



Jones Act

On 23JUN the NIC favorably endorsed BP's request for a Jones Act Waiver pursuant to 46 USC 501. The NIC endorsement was sent to CBP. MARAD also provided a favorable endorsement.

If the waiver is granted by the SECDHS, the following vessels will be granted a waiver:

- Production Testing Vessel HELIX PRODUCER
- Production Testing Vessel TOISES PISCES
- Production Testing Vessel FPSO SEILLEAN
- Dynamic Positioning Tanker EVI KNUTSEN
- Dynamic Positioning Tanker NAVION FENNIA
- Dynamic Positioning Tanker LOCH RANOCH

On 24JUN the NIC favorably endorsed Triton Hungary Asset Management LLC's request for a Jones Act Waiver pursuant to 46 USC 501. The NIC endorsement was sent to CBP. MARAD also provided a favorable endorsement. If the waiver is granted by the SECDHS, the following vessel will be granted a waiver:

- Mobile Oil Drilling Unit DISCOVERER ENTERPRISE

All of the above vessels are currently involved recovery operation (near source) but as of 28JUN are not currently implicating the Jones Act. The waiver requests are in anticipation of severe weather that might force the above vessels to come into a US port and would then implicate the Jones Act. This waiver would also apply for other circumstances beyond severe weather.

Plaquemines Parish Government

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June 30, 2010

Doug Suttles, Chief Operating Officer
BP Exploration & Production Inc
501 Westlake Park Blvd.
Houston, TX 77079

Lt. Commander (b) (6), U.S. Coast Guard
Via email: (b) (6) @uscg.mil

Dear Sirs:

It is apparent that the sand berms already under construction are starting to do their job of keeping oil out of the marshes. Progress is being made with the first phase although Shaw Group still struggles to release US dredging vessels. Should our request for the next 18 berms be approved it is very clear that there is not enough dredging equipment available on the US market to complete them in a timely manner.

Last week I had a meeting with representatives of the Belgian company DEME and their US partner DCI Environmental. DEME Group is one of the largest dredging environmental and marine engineering companies in the world. DCI is a specialist remediation contractor. DEME Group have indicated that they can make the following dredging vessels available for this work:

CSD Vlaanderen XIX
TSHD Breydel
TSHD Pearl River
TSHD Marieke
TSHD Reynaert

Located in Panama; can be mobilized in 14 days
Located in Venezuela; can be mobilized in 6 days
Located Canary Islands; can be mobilized 14 days
Located in UK; can be mobilized in 18 days
Located in Latvia; can be mobilized in 20 days

DEME indicated that using these vessels they could deliver the 13.5 million cubic yards in the current project in a period of 15 weeks. We request these foreign vessels be quickly deployed on the next phase of the barrier project and that a that a waiver to the Jones Act be granted to these vessels.

With kind regards, I remain

Sincerely,


BILLY NUNGESSER
Parish President

BN/mle

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Lt. Commander (b) (6) U.S. Coast Guard
Via email: (b) (6) @uscg.mil

Dear Sirs:

Last week I had a very interesting meeting with representatives of the Belgian company DEME and their US partner DCI Environmental. The DEME group is one of the largest dredging environmental and marine engineering companies in the world. DCI is a specialist remediation contractor. DEME has vast experience in oil skimming operations throughout the world. One of DEME's skimming vessels is the *Melina*, a picture of which is attached. DEME has offered the *Melina* to both BP and the Coast Guard for assistance with the Gulf oil spill, but until now has received no response.

The *Melina* has a number of distinct advantages:

- To improve skimming productivity, *Melina* can be equipped with oil water separators. By using these separators the water content in the oil contained in *Melina's* hopper can be drastically reduced, greatly increasing the skimming performance per trip.
- High production of 1 trip every 2-3 days should be feasible, equaling 3,300 m³ (20,800 barrels) of oil residue with limited water content being taken out of the disaster area every 2-3 days.
- Highly trained crew for operating the KOSEQ sweeping arm with built in retrieval pump Marflex. These short response times perfectly illustrate the capacity and the preparedness of *Melina's* crew and the ship itself.

The *Melina* is currently working in Europe, but she can be freed from her obligations upon request from any official U.S. agency or BP. The sailing time from Europe to the Gulf of Mexico is about two and one-half weeks. Another week will be required upon arrival to fit the oil-water separator system best fitted for the oil to be skimmed.

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June 30, 2010

I believe that a vessel such as the *Melina* will be a valuable addition to the offshore skimming resources available. I ask therefore that BP/Coast Guard request DEME to mobilize immediately and put in place a Jones Act waiver if required. Should the *Melina* be successfully deployed DEME can also similarly equip other vessels in their fleet.

With kind regards, I remain

Sincerely,

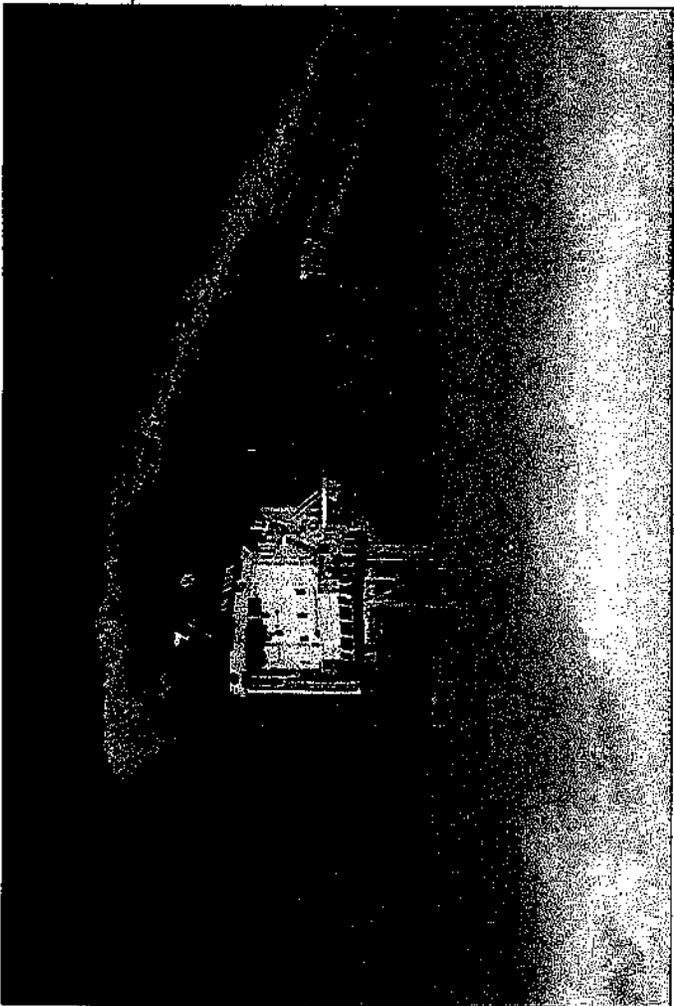
A handwritten signature in black ink, appearing to read "Billy Nungesser", written in a cursive style.

BILLY NUNGESSER
Parish President

BN/mle

20.811 bbl capacity Skimming vessel

Mellina – Equipped with KOSEA skimming arm



- Long term skimming response contact with Rijksrederij Eastco Europe -> Experienced crew
- KOSEA skimming arm permanently mounted on board
- Installation of oil water separator possible, further improving vessel performance through decreasing the water content of the oil-water mixture
- Holding capacity for 20.811 bbl of oil-water mixture
- Unloading through high volume pump, simply holds in 4-30 minutes

Construction year	Hopper capacity m ³ (bbl)	Discharge system m ³ /hr (bbl/hr)	Length m (ft)	Breadth m (ft)	Moulded depth m (ft)	Draught m (ft)	Total installed power kW	Deadweight ton
2002	3.308 (20.811 bbl)	Unboard discharge pump 7.000 m ³ (44.000 bbl/hr)	84,26 (308 ft)	16,97 (57 ft)	8,40 (28 ft)	6,40 (21 ft)	4.800	6.713


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Lt. Commander (b) (6) U.S. Coast Guard
Via email: (b) (6) @uscg.mil

Dear Sirs:

More and more information indicates that much, if not most, of the oil gushing from the Deepwater Horizon is staying below the water surface at depths of several hundreds of feet. We are informed by reliable sources that there are vast underwater plumes of oil in several places. Currently the recovery of this oil is not being addressed due to the lack of suitable equipment. It does however need to be urgently addressed because it will have a serious impact on marine life.

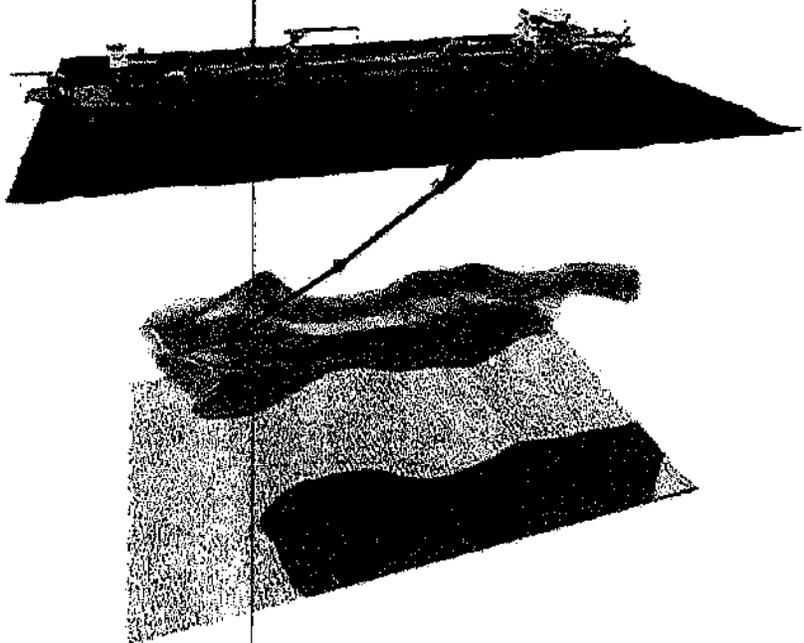
Last week I had a very interesting meeting with representatives of the Belgian company DEME and their US partner DCI Environmental. DEME Group is one of the largest dredging environmental and marine engineering companies in the world. DCI is a specialist remediation contractor. DEME Group have a number of specialist vessels that can be used to recover this submerged oil. Two of them, the *Pearl River* and the *Rolling Stone*, can be made available for assistance in the Gulf of Mexico:

1. *Pearl River*

- A trailing suction hopper dredge with 18,000m³ (108,000 barrels) oil residue storage capacity
- Can recover oil from depths of up to 443 feet
- Can be fitted with oil water separators to improve recovery capacity
- Can be mobilized to the Gulf in 14 days

2. *Rolling Stone*

- A dynamic positioned fallpipe vessel
- Can store 75,000 barrels of oil residue on board
- Can recover oil from depths of up to 3,300 feet
- With modification can recover oil from 4,450 feet
- Can be mobilized to the Gulf from Europe in 6 weeks including necessary 3 weeks engineering and construction modifications.
- A diagram of the *Rolling Stone* is shown below:



In addition the DEME Group with DCI are offering to make available their expertise in locating and characterizing the plumes.

You must agree that without equipment for recovering subsurface oil we are not doing a complete job. I therefore ask, as a matter of urgency, that you instruct DEME Group to mobilize these vessels immediately. Additionally, should a waiver of the Jones Act be required, this should also be expedited.

With kind regards, I remain

Sincerely,

BILLY NUNGESSER
Parish President

BN/mle



National Incident Command MC252- Jones Act Fact Sheet
11 July 2010
Deepwater Horizon Spill Response

JONES ACT FACT SHEET

SUMMARY:

In no case has the Federal On Scene Coordinator (FOSC) or Unified Area Command (UAC) declined to request assistance or accept offers of assistance of foreign vessels that meet an operational need because the Jones Act was implicated. The Jones Act was passed in 1920. The Jones Act and similar laws governing coastal shipping were passed to encourage development of American merchant marine for national defense and commercial purposes. A Jones Act waiver was granted during Hurricane Katrina due to the significant disruption in the production and transportation of petroleum and/or refined petroleum products in the region during that emergency and the impact this had on national defense. In anticipation of Jones Act waiver requests the National Incident Commander (NIC) has coordinated closely with relevant agencies to ensure accelerated processing for any waiver requests. To date, no waivers of the Jones Act (or similar federal laws) has been required because none of the foreign vessels currently operating as part of the BP Deepwater Horizon response has required such a waiver.

PROCESS FOR DETERMINING APPLICABILITY OF JONES ACT AND OBTAINING WAIVERS:

Generally, the Jones Act requires that all goods transported in coastwise trade between United States ports be carried in United States flagged vessels, constructed in the United States, owned by United States citizens, and crewed by United States citizens and/or permanent residents. The threshold determination is made by U.S. Customs and Border Protection (CBP). CBP works closely with the UAC and NIC when such issues arise.

A foreign flagged vessel can still conduct certain planned operations for the BP Deepwater Horizon response if the vessel is an oil spill response vessel (OSRV) and meets the requirements of 46 U.S.C. § 55113. In anticipation of possible need for deployment of foreign flagged OSRVs, the FOSC, in coordination with other federal agencies, determined on July 16, 2010, pursuant to 46 U.S.C. §55113, that there are an insufficient number of specialized oil skimming vessels in the U.S. to keep pace with the unprecedented levels of oil discharges in the Gulf of Mexico. Based upon this determination, foreign specialized skimming vessels may be deployed to response operations if the foreign country provides the same privileges to U.S. vessels. The use of such vessels under these circumstances would not violate the Jones Act or require a Jones Act waiver.

Alternatively, and for vessels not considered to be OSRVs, a Jones Act waiver request, pursuant to 46 U.S.C. § 501, can be submitted by an interested party, either inside or outside the U.S. government. The FOSC would again coordinate this effort with CBP who would make a recommendation to the Secretary of the Department of Homeland Security in consultation with the Maritime Administration. In making that determination, consideration would be given to unique characteristics and capabilities of the foreign flagged vessel compared to what is available in the U.S. fleet. Consideration would also be given to the impact of any delay in operations that might be caused by waiting for a United States vessel to arrive on scene or deploy the specific capabilities needed. To date, no Jones Act waivers have been necessary



National Incident Command MC252- Jones Act Fact Sheet

11 July 2010

Deepwater Horizon Spill Response

because foreign flagged vessels involved in the BP Deepwater Horizon response have not been engaged in activities that would require such a waiver.

Two preemptive Jones Act waivers have been granted that would allow a total of seven foreign-flagged vessels to move closer to shore should they need to be evacuated from the wellhead area because of severe weather. The granting of these waivers was a proactive step as the operations these vessels are currently engaged in do not require a Jones Act waiver.

HISTORY:

For over 200 years, the United States Customs Service, now CBP, has been responsible for enforcing and administering laws and regulations which set forth procedures to control and oversee vessels arriving in, and departing from, U.S. ports and the coastwise transportation of merchandise between U.S. ports.

Federal laws protecting U.S. shipping date back to the First Congress in 1789. The coastwise law governing the transportation of merchandise was first established by Section 27 of the Merchant Marine Act of 1920, sponsored by Senator Wesley L. Jones (hence its name, the "Jones Act"), which revamped the U.S. shipping laws governing cabotage, shipping mortgages, seamen's personal injury claims, etc. That statute provided that "[N]o merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including districts, territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States."

The intent of the coastwise laws, including the Jones Act, was to promote U.S. shipping interests. The Jones Act (46 U.S.C. § 55102), provides that the transportation of merchandise between U.S. points is reserved for U.S.-built, owned, and documented vessels. Pursuant to section 55102, "a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and (2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of Title 46 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement."

Consequently, foreign-flag vessels are prohibited from engaging in the coastwise trade—transporting merchandise between U.S. coastwise points. In addition, the same prohibitions apply to U.S.-flag vessels that do not have a coastwise endorsement on their document, i.e., are not coastwise qualified.



07/6/2010

DEEPWATER HORIZON OIL SPILL RESPONSE

Jones Act Fact Sheet – July 6, 2010

Currently, dozens of foreign-flagged vessels are involved in the largest response to an oil spill in U.S. history, and additional specialized foreign skimming vessels are en route to the Gulf to assist in this historic response.

Jones Act waivers have not been required for any current response activities. To date, two preemptive waivers have been granted that would allow a total of seven foreign-flagged vessels to move closer to shore should they need to be evacuated from the wellhead area because of severe weather.

Questions & Answers

Q: Why has the Jones Act not applied to foreign-flagged response vessels in the Gulf to date?

A: Jones Act waivers have not been required for any of these vessels' current activities – for two reasons:

- Jones Act jurisdiction extends to three nautical miles off U.S. shores. The Federal On-Scene Coordinator made a determination that foreign flagged skimming vessels involved in the oil spill response within the Jones Act jurisdiction are exempted from the Act under 46 U.S.C. §55113, if the foreign country provides the same privileges to U.S. vessels.
- Foreign flagged vessels not involved in skimming are currently operating outside of the area that the Jones Act has jurisdiction – the leak site is over 40 miles off shore.

Q: Has the Jones Act stood in the way of any offers of international assistance?

A: In no case has any offer of assistance been declined because of the Jones Act or similar laws.

Q: What will happen should a Jones Act waiver be needed as part of the response?

A: The administration has taken steps to proactively ensure that the Jones Act will not inhibit any offers of assistance now or in the future:

- First, in anticipation of any Jones Act waiver requests, the National Incident Commander (NIC) has coordinated closely with the U.S. Maritime Administration, U.S. Customs and Border Protection, and the Departments of Defense and State to ensure accelerated processing for any waiver requests.
- Second, in anticipation of possible need for deployment of foreign-flagged specialized oil spill response vessels, the Federal On-Scene Coordinator has made a determination in



07/6/2010

coordination with other federal agencies that foreign specialized skimming vessels may be deployed to response operations if the foreign country provides the same privileges to U.S. vessels. The use of such vessels under these circumstances would not violate the Jones Act or require a Jones Act waiver.

Q: Does the Jones Act apply to skimmers?

A: Following a determination made by the Federal On-Scene Coordinator, skimming vessels involved in the oil spill response are exempted from the Jones Act under 46 U.S.C. §55113.

In addition, the Jones Act simply does not apply to vessels skimming oil outside of three nautical miles from the U.S. coast. Currently, hundreds of U.S.-flagged vessels are skimming oil inside three miles.

Q: Have any Jones Act waivers been granted?

A: Yes. Two preemptive Jones Act waivers have been granted that would allow a total of seven foreign-flagged vessels to move closer to shore should they need to be evacuated from the wellhead area because of severe weather.

These vessels, some of which are already on scene collecting oil being contained by the Discoverer Enterprise from the top hat device, deploy unique technologies that no U.S. flagged vessel is able to provide at this time. The granting of these waivers is a proactive step and the operations these vessels are currently engaged in do not require a Jones Act waiver.

Currently, other vessels periodically deliver the oil they collect to port. However, as part of the ongoing planning for severe weather and potential hurricanes, Jones Act waivers have been granted that would allow these foreign-flagged ships to bring oil closer to shore themselves should the weather get bad enough that an evacuation plan is carried out.

The vessels' presence in the Gulf is part of the federal government's directive that BP create additional redundancy mechanisms that will increase their oil collection capabilities quickly.

Q: What is the process for determining applicability of the Jones Act, and for obtaining waivers?

A: Generally, the Jones Act requires that all goods transported in coastwise trade between U.S. ports be carried in U.S.-flagged vessels, constructed in the United States, and owned by U.S. citizens. Additionally, U.S. law, generally, requires that 75 percent of the crew on U.S. flagged vessels be U.S. citizens and/or permanent residents.

The determination to grant a Jones Act waiver is considered by U.S. Customs and Border Protection in consultation with the U.S. Maritime Administration, and the Departments of Defense and Energy, and a final decision is made by the Secretary of Homeland Security. The determination is made after the U.S. Maritime Administration has surveyed the industry to determine the availability of U.S. ships.



07/6/2010

Q: Has this process changed for requests related to the BP oil spill response?

A: Yes. In the case of requests related to the BP oil spill response, Admiral Allen has coordinated closely with the U.S. Maritime Administration, U.S. Customs and Border Protection, and the Departments of Defense and State to ensure that any waiver requests for offers of assistance determined to effectively aid the response effort will receive accelerated processing.

A Jones Act waiver request, pursuant to 46 U.S.C. §501, can be submitted by an interested party, either inside or outside the U.S. government. If the assistance being offered is determined to fit the needs of the current response, the Federal On-Scene Coordinator would coordinate expedited processing of the request with CBP, who would make a recommendation to the Secretary of Homeland Security. This recommendation is provided after the U.S. Maritime Administration surveys the availability of U.S. ships. In addition, consideration would be given to the unique characteristics and capabilities of the foreign-flagged vessel compared to what is available in the U.S. fleet. Consideration would also be given to the impact of any delay in operations that might be caused by waiting for a U.S.-flagged vessel to arrive on scene or deploy the specific capabilities needed.

In anticipation of possible need for deployment of foreign flagged specialized oil spill response vessels, the Federal On-Scene Coordinator, in coordination with other federal agencies, determined on June 16, 2010, pursuant to 46 U.S.C. §55113, that there are an insufficient number of specialized oil skimming vessels in the United States to keep pace with the unprecedented levels of oil discharges in the Gulf of Mexico. Based upon this determination, foreign specialized purpose-built skimming vessels may be deployed to response operations if the foreign country provides the same privileges to U.S. vessels. The use of such vessels under these circumstances would not violate the Jones Act or require a Jones Act waiver.

History

For more than 200 years, the U.S. Customs Service, now CBP, has been responsible for enforcing and administering laws and regulations setting forth procedures to control and oversee vessels arriving in and departing from U.S. ports, as well as the coastwise transportation of merchandise between U.S. ports. Federal laws protecting U.S. shipping date back to the First Congress in 1789.

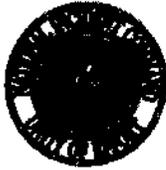
The law governing the transportation of merchandise “coastwise” – meaning between U.S. ports – was first established by Section 27 of the Merchant Marine Act of 1920, sponsored by Senator Wesley L. Jones (hence its name, the “Jones Act”), which revamped the U.S. shipping laws governing cabotage (i.e. the transport of goods or passengers between two points in the same country), shipping mortgages, seamen’s personal injury claims, etc. That statute provided that “[N]o merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including districts, territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States.”



07/6/2010

The intent of the coastwise laws, including the Jones Act, was to promote U.S. shipping interests. The Jones Act (46 U.S.C. § 55102), provides that the transportation of merchandise between U.S. points is reserved for U.S.-built, owned, and documented vessels. Pursuant to section 55102, “a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and (2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of Title 46 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

Consequently, foreign-flag vessels are prohibited from engaging in the coastwise trade—transporting merchandise between U.S. coastwise points. In addition, the same prohibitions apply to U.S.-flag vessels that do not have a coastwise endorsement on their document, i.e., are not coastwise qualified.



National Incident Commander
Deepwater Horizon Response

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16451

JUL 20 2010

Ernie Lee Magaha
Clerk of the Circuit Court and Comptroller
Escambia County, Florida
221 Palafox Place, Suite 130
Pensacola, Florida 32502-5843

Dear Mr. Magaha,

I, along with the Secretary, the President, and the Maritime Administration, share the Board's concerns about the Deepwater Horizon oil spill and the impact of this unprecedented pollution incident on the environment, the economy, and all those personally affected. The Federal government, in coordination with State and local governments and other stakeholder organizations, has been laboring tirelessly to ensure the Responsible Parties secure the source of the spill and mitigate the impacts of the discharged oil.

Neither the Clean Water Act (CWA) nor the Merchant Marine Act of 1920 (commonly known as Jones Act) is an impediment to the deployment of skimmers to the response. Both Federal laws specifically referenced in your Resolution R2010 have provisions to ensure these Acts do not interfere with responding to a pollution incident like the Deepwater Horizon oil spill.

Under the CWA, it is generally unlawful to discharge any pollutant from a point source into such waters. However, discharge in compliance with the instructions of the Federal On-Scene Coordinator (FOSC) directing the Deepwater Horizon response does not require a permit. (40 CFR §122.3(d)).

The FOSC has not declined any foreign government offers of assistance or foreign private party inquiries for vessels that meet an operational need. In many cases, the Jones Act has not applied since it only pertains to vessel operations conducted within three nautical miles of the U.S. coastline and coastwise trade.

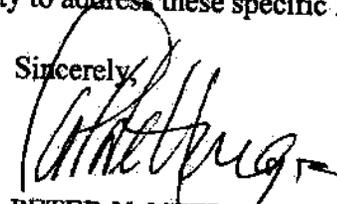
In a letter dated June 16, 2010, the FOSC, in coordination with the Maritime Administration (MARAD), determined that until the flow of oil from MC252 is stopped, an adequate number of Oil Spill Removal Vessels (OSRV) documented under the laws of the United States and capable of skimming oil cannot be employed in a timely manner to keep up with the pace of the spill. Since then, the FOSC has granted exemptions for several foreign flagged OSRVs, including French and Canadian vessels, and will continue to do so as circumstances (need, availability, and reciprocity) dictate.

Additionally, the Secretary of Homeland Security proactively granted Jones Act waivers that would allow seven foreign-flagged vessels to move closer to shore should they need to be evacuated from the wellhead area because of severe weather. Granting these waivers was a proactive step as the operations these vessels are currently engaged in do not require a Jones Act waiver.

In anticipation of Jones Act waiver requests, my National Incident Command staff has coordinated closely with relevant agencies to ensure accelerated processing of any waiver or exemption requests. Should additional exemptions or waivers of the Jones Act be required, they will continue to be evaluated promptly and granted where the equipment offered is needed.

Thank you for your letter and the opportunity to address these specific Federal requirements.

Sincerely,



PETER V. NEFFENGER
Deputy National Incident Commander

Copy: EPA Administrator
MARAD Administrator