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MARAD

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U.S. Department
of Transportation
Maritime
Administration

Administrator

400 Seventh Street S.W.
Washington, D.C. 20590

October 9, 1996

Mr. Timothy J. Rhein
President and CEO
American President Companies
1111 Broadway
Oakland, California 94607

Dear Tim:

In light of the enactment of H.R. 1350, I felt it appropriate to convey to you my current thinking with respect to your pending applications to obtain "Section 9" authority to remove your C-10 and J-9 vessels from the U.S.-flag registry. I appreciate the importance of this issue to your company and its future viability, and at the same time know that your ultimate desire is to maintain these vessels under the U.S. flag so that they are eligible for participation in the Maritime Security Program (MSP).

You will recall that APL originally applied for authority to re-flag these vessels on July 16, 1993, pursuant to Section 9 of the Shipping Act of 1916, but acquiesced in our decision to hold these applications in abeyance pending the outcome of consideration of maritime revitalization legislation by the U.S. Congress. APL has been extremely helpful in moving this legislation through the Congress. I am confident that MARAD will implement this program in an expeditious fashion and hope that APL will be a major participant in the program with all of its eligible vessels.

I am also aware that you recently concluded a collective bargaining agreement with the maritime labor organizations that represent the unlicensed seamen that crew your U.S.-flag vessels and that these organizations have now ratified this agreement. As you know, this agreement is formally linked to the enactment of the MSP and it ceases to have force 45 days after enactment of maritime security legislation on November 22, 1996. This will produce a potentially difficult situation for all three parties, MARAD, APL and the affected labor organizations, at precisely the same time that we will be accepting applications for participation in the MSP and designating those vessels that will comprise our Maritime Security Fleet (MSF). Given the importance that we both attach to having APL participate in the MSP, and the need for APL vessels to help form a modern and efficient MSF, I feel it incumbent on all parties to avoid disruptions in your operations at this critical juncture.

I also fully appreciate APL's need to compete efficiently and profitably in the world marketplace. To a large extent, APL's ability to participate in the MSP is contingent on the



-2-

economic viability of the company and your success in reducing your operating costs to a level that permits you to continue operations as a U.S.-flag carrier. I believe that maritime labor organizations share our vision that all parties must cooperate to create a modern, efficient and economically viable U.S.-flag merchant marine.

In recognition of these factors, I would like to clarify for you the conditions under which I will authorize approval of your pending Section 9 applications. At the outset, I expect APL and all affected maritime labor organizations to begin good faith negotiations on a longer term collective bargaining agreement regarding APL's C-11, C-10 and J-9 vessels. At the same time, MARAD will begin implementing the MSP.

If during the 45-day negotiating period your labor negotiations have reached a deadlock; it appears that the only course of action that will be pursued is a work stoppage or other action by the affected maritime labor organizations; and MARAD determines that APL has conducted itself in good faith during the course of the negotiations; MARAD will expedite consideration and authorize approval of APL's pending Section 9 applications to re-flag its C-10 and J-9 vessels not later than the close of the negotiating period subject to such conditions as may be appropriate at that time.

It is understood that MARAD will entertain the views of all interested parties regarding the conduct of the negotiations prior to giving final approval to any of APL's Section 9 applications.

Thank you for your consideration and attention in this matter. I look forward to working with you in the future and hope that you will contact me if you have any questions.

Sincerely,

(Signed) A. J. Herberger

A. J. Herberger
Maritime Administrator



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

400 Seventh St., S.W.
Washington, D.C. 20590

DATE: 10/17/96

TO:

Jennifer O'Connor
456-2464

FROM:

KATHERINE ARCHULETA
CHIEF OF STAFF
202/366-1103
202/366-3956 (FAX)

MESSAGE:

See my phone message.

NUMBER OF PAGES TO FOLLOW: 3

file
DOT-
MEBA



U.S. Department
of Transportation

Maritime
Administration

Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

October 16, 1996

Mr. Timothy J. Rhein
President and CEO
APL Limited
1111 Broadway
Oakland, California 94607

Dear Tim:

I understand that my recent correspondence to you regarding the circumstances under which I would consider approval of APL's request to reflag certain vessels has engendered comment and reaction concerning the intent of that letter and my position in this matter. I am writing to make certain that all affected parties clearly understand where this Agency stands with respect to the ongoing labor negotiations and APL's reflagging contingency plans.

All parties should know and understand that I have no intent, desire nor interest in involving this Agency in APL's labor negotiations, and that I will publicly disassociate myself from any effort by either side to enlist the Maritime Administration to gain an advantage in these negotiations. I hope and expect both parties to conduct these negotiations in an atmosphere of good faith, respect and mutual desire to achieve an accord that maintains APL's vessels in the U.S.-flag fleet, with U.S. merchant mariner crews. That, simply and unequivocally, is the result I anticipate and desire, but I recognize, as should all affected parties, that I have no role, direct or indirect, in the conduct of the negotiations.

I trust that my previous correspondence conveyed to all parties my sensitivity to the potentially difficult situation that will result if the labor negotiations do not result in an agreement. However, it was not a grant of *carte blanche* authority to APL to reflag its vessels without regard to the conduct of the labor negotiations. Rather, the decision to approve a reflagging request rests solely with me and this Agency, and we have not made that decision, nor will we until it is appropriate to do so. Furthermore, as I stated, if reflagging permission is granted, I specifically reserve the option of imposing whatever conditions on a reflagging approval that might be appropriate at that time.

-2-

I hope you appreciate and understand the magnitude of this decision. I urge all the affected parties to consider fully the consequences of your actions and to dedicate yourselves to achieving a result that is fair and equitable to APL's labor force, enhances its competitive posture and which maintains APL, with its U.S. crews, as part of our national fleet.

Thank you for your attention in this matter, and please do not hesitate to contact me if you have questions or concerns.

Sincerely,

(Signed) A. J. Herberger
A. J. Herberger
Maritime Administrator

cc: 100-2 110 115 220 600 KLesnick:st 10/16/96

Identical ltr sent to attached list of addresses

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