



# Homeland Security

June 27, 2006

Jeanne M. Grasso, Esq.  
Blank Rome LLP  
600 New Hampshire Avenue, NW  
Washington, D.C. 20037

Dear Ms. Grasso:

Thank you for your May 19, 2006 letter wherein you requested, on behalf of Escopeta Oil Company, LLC ("Escopeta"), a waiver of the Jones Act so that the TAI AN KOU, a foreign-owned and foreign-flag vessel, may be used to transport a jack-up drilling rig (the "Tellus rig") to Cook Inlet, Alaska, from Port Arthur, Texas.

We requested the views of the Department of Defense, the Department of Energy, and the Maritime Administration with respect to your waiver request. Having carefully considered your request in light of the factual circumstances that have been presented, along with the views of these concerned Government entities, none of which have objected, and Congresspersons, we find that such a waiver is in the interest of national defense. Therefore, your request for a waiver of the Jones Act, as described below, is granted.

In your correspondence, you described certain pertinent facts, including:

- Due to the declining oil and gas production and supplies in Cook Inlet, there is a need for one-time movement of the Tellus rig from Port Arthur to Cook Inlet to facilitate the exploration and production of natural gas;
- Fort Richardson and Elmendorf Air Force Base rely on Cook Inlet natural gas for power generation and heating;
- Escopeta plans to transport the rig from Port Arthur to Cook Inlet by sailing around the tip of Africa, as the rig is too large to be transported through the Panama Canal;
- Only 11 heavy-lift semi-submersible vessels are currently active world-wide and that all of these vessels are foreign-owned and foreign-flagged;
- By using the Tellus rig, Escopeta will try to address the anticipated energy shortage through exploration in several projects in the Cook Inlet area;
- The movement of the Tellus rig is scheduled to begin in mid-July 2006 and to be completed in September 2006; and
- Senators Stevens and Murkowski and Congressman Young expressed support of the above facts in letters sent to the Secretary of Defense, copies of which we have received.

Title 46, United States Code (U.S.C.) Appendix, section 883 (46 U.S.C. App. § 883) provides in part that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the

Page 2

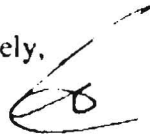
transportation, in any vessel other than a vessel built in, documented under the laws of, and owned by citizens of the United States.

The coastwise laws generally apply to points in the territorial sea, which is defined as the belt, three nautical miles wide, seaward of the territorial sea baseline, and to points located in internal waters, landward of the territorial sea baseline.

The navigation laws administered by U.S. Customs and Border Protection (including 46 U.S.C. App. § 883) can only be waived under the authority provided by the Act of December 27, 1950 (Pub. L. 81-891, 64 Stat. 1120; note preceding 46 U.S.C. App. § 1). This statute provides that "[t]he head of each department or agency responsible for the administration of the navigation and vessel inspection laws is directed to waive compliance with such laws upon the request of the Secretary of Defense [and] [t]he head of such department or agency is authorized to waive compliance with such laws . . . either upon his own initiative or upon the written recommendation of the head of any government agency, whenever he deems that such action is in the interest of national defense."

Thank you for your interest in the Department of Homeland Security.

Sincerely,



Michael Chertoff

cc: Michael Hokana, Maritime Administration  
Alice Lippert, Department of Energy  
Adam Yearwood, Department of Defense