

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ESCO MARINE INC.,

Plaintiff,

Civ. S-11-1353 KJM GGH

vs.

SS PACIFIC STAR,

Defendant.

ORDER

_____ /

On November 2, 2011, the United States Marshal filed a memorandum requesting clarification of whether sale of the vessel should proceed on November 7, 2011, in light of a report by the Environmental Protection Agency, based on an inspection of the vessel on April 6, 2004, in which high levels of PCBs were detected. This report came to the attention of the Marshal by way of an email from an EPA representative to Valerie Duran of the USMS, pointing out that the Toxic Substances Control Act prohibits distribution in commerce of this vessel for purposes of use or export. This eleventh hour email is vague in nature, its application to a vessel sale *per se* uncertain, and an improper method in which to bring a matter to the court's attention. It states that its purpose is to inform this court of the law, but seeks only a meeting with Valerie Duran to discuss the matter. The email contains only the briefest citation to legal authority and contains no factual support. Moreover, it is addressed to the USM, not to the court. Emails to the U.S. Marshal Service are insufficient to vacate a court order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Accordingly, IT IS ORDERED that:

1. If the EPA wishes to intervene and oppose the sale of the SS Pacific Star, it shall file an appropriate motion no later than 1:00 p.m. on Friday, November 4, 2011. Failure to file a timely motion will result in sale of the vessel as scheduled.

2. The Clerk of the Court is directed to serve this order on Valerie Duran at the U.S. Marshals Service, and the U.S. Environmental Protection Agency at the following email address: Rollins.Christopher@epamail.epa.gov.

DATED: November 3, 2011

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

GGH:076/EscoMarine1353.usm1.wpd