

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

~~7-9~~

DEPARTMENT OF JUSTICE

WASHINGTON 25, D. C.

RECEIVED

TCC:IG:evh

62-82-24

May 19, 1944

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Handwritten signature and initials

PORT SECURITY SECTION

The Commandant,
United States Coast Guard,
Washington, D. C.

Sir:

Re: Violation of the Oil Pollution Act
by SS "Aleutian", Seattle, Washington

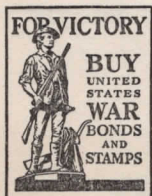
Reference is made to your letter of April 11, 1944, relative to the above case. Consideration has been given to the matter, and it is our view that the circumstances do not warrant the institution of criminal prosecution, particularly in the light of the fact that administrative action has already been taken, resulting in the suspension of the license of the 3rd Assistant Engineer for one month and his being placed on probation for six months.

We are advising the United States Attorney for the Western District of Washington of our views respecting this matter.

We have noted the statement in your letter that there appears to be a tendency on the part of some United States Attorneys immediately to close oil pollution cases involving War Shipping Administration vessels without giving any consideration to possible criminal action against individuals violating the law. Should such matters again come to your attention, please feel at liberty to inform us, and we will see that the matters are given proper consideration.

Respectfully,

For the Attorney General,



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C. G. HEADQUARTERS
MAIL SECTION

TOM C. CLARK, Jr.
Assistant Attorney General

Handwritten signature of Tom C. Clark, Jr.

Handwritten notes at bottom of page

(L)
CG-MIN-100.18
SS ALEUTIAN

11 April, 1944

Hon. Francis M. Shea ✓
Assistant Attorney General
Department of Justice
Washington 25, D. C.

Sir:

Reference is made to your letter of April 3, 1944, relative to the reported violation of the Oil Pollution Act by the SS ALEUTIAN at Seattle, Washington (File No. FMS:IRS; 62-82-24).

The Coast Guard agrees that an action against the vessel in this case would be inappropriate since it was under bareboat charter to War Shipping Administration at the time of the oil spill.

The acts complained of in this case occurred on December 18, 1943, at the General Petroleum Dock, Harbor Island (Elliot Bay) Seattle, Washington, during the loading of fuel oil and resulted from the issuance of improper orders by the 3rd Assistant Engineer. A considerable quantity of oil was spilled in the harbor. These are tidal waters and the spill was thus a violation of the Oil Pollution Act of 1924, 33 U.S.C. 431-437. It is noted that the United States Attorney in his letter referred to the oil as "usable oil". It is not considered that the question of whether the oil is usable or is refuse is an issue in a case under the Oil Pollution Act, although this question may be important in actions under the Act of March 3, 1899, 33 U.S.C. 407, 411.

From reports received at Coast Guard Headquarters, there appears to be a tendency on the part of some United States Attorneys immediately to close oil pollution cases which involve War Shipping Administration vessels without giving any consideration to possible criminal action against the persons violating the law. Although in rem action against vessels owned by or under bareboat charter to War Shipping Administration is not appropriate, it is felt that in many cases criminal prosecution would be appropriate and would be effective to prevent future violations. Under all the facts of the present case, the Coast Guard does not wish to make an affirmative

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FILE
F. D.

(L)
CG-MIN- 100.18
SS -ALEUTIAN
11 April, 1944

recommendation that criminal prosecution be instituted. It will be appreciated, however, if you will refer the case to the Criminal Division of the Department of Justice for consideration of the problems here discussed.

For your information and for the information of the Criminal Division there are inclosed copies of a letter which has been sent to District Coast Guard Officers summarizing several recent cases of oil pollution and illustrating the serious consequences which may result from the spilling of oil in harbors.

Very truly yours,

The Coast Guard agrees that an action against the vessel in this case would be inappropriate since it was under bareboat charter to War Shipping Administration at the time of the oil spill.

The acts complained of in this case occurred on December 18, 1943, at the General Petroleum Dock, Harbor Island (Miller Bay) Seattle, Washington, during the loading of fuel oil and resulted from the issuance of improper orders by the 3rd Assistant Engineer. A considerable quantity of oil was spilled in the harbor. These are tidal waters and the spill was thus a violation of the Oil Pollution Act by the SS ALEUTIAN at Seattle, Washington (File No. 62-22-24).

L. T. CHALKER
Rear Admiral, USCG
Assistant Commandant

It is noted that the United States referred to the oil as "usable oil". It is not a violation of whether the oil is usable or is referred to as "usable" in a case under the Oil Pollution Act, although this question may be important in actions under the Act of March 3, 1899, 33 U.S.C. 407, 411.

Incls.

was received at Coast Guard Headquarters, where appears to be a... on the part of some United States attorneys immediately to close oil pollution cases which involve War Shipping Administration vessels without giving any consideration to possible criminal action against the persons violating the law. Although in the action against... or under bareboat charter to War Shipping Administration... it is felt that in many cases criminal prosecution would be appropriate and would be effective to prevent future violations. In the facts of the present case, the Coast Guard does not wish to take an affirmative

U. S. COAST GUARD
MAIL SECTION (S)

MAILED APR 14 1944

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DEPARTMENT OF JUSTICE

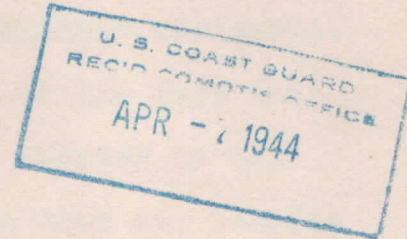
r'bm

WASHINGTON 25, D. C.

April 3, 1944

FMS:IRS

62-82-24



Admiral R. R. Waesche
Commandant
United States Coast Guard
Washington, D. C.

Re: Reported violation of the Oil Pollution
Act by SS ALEUTIAN at Seattle, Washington

Sir:

We have been advised of a violation of the Oil Pollution Act by the vessel, SS ALEUTIAN, which is, and was, at the time of the violation, being operated under charter to the War Shipping Administration. The enclosed copy of a letter will indicate to you that the United States Attorney is cognizant of the matter and that the third assistant engineer had his license suspended for one month and was placed on six months probation. The United States Attorney has asked for instructions with respect to filing a libel against the vessel for penalties.

The War Shipping Administration has advised us that this vessel was under a bareboat charter, rendering inappropriate an action against the vessel. However, pursuant to our informal agreement of October 29, 1943, we are referring the matter to you for your views as to transferring the case to the Criminal Division of this Department for possible criminal proceedings.

Respectfully,

For the Attorney General

Francis M. Shea
Francis M. Shea
Assistant Attorney General

Enclosure
No. 32514



UNITED STATES COAST GUARD

SEATTLE WASHINGTON RECEIVED

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Seattle 4, Washington

In view of March 17th, 1944, we do not deem

prosecution against the third assistant engineer advisable.

The Attorney General

Department of Justice

Washington 25, D. C.

War Shipping Administration, and we assume that any penalty

imposed against Re: Reported violation of the Oil Pollution Act by SS "Aleutian" at Seattle, Washington - NEW

Under these circumstances, will you please advise

Sir:

whether or not we should proceed to file a libel of information against the vessel seeking the penalty provided by violation by the vessel SS "Aleutian", which is, and was at the time of the violation, being operated under charter to the War Shipping Administration.

The facts contained in the report show that approximately 200 barrels of usable oil were discharged from the vessel by virtue of the third assistant engineer's giving erroneous instructions to one of his assistants, the chief engineer having given the proper instructions to the third assistant.

The file also discloses that the Merchant Marine Hearing Unit preferred charges against the third assistant engineer, and that as a result his license was suspended for one month, and he was further placed on six months probation.

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UNITED STATES COAST GUARD
SEATTLE, WASHINGTON RECEIVED

ADDRESS REPLY TO
DISTRICT COAST GUARD OFFICER (1)
AND REFER TO FILE law-621

1944 MAR 20 PM 2 43

13 March, 1944

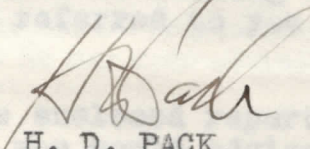
PORT SECURITY SECTION

To: Commandant (L)

Subj: SS ALEUTIAN, violation of Oil Pollution Act

1. There is enclosed herewith a statement of the facts, submitted by DCGIO's letter of 3 March, 1944 (CG-6614), covering the reported violation of the Oil Pollution Act by subject vessel, operated under bare boat charter by the War Shipping Administration, on 18 December, 1943, at Harbor Island (Elliott Bay) Seattle, Washington, and a copy of the letter referring this matter to the U. S. Attorney for whatever action that officer may deem appropriate.

2. Headquarters will be informed of all further developments.


H. D. PACK,
By direction

Incls.

- 1. Copy of Investigating Officer's report, 23 Dec., 1943, to CGIO
- 2. Copy DCGO ltr to U. S. Attorney, 13 March, 1944

District Engineer,
Tax Dept., Seattle
Headquarters
Intelligence Officer
Port Security Officer

Investigating Officer's report,
23 December, 1943, to CGIO, with
photographs (4) and statements,
with copy of forwarding DCGO ltr,
13 March, 1944.

UNITED STATES COAST GUARD
SEATTLE, WASHINGTON

ADDRESS REPLY TO
DISTRICT COAST GUARD OFFICER (1)
AND REFER TO FILE law-621

3 March, 1944
13 March, 1944

To: DCGO, Seattle, 13ND
Honorable J. Charles Dennis,
U. S. Attorney,
U. S. Court House,
Seattle, Washington

Dear Mr. Dennis:

The attached report indicates that as the result of negligence on the part of the engineering personnel of the SS ALEUTIAN, a substantial quantity of oil was discharged from the vessel on 18 December, 1943, at the General Petroleum Dock, Harbor Island (Elliot Bay) Seattle, Washington. Since it appears that the reported discharge was a result of carelessness on the part of the vessel's personnel in failing to exercise proper care and diligence, the case is referred to you for such action as you may deem appropriate.

After you have examined the enclosed reports and the statements, it would be appreciated if you would advise this office as to the action contemplated.

Very truly yours,

TCGIO (acting)

WILLIAM H. MUNTER,
Captain, U. S. Coast Guard
District Coast Guard Officer
Seattle, 13th Naval District

Incl.
Investigative report dated
23 Dec 43 with inclosures.

CC: District Engineer,
War Dept., Seattle
Headquarters
Intelligence Officer
Port Security Officer

Incl.
Investigating Officer's report,
23 December, 1943, to CGIO, with
photographs (4) and statements,
with copy of forwarding DCGIO ltr.
3 March, 1944.

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UNITED STATES COAST GUARD
SEATTLE, WASHINGTON

ADDRESS REPLY TO
DISTRICT COAST GUARD OFFICER (int)
AND REFER TO FILE CG-6614

Accompanying the writer were Lennart C. ANDERSON, Sp.2c,
3 March, 1944 and George HARLOW, U. S. Customs Agent, and will give
substantially the same testimony.

To: DCGO, Seattle, 13ND
Via: District Law Officer
Subj: Oil Polution by SS ALEUTIAN

1. The attached report indicates that as the result of negligence
on the part of the engineering personnel of the SS ALEUTIAN, a substantial
quantity of oil was pumped into the navigable waters of the United
States in violation of the Oil Polution Act.

2. Charles W. HOAD, 3rd Asst. Engineer, appears to be the one at
fault. Charges were preferred against him by the Merchant Marine Hear-
ing Unit and were proven. HOAD's license was suspended for one month
and he was placed on six months probation.

3. It is recommended this matter be presented to the appropriate
U.S. Attorney for such action as he may deem advisable.

FRANK PELLEGRINI
DCGIO (Acting)

Incl.
Investigative report dated
23 Dec 43 with inclosures.

JWB:hm

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UNITED STATES COAST GUARD
SEATTLE, WASHINGTON

(int)

ADDRESS REPLY TO
DISTRICT COAST GUARD OFFICER (1)
CG-6614

AND REFER TO FILE
144-621
23 December, 1943

20 March, 1944

MEMORANDUM FOR DISTRICT COAST GUARD INTELLIGENCE OFFICER

AIR MAIL

Subj: Oil Pollution by SS ALEUTIAN

To: The Commandant (1)

1. On 18 December, 1943 at 0150, a telephone call was received from the Duty Officer, U.S. Coast Guard District Office, Seattle that a report had been received by him from the Duty Officer, COPT, Seattle that the SS ALEUTIAN had pumped oil into the waters of Elliott Bay at the General Petroleum Dock, Harbor Island, Seattle, Washington. A sample of the oil has been secured from the water surrounding the General Petroleum Dock and photographs were taken showing the oil on the surface of the water and the vent, aft midship, on the port side of the vessel through which the oil was spread onto the water. These photographs are shown as inclosure (1) of the matter contained in HQ's dispatch to all DCGOs 231920 (October, 1943) and in view of the content of Assistant U. S. Attorney, G. D.

2. Statements were taken from the following ship's officers of the SS ALEUTIAN: Chief Engineer John KELLY, inclosure (2), Third Assistant Engineer Charles W. HOAD, inclosure (3) and Fireman R. E. SUTHERLAND, inclosure (4). In addition to receiving statements from the above mentioned officers of the ship, a statement was received from H. B. TANNER, shift boss on the General Petroleum Dock at Harbor Island during the time of pumping of the oil into the SS ALEUTIAN.

3. Records of the Alaska Steamship Company and the War Shipping Administration disclose the following facts:

W. H. MUNTHER

(a) The SS ALEUTIAN is owned by the Alaska Steamship Company and on 8 May, 1942 at 1200, the SS ALEUTIAN was turned over to the War Shipping Administration and is operated under a bare boat charter. The War Shipping Administration now operates the SS ALEUTIAN with the Alaska Steamship Company acting as general agents.

4. The SS ALEUTIAN arrived at the General Petroleum Dock, Harbor Island, Seattle, Washington at 1845, 17 December, 1943 and at approximately 1920, began lading fuel oil in one to five fuel oil tanks, port and starboard. These tanks were filled at 2300, at which time the filling of the forepeak tank started. At 2330, H. D. TANNER, shift boss on the General Petroleum Dock and who was attending the pipe lines on the dock, noticed oil coming from the vent, aft midship, of the No. 5 port

Incl.
copy U.S.
ltr. Marc

1943

Subj: Oil Pollution by SS ALEUTIAN

tank. TANNER immediately called back to the man operating the pumping and had them shut off and notified Charles W. HOAD, third assistant engineer.

5. Subsequent investigation revealed that Chief Engineer John KELLY had supervised the filling of tanks one through five port and starboard and that he had instructed the third assistant engineer, Charles W. HOAD, that when the forepeak tank was full to have the dock stop pumping and for the third assistant engineer to open No. 5 low suction and close the No. 1 valve which leads to the forepeak tank. He then instructed him to use No. 5 low suction for fuel purposes.

6. The third assistant engineer stated that he passed on the same instructions to the fireman, R. E. SUTHERLAND. The fireman, however, stated that the instructions given to him were as follows: "I was instructed by the third assistant engineer to watch the filling of the forepeak tank and before leaving my shift to turn on No. 5 low suction and turn off No. 1 valve. I did this as I was going off shift and before leaving the fire room I heard funny noises. I then went above deck and met Chief Engineer John KELLY who had also heard these noises and in a short time the water tender came up to where we were and informed me that oil was coming into the engine room. I then informed the engineer and we all went below and the chief looked at the filling lines and noticed that No. 1 low suction port valve was closed. He asked who had done this and I informed him that I had on instructions from the third assistant engineer."

7. H. D. TANNER stated that he had been informed by the man on the dock, on the shift before him, that the ALEUTIAN was to take on approximately 6,000 bbls. of oil. That they started pumping at 1920, 17 December, 1943 and at approximately 2350, 18 December, 1943, I noticed oil running out of scupper coming from tank No. 5. I immediately had the pump shut down and notified the third assistant engineer. From the rate we were pumping and from information received from Chief John KELLY, there was approximately 200 bbls. of oil run through the pump system.

8. Third Assistant Engineer HOAD stated that from 10 to 12 bbls. of oil was run into the bay.

9. In this case it appears that the discharge of fuel oil from the overflow of No. 5 port tank occurred as a result of carelessness on the part of the ship's personnel in that the ship's officers did fail to exercise the proper degree of care and diligence to prevent such overflow of oil. At 2330, H. D. TANNER, shift boss on the General Petroleum Deck and who was attending the pipe lines on the deck, noticed oil coming from the vent, aft midship, of the No. 5 port

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CSp.(a)(R)(PS)

Robert A., CSp. (a)(R)(PS)

CG-6614

23 December, 1943 by SS ALEUTIAN

Subj: Oil Pollution by SS ALEUTIAN

and had them shut off and notified Charles W. HOAD, third assistant

10. Accompanying the writer were Lennart C. ANDERSON, Sp.2c, COTP, Seattle and George HARLOW, U. S. Customs Agent, and will give substantially the same testimony.

11. On 22 December, 1943, third assistant engineer, Charles W. HOAD, of SS ALEUTIAN was summoned before the Merchant Marine Hearing Unit provided by Lieut. Comdr. H. E. PETERS as Hearing Officer and Lieut. (j.g.) LIEBERT as Examining Officer. The findings in this case were such nature that Subject was given one months suspension and six months probation.

6. The third assistant engineer stated that he passed on the same instructions to the firemen, R. E. SUTHERLAND. The firemen, however, stated that the instructions given to him were as follows: "I was instructed by the third assistant engineer ROBERT A. STEWART filling of the forepeak tank and before leaving my shift to close No. 5 low suction

valve off No. 1 valve. I did this as I was going off shift and heard

1. Photographs, 4 fire room I heard noisy noises. I then went above and John Kelly who had also heard these noises

3. Statement of 3rd Asst. Engr. Charles W. Hoad

4. Statement of Fireman R. E. Sutherland.

5. Statement of H. B. Tanner, shift boss.

7. H. B. TANNER stated that he had been informed by the man on the deck, on the shift before him, that the ALEUTIAN was to take on approximately 6,000 bbls. of oil. That they started pumping at 1930, 17 December, 1943 and at approximately 2330, 18 December, 1943, I noticed oil running out of scupper coming from tank No. 5. I immediately had the pump shut down and notified the third assistant engineer. From the rate we were pumping and from information received from Chief John KELLY, there was approximately 200 bbls. of oil run through the pump system.

8. Third Assistant Engineer HOAD stated that from 10 to 12 bbls. of oil was run into the bay.

9. In this case it appears that the discharge of fuel oil from the overflow of No. 5 port tank occurred as a result of carelessness on the part of the ship's personnel in that the ship's officers did fail to exercise the proper degree of care and diligence to prevent such overflow of oil.

1944 MAR 24 PM 12 59

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UNITED STATES COAST GUARD
SEATTLE, WASHINGTON

ADDRESS REPLY TO
DISTRICT COAST GUARD OFFICER (1)
AND REFER TO FILE law-621

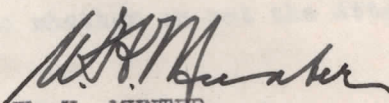
20 March, 1944

AIR MAIL

To: The Commandant (L)

Subj: Report of Oil Pollution by U. S. Vessel SS ALEUTIAN on 18 December,
1943, at Seattle, Washington

1. A reply has now been received from the U. S. Attorney at Seattle to this office's letter of the 13th instant, a copy of which latter communication was forwarded to HQ on the last mentioned date. A copy of such reply is attached hereto for HQ's consideration.
2. In view of the matter contained in HQ's dispatch to all DCGOs 231920 (October, 1943) and in view of the content of Assistant U. S. Attorney, G. D. Hile's letter, it has been thought advisable to transmit this letter by air mail in order that HQ may take such action in the case as it is deemed advisable.
3. HQ will be promptly informed of any further communications from the U. S. Attorney's office.


W. H. MUNTER

Incl.
copy U.S. Attorney
ltr. March 17

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DEPARTMENT OF JUSTICE
UNITED STATES ATTORNEY
Western District of Washington

Seattle 4, Washington
March 17th, 1944

Captain William H. Munter
District Coast Guard Officer
13th Naval District
Seattle 4, Washington

Re: Reported violation of the Oil
Pollution Act by SS "Aleutian"
Your File Law-621

Dear Sir:

Receipt is acknowledged of the report of the oil pollution case by the SS "Aleutian" dated March 13th, 1944.

We have written the Attorney General to seek his advice as to whether or not as a matter of policy he wishes us to proceed against the vessel, which is being operated under charter to the War Shipping Administration inasmuch as presumably any penalty levied against the vessel will have to be paid by the War Shipping Administration.

We will advise you as to whether or not the Attorney General instructs us to proceed.

Very truly yours,

s/s G. D. HILE
Asst. United States Attorney

GDH:gh

UNITED STATES COAST GUARD
SEATTLE, WASH.

ADDRESS REPLY TO
DISTRICT COAST GUARD OFFICER (1)
THIRTEENTH NAVAL DISTRICT
AND REFER TO FILE: law-621



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9/27/44

DEPARTMENT OF JUSTICE
Washington, D. C. 25

28 May, 1945

To: The Commandant (L)

Subj: Report of oil pollution by U. S. Vessel SS ALEUTIAN on
18 December, 1943, at Seattle, Washington

file
SKK

1. Upon inquiry of the U. S. Attorney at Seattle as to the present status of subject case, this office has been informed by letter from the Hon. J. Charles Dennis, dated 23 May, 1945, that this case was closed pursuant to a letter from the Attorney General dated 19 May, 1944. A copy of the latter communication is inclosed for HQ' consideration.

2. In view of the foregoing, this office's files in the within matter also have been closed. that prosecution against the Chief Engineer of the above vessel is not warranted, and not to file in this matter.

Respectfully

F. A. Zeusler
F. A. ZEUSLER General

/s/ Tom C. Clark

TOM C. CLARK,
Assistant Attorney General

Incl.
Atty. Gen. ltr. 19 May, 1944;
copy of

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C O P Y

62-82-24

DEPARTMENT OF JUSTICE
Washington, D. C. 25

May 19, 1944

J. Charles Dennis, Esq.
United States Attorney
Seattle 4, Washington

Dear Mr. Dennis:

Re: Violation of the Oil Pollution
Act by SS "Aleutian,"
Seattle, Washington

Reference is made to your letter of March 17, 1944,
relative to the above matter.

We concur in your view that prosecution against the
3rd Assistant Engineer of the above vessel is not warranted,
and you may close your file in this matter.

Respectfully

For the Attorney General

/s/ Tom C. Clark

TOM C. CLARK,
Assistant Attorney General