U.S. Department of Homeland Security

United States Coast Guard

Director
National Vessel Documentation Center

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16713/5/2
August 2, 2018

Mr. Douglas Frongillo, Principal
Kalmarine Inc.
1500 Cordova Road - Suite 210
Fort Lauderdale, FL 33316

Dear Mr. Frongillo:

I refer to your e-mail dated June 28, 2018, by which you submitted an application accompanied by supporting documentation for a preliminary foreign rebuilt determination pursuant to 46 C.F.R. §67.177(g) for the vessel, MV SULPHUR ENTERPRISE, official number 1024115 (the "Vessel"). I also take note of the updated spreadsheet which you submitted as an attachment to your e-mail dated July 17, 2018.

Your June 28th e-mail states that "(T)his application is being submitted by Kalmarine Inc. on behalf of SE Savage Operations LLC, the vessel demise owner." Elsewhere, however, in the submittal Summary on the letterhead of Savage Marine Management Company it is stated that the application "has been prepared by Kalmarine Inc. on behalf of the vessel Owner, SE Savage Operations LLC" and also that for the sake of that application, "the term 'Owner' shall refer to the registered owner and/or demise owner of the vessel".

Our records reflect that the documented owner of the Vessel is BMO Harris Equipment Finance Company of 770 N. Water Street, 8th Floor, Milwaukee, WI, and that the Vessel is documented under the lease finance provisions of 46 U.S.C. §12119 and 46 C.F.R. Part 68. Those records also reflect that the Vessel has been demise chartered to Savage SE Operations, LLC. Consequently, I have accepted your application on behalf of and am responding to you as the agent or representative of both of those entities.

The Vessel is a molten sulfur tanker constructed by McDermott Marine Construction at Amelia, LA, in 1994. It measures 524 feet x 90 feet x 47 ½ feet and carries approximately 27,000 Ltons of molten sulfur in four independent (or non-hull structural) cargo tanks. The scope of the proposed structural steel work in this case is the replacement of limited sections of hull plating (side shell, inner bottom and Main Deck) and a minor amount of bulkhead stiffeners in a saltwater ballast tank.

The work to be done to this Vessel as described in your application, is to be done in Veracruz, Mexico, at the repair facility of Talleres Navales del Golfo S.A. de C.V. Because the work will

be done outside of the United States you have requested a preliminary determination pursuant to 46 C.F.R. §67.177(g) that the work proposed to be done, as described in your application and accompanying documentation, will not cause this Vessel to be deemed to have been rebuilt foreign and as a consequence to lose its eligibility to be documented with a coastwise endorsement reflecting its eligibility to engage in the coastwise trades of the United States.

It is clear from the material you submitted that you are familiar with the regulatory standards applicable to foreign rebuilt determinations; specifically, the so-called "major component test" (46 C.F.R. §67.177(a)) and the so-called "considerable part test" (46 C.F.R. §67.177(b)), both of which must be met.

The "major component test" requires that a vessel be deemed rebuilt foreign "when a major component of the hull or superstructure not built in the United States is added to the vessel." Although the term "major component" is not defined by statute or regulation, longstanding Agency practice, affirmed by the Courts (Shipbuilders Council of America v. U.S. Coast Guard, 578 F.3d 234 (4th Cir. 2009)), defines it as a new, separate and completely-constructed unit, built separate from and added to the vessel that weighs more than 1.5% of the steelweight (or discounted lightship weight) of the vessel.

The "considerable part test" requires that only a certain quantity of work can be performed on the hull or superstructure of the vessel outside of the United States for it to be deemed not rebuilt foreign --- 7.5% or less of the vessel's steelweight (or discounted lightship weight) prior to the work. In applying this test the greater of the steel added or steel removed is used in making this calculation.

Finally, I note that the definitions of "hull" and "superstructure", as found at 46 C.F.R. §67.3, are applicable to these regulatory standards.

At our request, your supporting documentation was simultaneously submitted to the Coast Guard's Naval Architecture Division ("NAD") for review and analysis in support of this determination, as is our customary practice in these matters.

The discounted steel weight of the Vessel in this case was calculated according to the parametric methodology and such parametric estimates are accepted if other weight information is not available, as in this case. With regard to the discounted steel weight of the Vessel in this case, the finding of the NAD was that your calculation of that weight, 4988 Mtons, should be subjected to several minor and inconsequential (to the ultimate disposition of your application) adjustments, the details of which will be made available to you separately by the NAD. Consequently, I accept for the purpose of my conclusions herein the NAD's finding that the discounted steel weight of the Vessel is 5,316 Mtons (5,221 Ltons).

With regard to the "considerable part test", with all new steel replacement for all repairs taken into account, the weight of such added steel was found to be 32.0 Mtons (31.5 Ltons). This is well below the 7.5% threshold which, based upon the discounted steel weight found above, would be 398.7 Mtons (391.6 Ltons).

With regard to the "major component test", 1.5% of the discounted lightship weight of the Vessel would be 79.7 Mtons (78.3 Ltons). I also note that, on the basis of your submissions and the findings of the NAD, the largest single component added to the vessel would be starboard side shell plating amounting to only 31,620 pounds or 14.1 Ltons. As such, that is also well below the 1.5% threshold in this case.

Based upon these findings, I conclude and confirm that performance of the proposed work to the Vessel outside of the United States will not, under currently applicable law and practice, adversely affect the eligibility of the Vessel to engage in the coastwise trades of the United States as built in the United States. However, as we customarily do, we require that you confirm to this office in writing following completion of the work that the work actually performed conformed to the proposal you submitted in support of your application.

Sincerely,

Christina G. Washburn

Christina G. Washburn
Director

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16713/5/2
October 18, 2018

Mr. Douglas Frongillo
Principal
Kalmarine Inc.
1500 Cordova Road - Suite 210
Fort Lauderdale, FL 33316

Dear Mr. Frongillo:

I refer to my letter of August 2, 2018 in which I concluded that the work that you proposed to do in a foreign shipyard to the vessel MV SULPHUR ENTERPRISE, official number 1024115 (the "Vessel"), would not adversely affect the eligibility of the Vessel to engage in the coastwise trades of the United States but required that you confirm to this office following completion of the work that the work actually performed conformed to the work that had been proposed.

I also refer to your e-mail of September 19, 2018 which referenced and made available your final calculations of the work actually performed.

The calculations contained in the material submitted in connection with your September 19, 2018 e-mail were subjected to review and analysis by the Coast Guard's Naval Architecture Division and I have received and reviewed those findings. With regard to the "considerable part test", the actual steel weight of the work performed was found to be 89.23 Mtons, as opposed to 32.0 Mtons, which had been proposed. This increase will impact the possible work that could be performed at some future date but even in this increased amount, it is well below the 7 ½ percent threshold of that test. With regard to the "major component test", the steel weight of the largest single component added to the Vessel was found to be 8.9 Mtons, which is less than the steel weight of the largest single component which had been proposed.

Consequently, I re-affirm the conclusion of my August 2, 2018, letter.

Sincerely,

Christina G. Washburn
Director