination of the discounted steel weight is 15,924.6 Mtons (15,640 Ltons), and the 1½ percent "major component" weight limit is therefore 238.9 Mtons (234.6 Ltons).
- 12. The weight of the foreign-source components are: 69 and 43 Mtons for the bow & stern bulbs, respectively; 28 Mtons of fabricated T-bars (first vessel only); and 25.56 Mtons for doors and hatches. Total weight is 165.6 Mtons (162.6 Ltons), which is within the "major component" limit.
- 13. If you have any questions, please contact me or Mr. Thomas JORDAN at the above.

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