

22 July 1999

## **TO ALL MEMBERS**

Dear Sirs

### **OIL POLLUTION : UNITED STATES NEW LEGISLATION IN CALIFORNIA FOR DRY CARGO SHIPS ARRANGEMENTS WITH SPILL MANAGEMENT FIRMS/RESPONSE ORGANISATIONS**

In August 1998, following a significant number of oil spill incidents in US West Coast waters involving non-tank vessels over the last few years, California passed Senate Bill 1644 which supplemented the state's oil spill prevention and response programme by requiring non-tank vessels entering the state's marine waters to have evidence of financial responsibility up to \$300m and oil spill contingency plans approved by the relevant state agency.

Under the implementing regulations which are scheduled to take effect from 1 September 1999 a non-tank vessel will be prohibited from entering the state's marine waters unless the owner or operator has an oil spill contingency plan approved by the administrator of the state's Office of Spill Prevention and Response (OSPR) and a certificate of financial responsibility (COFR) issued by the administrator on production of satisfactory evidence of financial responsibility up to \$300m; a P&I Club certificate of entry will be accepted as satisfactory evidence.

#### **COFRs**

Owners will have to obtain COFRs from the California OSPR before submitting oil spill contingency plans to the OSPR for approval. COFR application forms may be requested from the OSPR (tel: 001 916 324 0003, fax: 001 916 323 4727). The OSPR will fax the forms to applicants once the final COFR regulation is published later this month. Members should fax the completed application form to the OSPR with the Club certificate of entry for the ship concerned and also wire transfer to the OSPR payment of \$100 per ship. The OSPR will mail the COFR to the owner in due course.

#### **Oil Spill Contingency Plans**

Oil spill contingency plans may be prepared for an individual vessel, or on a fleet basis for several vessels which transit substantially the same route, or on a state-wide basis if prepared by a non-profit maritime association or non-profit corporation.

The Bill was sponsored by a non-profit maritime trade association based in San Francisco, the Pacific Maritime Shipping Association (PMSA); and it provides for PMSA to develop a 'state-wide' fleet plan available for all owners or operators to join on a fleet basis. The Bill is modelled on similar programmes already in place in the states of Washington and Oregon.

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Earlier this year PMSA invited bids from various spill response and spill management services organisations throughout the USA; and in due course, chose O'Brien's Oil Pollution Service Inc. (OOPS) and its sister company, ERST/O'Brien's, as its spill management team. PMSA's charge for enrolment into this programme is expected to be \$175 per vessel visit to California. This fee will entitle enrolled vessels to the following:

1. A state-wide spill contingency plan which can be cited by the vessel owner/operator, who will provide PMSA with vessel specific information.
2. Spill management team services of ERST/O'Brien.
3. Access to spill response organisations - Clean Bay Co-op (San Francisco area); Clean Seas Co-op (Santa Barbara area); Clean Coastal Waters Co-op (Long Beach - San Diego area); and Foss Environmental (San Diego, Long Beach and Alameda areas).
4. Participation in drills and exercises required by the state and monitoring and making changes to response arrangements as required by regulation or statute.

In January 1999, shortly after the California legislation for dry cargo vessels was first announced, one Club announced that it had reached agreement with one of the two largest nation-wide oil spill response organisations, Marine Spill Response Corporation (MSRC), and one spill management organisation, Gallagher Marine Systems Inc., for the provision of spill response services and qualified individual (QI)/emergency response and spill management services to any of the Club's dry cargo ships which has an oil spill anywhere in the USA. In April 1999 another Club announced that it had appointed a spill management firm, Corbett & Holt, and had reached agreement with the two largest spill response organisations, MSRC and National Response Corporation (NRC), for the provision of QI/spill management services and spill response services to assist any entered dry cargo ship involved in a spill in the United States.

These initiatives prompted another spill management firm, ECM/Hudson Maritime Services, to approach the managers of other Clubs, including the London Club, offering to prepare spill contingency plans for dry cargo ships visiting any port in the United States, but also satisfying the California regulations, at a cost of \$100 per plan; and also proposing to negotiate membership or retainer agreements on behalf of dry cargo ships entered in the Clubs concerned with the two nation-wide spill response organisations, MSRC and NRC, allowing access to their services and preferential membership rates, and also membership of the three California Co-ops - Clean Coastal Waters (Long Beach/San Diego area), Clean Bay (San Francisco area) and Clean Seas (Santa Barbara area), allowing direct access to these organisations in the case of a spill in California.

The Managers have been in contact with the three largest spill management firms in the United States offering qualified individual and spill management team services, OOPS, Gallagher Marine Systems and ECM/Hudson and attach correspondence recently received from them with their respective offers:

1. OOPS's circular of 21 May offering to enrol non-tank vessels for spill management team and qualified individual services anywhere in the United States **at no charge**. OOPS now has four offices on all the three coasts, the Gulf, the West Coast and the East Coast. Page 2 sets out details of PMSA's programme for spill response for non-tank vessels calling at California ports. The charge for enrolment in this programme is expected to be approximately \$175 per vessel arrival. PMSA has

chosen OOPS's sister company, ERST/O'Briens, as the spill management team for all covered ships calling at California ports. Mr Jim O'Brien's fax letter to the Managers of 30 June clarifies OOPS's offer, which covers the whole of North America, and also emphasises that the final regulations for California have not yet been published.

2. Gallagher Marine Systems' client information circular of July 1999 offering to owners/operators of non-tank vessels trading to California production and maintenance of a contingency plan, qualified individual and spill management team services and an agent for service of process, to comply with the State's requirements, at \$250 per vessel per year.
3. A circular letter just received from ECM/Hudson offering non-tank vessel owners a package complying with the new California requirements, including a contingency plan covering the whole of the United States, qualified individual and spill management team services and also an agent for service of process in California, at a cost of \$150 per vessel per year. Additionally, the circular states that: "an Owner can sign up for a national OSRO (oil spill response organisation) coverage through ECM/Hudson at an annual nominal fee per vessel". ECM/Hudson have told the Managers that the OSRO concerned is NRC and that the fee is \$100 per vessel. Also enclosed is a questionnaire received from ECM/Hudson for completion by owners of non-tank vessels who wish to accept their offer.

Many Members, who have tankers trading to the United States, already have arrangements with one or other of these three spill management organisations; and for this reason the Managers do not consider it appropriate to select or recommend, or contract with, one particular spill management firm on behalf of all entered dry cargo ships which are likely to trade to California or elsewhere in the United States.

The Managers believe that any of these three spill management firms would offer reliable and competitive services.

To enable the Managers to monitor developments, they would very much appreciate hearing from Members with dry cargo ships likely to visit California as to which option they choose to satisfy the new requirements.

The Managers intend to issue a further circular as soon as California publishes its final regulations to implement the new legislation.

Yours faithfully  
A BILBROUGH & CO LTD  
(MANAGERS)