

Tanker company sentenced for concealing deliberate vessel pollution

by Bend_Weekly_News_Sources

12 Whistleblower Crew Members to Receive \$437,500 Each for Reporting Violations

WASHINGTON — Overseas Shipholding Group Inc. (OSG) pleaded guilty and was sentenced yesterday in federal court to pay \$27 million dollars for violations in Boston, Portland, Maine, Los Angeles, San Francisco, and Wilmington, N.C., announced Acting Assistant Attorney General Matthew J. McKeown, U.S. Attorney Michael J. Sullivan for the District of Massachusetts, and U.S. Coast Guard Rear Admiral Timothy Sullivan.

In addition to the fine, OSG was sentenced to serve a three-year term of probation during which it must implement and follow a stringent environmental compliance program that includes a court-appointed monitor and outside independent auditing of OSG ships trading worldwide. In January, OSG pleaded guilty to additional charges in Beaumont, Texas, and is awaiting sentencing in that case for which it has agreed to pay another \$10 million.

The total \$37 million plea agreement is the largest-ever involving deliberate vessel pollution. The charges involving 12 OSG oil tankers range from June 2001 to March 2006 and include violations of the Clean Water Act as amended by the Oil Pollution Act of 1990, the Act to Prevent Pollution from Ships, conspiracy, false statements, and obstruction of justice. The proposed \$37 million penalty includes a \$27.8 million criminal fine which will be divided among the districts and a \$9.2 million organizational community service payment that will fund various marine environmental projects coast to coast. At the sentencing hearing held today in Boston, U.S. District Judge Reginald C. Lindsay said, "There should be no tolerance for those who deliberately despoil the environment."

In imposing the sentence on OSG, Judge Lindsay granted a motion to award 12 current and former OSG crew members with \$437,500 each for their role in blowing the whistle on illegal conduct. The provision for a whistleblower award is set forth in the Act to Prevent Pollution from Ships and provides that individuals providing information leading to conviction may be awarded up to half of a criminal fine. The \$437,500 award is based on the fine imposed according to the Act to Prevent Pollution from Ships.

According to a motion filed by prosecutors proposing the award, the individuals awarded by the court include:

A fitter of the M/T Uranus who made a bypass pipe on the orders of the chief engineer, but only after having his employment threatened. He was so outraged by the dumping close to the New England shore that he created a secret journal inside another book in which he recorded the dates it was used to make illegal discharges.

A first engineer of the M/T Overseas Shirley who wrote a letter to OSG in 2002 alleging that the ship's chief engineer was a "habitual criminal of illegal sludge discharge to sea." He estimated that approximately

40,600 gallons of sludge was discharged overboard.

A second engineer of the M/T Overseas Portland who wrote a note to the U.S. Coast Guard and gave it to a port employee in Portland, Maine. The note, which was given to OSG, and then turned over to prosecutors by OSG, alleged that the chief engineer was making unlawful discharges.

A fourth engineer on the M/T Alcesmar, who was to be sent home to the Philippines after making allegations to OSG, contacted the U.S. Coast Guard with the help of a hotel night clerk in Wilmington, N.C. and turned over evidence taken from the ship.

A second engineer on the M/T Ania who contacted OSG via an Internet café alleging that the chief engineer and first engineer were tampering with the ship's oil content meter by flushing a sensor designed to detect oil with fresh water during overboard discharges.

A third engineer and an electrician of the M/T Pacific Sapphire who reported to OSG that they had been ordered to recalibrate the oil content meter. They asked the chief engineer to fix the problem and took samples of the effluent to show him that oil was being discharged overboard.

A second engineer and third engineer and two oilers of the M/T Pacific Ruby who together called a U.S. Coast Guard hotline to report that the chief engineer was tampering with newly installed anti-tricking equipment that resulted in flushing a sensor designed to detect oil with fresh water during discharges in the Gulf of Mexico.

According to papers filed in court, illegal discharges of sludge and oily waste were deliberately concealed through the use of false oil record books, a required log regularly inspected by the U.S. Coast Guard when the ships were in U.S. ports. Discharges were also concealed by other means such as by making discharges at night, painting flanges on overboard piping to hide marks caused by the use of bypass pipes, and hiding bypass equipment during port calls. In other instances, pollution prevention equipment known as an oily water separator was "tricked" by flushing a sensor designed to detect oil with fresh water during overboard discharges.

Prosecutors filed a sentencing memorandum with the court that on the one hand, highlighted the seriousness of OSG's offenses and also recognized the company for certain cooperative acts and remedial measures. In its filing, prosecutors told the court that, "the defendant's criminal conduct did not involve a solitary violation that might be explained as a single instance of bad judgment or the acts of a rogue employee. The violations at issue in this case were so systemic, repetitive and longstanding that the criminal conduct amounted to a serious failure of corporate and shore-side management. Criminal violations continued on some ships during the three years in which OSG was under investigation, including six vessels on which OSG self-reported violations. Prosecutors credited OSG's self-disclosures, cooperation and compliance

measures taken by proposing fewer charges and reduced criminal fines.

Papers filed in court, including a joint factual statement signed by OSG admits to specific violations on each of the vessels. In one case, OSG made illegal releases of oily waste from approximately August 2001 to October 2003 from the M/T Uranus into waters off the coast of New England, in close proximity to Maine and Massachusetts, including Mt. Desert Island and the island of Nantucket. Discharges were made from the M/T Uranus through a long flexible hose trailed overboard at night, then through a hard bypass pipe that the ship's fitter was forced to make, and at a later point in time, by flushing an oil detecting sensor with fresh water. In another case, OSG violated the Clean Water Act by knowingly discharging approximately 2,640 gallons of oily waste and sludge from the M/T Neptune off the coast of North Carolina.

Yesterday's prosecution was made possible through the combined efforts of the U.S. Coast Guard units in each port, the Coast Guard Investigative Service, Coast Guard Office of Maritime and International Law, Coast Guard Office of Investigations and Analysis, and Environmental Protection Agency's Criminal Investigations Division. The case was prosecuted by the Environmental Crimes Section of the U.S. Department of Justice and the U.S. Attorney's Offices in the Central District of California, the Northern District of California, the District of Maine, the District of Massachusetts, the Eastern District of North Carolina, and the Eastern District of Texas.

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