

## DAILY SHIPPING NEWSLETTER 2002 - 034



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## EVENTS, INCIDENTS & OPERATIONS

### US Coast Guard loses bid to recover salvage costs

**Its actions to prevent oil pollution from vessel are mandatory, not voluntary**

THE US Coast Guard has lost in a bid to obtain salvage payment for its action to prevent oil pollution as its actions were not voluntary but mandatory under the Federal Water Pollution Control Act (FWPCA), an appeals court ruled recently.

The vessel in this case, originally called Cabot, was the last remaining light aircraft carrier that served in the Pacific theatre in the second world. After the war, it was used by the US Navy for training and later decommissioned and sold to Spain, which renamed the vessel Dedalo.

In 1989, the USS Cabot Dedalo Museum Foundation, Inc, a non-profit corporation, acquired the vessel and moved it to New Orleans, to establish an on-board museum. The Foundation stripped the ship of most of her operational equipment. However, as at April 1996, the unmanned vessel continued to remain idle alongside a wharf in New Orleans.

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At about this time, the Coast Guard asked the Foundation to move the vessel to a safe berth as the dilapidated condition of the wharf and the unsatisfactory condition of the vessel's moorings posed a threat to port safety.

The Foundation did not act.

The Coast Guard then told the Foundation that it intended to act under the FWPCA and would invoice the Foundation for all expenses incurred.

The Coast Guard later removed chemical drums and some oil from the vessel and installed hurricane moorings.

About a year later, a bulk carrier collided with the vessel and substantially damaged the vessel and the wharf. The Coast Guard ordered the Foundation to move the vessel immediately to a safe hurricane moor.

Again, the Foundation did not act.

The Coast Guard acted under the FWPCA and moved the vessel to a safe hurricane mooring some 40 miles downstream. The operation, including repairs to the wharf, took seven weeks and cost the Coast Guard and the National Pollution Funds Center about US\$500,000.

In October 1997, the Foundation moved the vessel to Texas and sold it.

The new owner engaged a company called Marine Salvage to provide wharfage and security services. Marine Salvage also provided salvage service at a cost of about US\$20,000 when the vessel began to list in berth.

In 1999, the US government started an in rem action against the vessel and had the vessel arrested to recover the cost of its salvage operations.

Marine Salvage intervened to recover on its lien for salvage and for other services that it had provided.

A district court authorised a marshal's sale, which netted US\$185,000. About half of that amount was paid to the vessel's substitute custodian and to the US Marshals Service, leaving about US\$90,000.

The district court held that Marine Salvage had a valid salvage lien which took priority over the US government's salvage lien.

As the US government's salvage lien exhausted the proceeds of the sale, the court did not determine the merits of another US\$57,000 claimed by Marine Salvage for services provided to the vessel.

Marine Salvage appealed successfully to the Fifth Circuit Court of Appeals, arguing that the Coast Guard cannot make a salvage claim for the actions it took under the FWPCA.

See *United States v Ex USS Cabot/Dedalo*, Fifth Circuit Court of Appeals, 1 July 2002. Judgement available at [www.admiraltylawguide.com](http://www.admiraltylawguide.com).

A successful salvage claim requires proof of marine peril, voluntary service rendered when not required as an existing duty or from a special contract, and success in whole or in part, or contribution to the success of the operation.

The issue in this case, said the court, was whether the Coast Guard's actions were voluntary.

The FWPCA, said the court, was enacted to implement a policy that there should be no discharge of oil

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or hazardous substances into the navigable waters of the US.

The Act required a National Contingency Plan to be in place to provide 'efficient, coordinated, and effective action to minimise damage from oil and hazardous substance discharges'.

The FWPCA also required the National Contingency Plan to include the establishment or designation of Coast Guard strike teams, comprising trained personnel, adequate pollution control equipment, and a detailed oil and hazardous substance pollution prevention plan.

According to the court, these and other provisions of the FWPCA make 'abundantly clear that the Coast Guard's duty to respond to a threatened oil spill is mandatory, not optional'.

'Many of these mandatory provisions were enacted in 1990, in the wake of the Exxon Valdez oil spill in Alaska, and embody a congressional policy that the Coast Guard must respond swiftly and effectively to threatened oil spills,' said the court.

As the Coast Guard's assistance to the vessel was pursuant to its mandatory obligations under the FWPCA, it was not acting voluntarily and had no valid salvage claim or salvage lien against the vessel, said the court

## CASUALTY REPORTING

### Salvage team back on Jolly Rubino after asbestos all-clear



A Smit Salvage team was once again helicoptered out to the grounded ro-ro **Jolly Rubino** after being forced to evacuate the vessel on Wednesday when fire reignited on the ship.

Asbestos experts were able to access the engine room in order to assess the threat posed to salvors by asbestos dust.

Preparations to remove the 31,262 dwt vessel's bunkers were continuing yesterday, with a ship-to-ship transfer planned.

The ship, owned by Ignazio Messina, went aground on September 12 and its oil is threatening the South African St Lucia Wetland World Heritage Site.

However, an oil pollution patrol aircraft reported yesterday that the oil slick was breaking up one mile south of the casualty and dissipating at 1.5 miles. "Minimal oil is seen to be emanating from the Jolly Rubino," a Smit statement said.

## **Oil set to be pumped from blazing ship**

Salvage workers hope to start pumping more than 1000 tonnes of oil from the Jolly Rubino grounded off a World Heritage site in South Africa.

The Italian-registered Jolly Rubino ran aground on 12 September off the Greater St Lucia Wetland Park in northern Kwazulu-Natal. The raging engine fire that caused the initial loss of power is now being fuelled by oil spilling from cracks in the hull.

Booms and sandbanks have been erected in a bid to protect several pristine coastal ecosystems threatened by the leak, which has spread about eight kilometres to the south of the ship.

Local wildlife officer Jeff Gaisford says teams have done "everything they can to prevent any infiltration of oil and chemicals into the Umfolozi River and St Lucia estuary by closing the mouth up with sand and floating booms".

## **SILVER SWAN**

A press report, dated Sep 16, states: Luxury yacht **Silver Swan** caught fire at Dubai early yesterday morning, but no one was injured. The yacht capsized in the creek shortly after midday. Dubai Civil Defence said the yacht was berthed at Dubai Creek after it was delivered from Al Jaddaf. The privately-owned vessel was loaded with 80,000 litres of fuel. The operations room was alerted at 0717 hrs, and firefighting teams from Al Karama and the Sea Firefighting Unit battled the blaze and managed to bring it under control within minutes. It took some three hours to extinguish the flames, and ensure that they did not spread to other vessels docked nearby. Units from Al Hamriya and Al Satwa also took part. The 50-metre yacht, which had just undergone repairs at Al Jaddaf, was completely gutted. The value of the vessel is not yet known. No one was on board at the time of the incident. The Environment Protection Patrol of Dubai Municipality took part in the firefighting operation. Engineer Hamdan Al Shaer, Director of the Environment Department, said that a working group in the Environment Protection and Safety Section in the department rushed to the scene immediately after receiving a call from the municipality's Emergency Office. Al Shaer said the team's participation in the operation was part of a co-ordinated effort with other departments. The team on board Dubai Municipality's marine cleaning vessel Baladiyat sprayed water over the burning vessel. Salman said the team also removed the debris resulting from the fire in order to keep the Creek water clean. Dubai Civil Defence is investigating the cause of the fire.

## **NELLY (ANTIGUA & BARBUDA)**

General cargo Nelly (2397 gt, built 1971) Kaliningrad for Dordrecht, entered the Kiel-Canal at 1500 hrs, Sep 18. Due to engine failure vessel grounded on canal embankment in siding Gross-Nordsee. As repairs could not be carried out "in situ", vessel was towed back to Kiel-Nordhafen by tug Buelk and is presently undergoing repairs

## **SHIPYARD NEWS**

### **Cape Town clinches \$30m patrol deal**

Construction of three of the four coastal patrol vessels needed to help protect South Africa's marine resources has been awarded to a Cape Town-based company, while the fourth was given to Damen Shipyards in the Netherlands.

The R304m (\$30m) contract for the three vessels was won against international competition by Farocean Marine, which had offered the best package in terms of price and also the state-stipulated local content. These 45 m-long ships will be able to stay at sea for up to two weeks.

The fourth vessel will be built by the Dutch yard for some R210m.

This 80 m offshore vessel will have a range of 7,500 nautical miles and can stay at sea for 45 days.

The vessels, which should be delivered in 2004, will be able to operate anywhere within the 200 km exclusive economic zone to protect the marine environment, often damaged by unscrupulous international fishing fleets.

The Department of Marine and Coastal Management said the patrol boats were needed in addition to, and for different functions to, the corvettes on order for the South African Navy

## **ROUTE, PORTS & SERVICES**

### **CSAV gaat eigen organisatie in West-Afrika uitbouwen**



"De bediening van West-Afrika vanuit Europa is een markt die we al geruime tijd in de gaten houden. We hadden tot nu toe slechts een bescheiden activiteit in Oost-Afrika via een tussentijdse aanloop in het raam van een dienst tussen de oostkust van Zuid-Amerika en het Verre Oosten. We zijn nu bezig met het uitbouwen van een organisatie in West-Afrika. Over enkele dagen keert een team terug dat de situatie ter plaatse is gaan bekijken en aan de hand van zijn bevindingen zullen we een agent en goederenbehandelaars kunnen aanduiden. We zoeken efficiënte partners die in staat zijn

om te voldoen aan de vereisten van de klanten. We starten op een bescheiden schaal, met slechts twee rechtstreekse aanlopen, in Dakar en Abidjan, en in een port-to-port-context, maar we bekijken reeds welke middelen een betere marktpenetratie kunnen opleveren. Dat kan onder meer door een contract te sluiten met een feederoperator". Poul Hestbaek, algemeen commercieel manager van het Hamburgse hoofdkantoor van de Chileense rederij CSAV, bevestigt dat de groep vastberaden is om voet aan de grond te krijgen in West-Afrika.

## Cruise Ships Return to Monterey

MONTEREY, Calif. (AP) — To the dismay of environmentalists, a cruise ship docked off this picturesque city for the first time in five years after promises to keep the nutrient-rich waters clean.

As a pair of young sea lines traced arcs in the air, a small group of protesters gathered Wednesday at Fisherman's Wharf, fearing that trash would be tossed overboard the super-sized Royal Caribbean ship and oily bilge water and sewage disgorged.



“If cruise ships are allowed to dump anything, they usually dump everything,” said Kaitilin Gaffney, a program manager for the Washington-based Ocean Conservancy.

Pollution from cruise ships has become a major target of environmentally concerned lawmakers and lobbyists since 1999, when the Justice Department settled the second of two multimillion-dollar cases against Royal Caribbean Cruises.

The company acknowledged polluting repeatedly and lying to the Coast Guard about it, and it paid a total of \$27 million in the two cases.

Earlier this year, Royal Caribbean and two other companies announced plans to call on Monterey, raising concerns from stewards of the Monterey Bay National Marine Sanctuary, one of the world's most diverse aquatic ecosystems.

In response, the cruise lines agreed in writing — apparently for the first time anywhere — not to discharge anything.

“From the ship's master to its crew, every effort is made to ensure that we are good stewards of our ocean environment and of all the ports we visit,” William S. Wright, a senior vice president at Royal Caribbean, wrote to a California water quality official on May 28.

Margaret Alford, one of 1,800 passengers on the 900-foot **Grandeur of the Seas**, noted the company's environmentally conscious plea.

“They've been telling us not to throw things overboard,” she said. “They're even telling us to use our towels twice, to save water.”

The return to Monterey came as more cruise ships are plying more U.S. ports amid a decrease in foreign vacation travel since last year's terrorist attacks.

Monterey's draw includes Cannery Row, made famous in the John Steinbeck novel of the same name, and the sanctuary, celebrating its 10th anniversary this week. It is believed to include 27 species of whales, dolphins and other marine mammals, 94 species of sea birds and about 345 fish species.



## Columbus finds Sun Bay II charterer



COLUMBUS Seereisen, the Hanover cruiseship operator, will re-deploy the 2,800 gt, 88 m cruiseship **Sun Bay II** at the end of November after finding a Caribbean-based charterer for the vessel, says Rolf Löhre, Columbus' managing director.

Mr Löhre told Lloyd's List that a charterer in Nassau, Bahamas, would replace the cruiseship's previous charterer in Cyprus.

Consequently, the vessel would trade in Caribbean waters during the winter holidays.

The Columbus chief also said Sun Bay II would be brought back to Europe next summer thanks to the US charterer Travel Dynamics, which had already booked cruises on it, primarily for US passengers.

Sun Bay II's future was called into question last month after Columbus took the vessel out of service because of weak demand for the European cruises being offered.

Cassens-Werft, the Emden yard which delivered the Sun Bay II in June, agreed to look after the vessel free of charge while Columbus devised a new business plan.

Meanwhile, it emerged that TDI, which has also been booking Mediterranean cruises on Sun Bay II's sistership Sun Bay, will charter a third cruiseship being built by Cassens-Werft.

The 4,000 gt vessel, to be called **Orion**, is scheduled to be delivered in October next year.

Equity financing for all three cruiseships has come from a group of investors in Stuttgart.

The bank loan for the ship was arranged by Kreditanstalt für Wiederaufbau, the government's development bank which is a leading shipping financier.

## Winds of change are blowing at Tarifa

THE Algeciras port authority is investing E 3m (\$2.9m) in new passenger and ferry facilities at the port of Tarifa, located at the western mouth of the Strait of Gibraltar, just 30 minutes' drive from the main Andalusian port.

The authority is responsible for administering the small port, which is primarily a fishing harbour but boasts a strategic location that officials hope will enable it to tap growing volumes of cross-strait ferry traffic in the future.

Tarifa is known as the wind capital of Europe and is a popular holiday resort for wind surfers from across the globe. Its proximity to Morocco — Tarifa is almost directly opposite Tangier — means the ferry trip across the strait lasts just 35 minutes, about two hours faster than the regular services from Algeciras.

During a stone-laying ceremony last March, Jose Llorca, president of the government's central ports department, Puertos del Estado, highlighted Madrid's commitment to helping the development of the smaller ports in the Spanish state-owned port network.

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A key element of that commitment is the work being carried out to establish Tarifa as an external European Union border under the rules of the Schengen agreement.

During the ceremony, Juan Andrés Gil, mayor of Tarifa, said once the new facilities are completed and the town's status as an external EU border established, the fledgling port could handle up to 500,000 passengers every year.

Another key factor that will aid Tarifa's development as a passenger port is the ongoing road improvement plan.

As with nearby Algeciras, poor hinterland connections have hampered growth in this trade and led to severe traffic congestion during peak travel periods.

## K Line launches 13th vessel



KAWASAKI Kisen Kaisha Ltd, Tokyo, (K Line) has launched a new post-panamax containership, the **Genoa Bridge**, constructed by Imabari Shipbuilding Co. Ltd, Japan. She is the last 5,500-TEU container vessel in a series of 13 newbuildings.

The **Genoa Bridge** entered the Port of Shanghai on September 11 to start her service in the North America and Asia/Europe-Mediterranean pendulum loop.

With this new deployment, K Line's vessel upgrading programme, joint with Yang Ming

Marine, was completed. Their combined new post-panamax fleet now consists of twenty 5,500-TEU vessels - 13 owned by K Line and seven by Yang Ming. These are deployed in both transpacific and Asia/Europe-Mediterranean services.

## NAVY NEWS

## Spanish Navy Commissions First Frigate With Aegis Weapon System





The Spanish Navy commissioned September 19<sup>th</sup> its first F100-class frigate equipped with the Lockheed Martin-developed Aegis Weapon System during a ceremony at the IZAR shipyard in Ferrol, Spain. The ship, [Alvaro de Bazan \(F101\)](#), is the first of four frigates completed under the Spanish F100 program. Lockheed Martin officials traveled to Spain to attend today's ceremonies.

## **Navy delays sea trials until sub flaw fixed**



The navy delayed sea trials for one of its used submarines by one week yesterday, because it has not managed to fix a problem that flooded it more than two months ago.

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**HMCS Corner Brook** was slated to head to sea yesterday. Instead, it remained at a dock in Barrow-in-Furness, England, while engineers tried to fix design flaws with its two submerged signal ejectors.

"Any system that has openings to the sea has to be tested and proven correct," said Capt. Mike Williamson, manager of the submarine capability life-extension project.

"They have not yet completed the modifications to the Royal Navy's satisfaction. So until that happens, the boat doesn't sail."

About 1,500 litres of water flooded Corner Brook — which is still under British command and goes by the name **HMS Ursula** — on July 2 off the coast of Scotland, after one of its two small torpedo tubes used to launch signal flares failed.

Spouses of the submariners on board Corner Brook expressed fears last week that the signal ejectors had not been fixed. Williamson said that did not factor into yesterday's decision not to sail.

"Obviously, we'd like to get it done in a timely manner," he said. "But, again, and I sound like a broken record, safety is No. 1, and, until the system works, we don't rush it to sea."

Since the July 2 flooding, the navy has decided the submerged signal ejectors on all four subs — there are two on each vessel — need to be modified.

Last week, Williamson said the pricetag on the changes would be "minimal," because "it is not complex engineering."

Yesterday, however, he said something quite different when questioned about the delayed trials.

"It's a complex engineering system," he said yesterday.

"It has flood valves and drain valves and a muzzle and a breach and hydraulics and high-pressure air."

Corner Brook must perform another two weeks of trials before the sub is officially handed over to Canada.

But the submarine is scheduled to be officially christened Oct. 5 at the British naval base in Faslane, Scotland. So the trials may be interrupted by the ceremony.

Corner Brook would then have to complete the trials before being accepted by the Canadian navy, Williamson said.

That may, in turn, delay Corner Brook's arrival in Halifax, which was slated for late October.

The subs were in operation for just three years before Britain mothballed them in 1994. Two of them are now in Halifax, but none of the vessels is operational.

Canada is leasing the four used diesel-electric subs from Britain for \$750 million over eight years, with an option to buy them after that for one British pound.

## Dockwise set to fetch Nottingham



**HMS Nottingham** — the British destroyer that grounded in the summer — is finally set for the long haul back to Britain, thanks to Dutch heavylift specialist Dockwise.

The UK Warship Support Agency confirmed yesterday that the company's vessel **Swan** — at present drydocking in Vietnam — will undertake the task.

The Swan is described by its owners as a semi-submersible open-deck heavy transport vessel with dual cargo capacity.

It can carry both heavy loads on deck and clean product in its cargo tanks.

The vessel can also submerge to load and discharge by means of the float-on/float-off method.

Roll-on/roll-off procedures, as well as skid-on/skid-off and lift-on/lift-off manoeuvres can also be employed.

One technical consideration is that the draught at the Australian port of Newcastle, where the **Nottingham** is at present alongside, is too shallow to permit Swan access.

Therefore the likelihood is that the Nottingham will have to be towed out to meet the heavylift ship.

The voyage is expected to commence mid-October and last for perhaps five to six weeks.

The destroyer hit the headlines when it struck rocks off Lord Howe Island, Australia, on July 7.

While the crew was able to prevent it from sinking, the ship was badly damaged.

Several compartments, including the Sea Dart missile magazine, the forward engine room and several sleeping quarters, were flooded as water surged through gaping holes in the bow.

The ship spent three weeks on the rocks before it was towed to Newcastle by Swire Pacific's Pacific Chieftain in early August.

Royal Navy sources suggested that recovery work has already cost about £6m (\$9m).

They indicated that getting the Nottingham back to Southampton will require a further £4m outlay.

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Representatives from several British naval yards — including Rosyth, Devonport and Portsmouth — are likely to quote for the repair job once the destroyer is back in the UK.

No one at Dockwise was yesterday available for comment.

### MOVEMENTS



The newbuild Chinese dredger **XIN HAI LONG** departed from the builders yard IHC for seatrails  
Saturday morning

Photo : Piet Sinke ©



The Holland America Cruise-liner **NOORDAM** anchored off Monaco last Thursday

Photo : Piet Sinke ©

HAVE A LOOK AT THE FOLLOWING **SITES** FOR SHIPPING INFO AND PICTURES OF SHIPS  
AROUND HOEK VAN HOLLAND AT :

<http://www.scheepvaarthoek.nl>

And the renewed site of the National Tugboat Museum at :

[http:// www.nationaalsleepvaartmuseum.nl](http://www.nationaalsleepvaartmuseum.nl)