**MLA OUR OCEANS COMMITTEE 11/05/20**

**RECENT DEVELOPMENTS**

George Croton

* *U.S. v.  D’Amico Shipping Italia SpA*
  + a $4 million penalty and four years of probation for APPS/MARPOL violations and obstructing the subsequent Coast Guard investigation.
* Puget Soundkeeper Alliance et al v. United States Department of the Navy et al
  + Holding that the Washington State Attorney General could intervene in a lawsuit against the US Navy for allegedly polluting the Sinclair Inlet in the Puget Sound in a lawsuit filed by environmentalists and the Suquamish tribe.
* *Nederland Shipping Corp. v. U.S*.; U.S. Dist. Of Delaware (April 2020)
  + Shipping companies brought action against the United States for breach of contract and sought compensation under the Act to Prevent Pollution from (APPS) for holding vessel in port following inspection identification of certain deficiencies suspected onboard. United States moved to dismiss.
  + Agreement on Security did not waive sovereign immunity for United States so as would establish jurisdiction for companies to bring breach of contract claim
  + Agreement on Security was not a maritime contract that would establish admiralty jurisdiction for companies to bring breach of contract claim; and; as matter of apparent first impression, APPS did not convey subject matter jurisdiction to district court for companies' action seeking compensation from United States for any loss or damages.
* *CITGO Asphalt Ref. Co. v. Frescati Shipping Co., Ltd*., 140 S. Ct. 1081, 206 L. Ed. 2d 391 (March 2020)
  + In 2004 Citgo chartered a ship from Frescati to transport oil originating in Venezuela. The ship hit a submerged anchor 900 meters from its berth and spilled approximately 264,000 gallons of crude oil into the Delaware River. Under the Oil Pollution Act, Frescati was deemed responsible for the spill and paid $143 million to clean up the river.
  + The Supreme Court ruled 7-2 that Citgo was responsible for the cleanup costs.  Justice Sotomayor wrote the opinion, and said a “safe-berth” clause in the charter contract should be interpreted as a safety warranty, so it was up to Citgo and others to make sure the tanker docked safely.
  + Justices Thomas and Alito dissented. Thomas argued that the text of the contract’s safe-berth clause does not include a safety guarantee, and wrote that there is a need for more information on whether industry standard establishes such a warranty.
* Carnival’s Ongoing Travails
  + In 2016, Carnival agreed to pay a $40 million fine under the terms of the original settlement for a years-long practice of illegally dumping bilge water contaminated with oil and chemicals. A court-appointed monitor found that only a fraction of the money devoted to compliance was actually spent on improving Carnival’s environmental practices; the bulk of it went to legal fees. Carnival pleaded guilty to six counts and agreed to pay a subsequent $20 million fine and restructure their environmental compliance plans. Carnival was spurred to action after a federal court considered blocking Carnival ships from docking in US ports.
  + Carnival has since reported that it has completed fleet-wide upgrades to prevent oily, bilge water from spilling into the ocean and has begun a program to reduce the risk of spills.  The company has revised its sewage discharge policy and will be working in the next two years to reduce food waste.  In addition, Carnival stated that it is ahead of schedule on its target to reduce its carbon emissions by 40% by 2030.
* IMO reports shipping emissions are rising
  + The IMO has released its fourth study analyzing the shipping industry’s carbon footprint. The study found overall greenhouse gas emissions, including carbon dioxide, methane and nitrous oxide from shipping sources rose over nine percent during the 2012-2018 period. The findings indicate that much work remains to be done if the IMO is to meet its goal of reducing total greenhouse gases by 50 percent compared to 2008 by 2050
* China Reduces Oil Pollution Fees in Response to COVID-19 Pandemic
  + In an effort to reduce transport costs during the COVID-19 pandemic, the Chinese government has cut oil pollution compensation fees in half for ships leaving or entering the country’s ports. Fees have been cut to .15 yuan per metric ton of oil, which equates to roughly two US cents per metric ton of oil. The reduced fee policy will be in effect through the remainder of 2020.