



16713/5-2
December 2, 2009

Robert S. Zuckerman, Esq.
Vice President, General Counsel and Secretary
Horizon Lines
4064 Colony Road, Suite 200
Charlotte, NC 28211

Dear Mr. Zuckerman,

We are responding to your letter of October 9, 2009, with enclosures, which requested a preliminary rebuild determination as to work proposed to be done in a non-U.S. shipyard to the following three D-7 class containerships: the M/V HORIZON ANCHORAGE, official number 910306, the M/V HORIZON KODIAK, official number 910308, and the M/V HORIZON TACOMA, official number 910307 (collectively, the "Vessels"). You have requested a preliminary determination in accordance with 46 C.F.R. § 67.177(g) that the coastwise eligibility of the vessels will not be adversely affected if such work is accomplished in a non-U.S. shipyard.

Your restatement in Paragraph II of your letter of the regulatory test created by 46 C.F.R. § 67.177(a) and (b) is essentially correct. The initial determination to be made is whether the modifications involve the "hull" or "superstructure" of the vessel. Those terms are, in turn, 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..."

"Superstructure means the main deck and any other structural part above the main deck."

We have reviewed the proposed hatch modifications as described at Paragraph III.A. of your letter (stowage configuration, cell guides, hatch covers and associated equipment) and, having sought expert internal consultation to confirm our view, concur with your assessment that this work does not involve a modification of the hull or superstructure of the Vessels.

We have also reviewed your proposed modifications of the Vessels' breakwaters (in its entirety in the case of the M/V HORIZON ANCHORAGE and partially with modifications in the case of the M/V HORIZON KODIAK and M/V HORIZON TACOMA) and, having sought expert internal consultation to confirm our view as to these modifications as well, conclude that this work also does not involve a modification of the hull or superstructure of the Vessels. Moreover, even if these modifications did impact the hull or superstructure, based upon the steelweight

calculations you have provided, we note the following:

- (i) Even if all of the steel, both removed and added, is added together as to each of the Vessels it appears that the total, as a percentage of the lightship steelweight of each of the Vessels, is far less than (in fact, about one half of) the permissible threshold of 7.5% established for steel vessels by 46 C.F.R. § 67.177(b)(3).
- (ii) Nevertheless, it has been the consistent and longstanding practice of this office to count the greater of the total removed or total added steel in assessing whether or not that threshold has been exceeded. If we were to do so in this case (and we do not, as it is unnecessary to do so) the applicable percentage, relative to the lightship steelweight of each of the Vessels, would be far less.
- (iii) Finally, with regard to the breakwaters, and focusing on the replacement of the breakwater on the M/V HORIZON ANCHORAGE in particular, even if they were considered to be part of the hull or superstructure, as defined above, we note that the steel weight of that replacement breakwater is under 1% of the lightship steelweight of the Vessel and, thus, is below the threshold of 1.5% which has been consistently applied to determine whether the addition of an item would be deemed to be a "major component" of the hull or superstructure of the Vessel, in accordance with 46 C.F.R. § 67.177(a).

For all of the above reasons, we confirm that the work described, if done in a non-U.S. shipyard, would not adversely affect the coastwise eligibility of the Vessels. Our findings are limited to the work to be done to the identified Vessels and are predicated upon the information you have submitted in support of those findings. Should any of the information materially change during the course of completion of the work we presume that you will inform us of those changes. Moreover, we make no finding as to the Vessels' entitlement to any particular endorsements to the extent that entitlement may be impacted by issues beyond the scope of this determination.

Sincerely,



DOUGLAS G. CAMERON
Staff Attorney
National Vessel Documentation Center
By direction