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B-179473, Mar 7, 1974

Number: B-179473

Date: 1974-03-07

B-179473, MAR 7, 1974

TO MR. PAUL A. ZOSS:

THIS WILL REFER TO OUR REPORT B-179473 DATED SEPTEMBER 19, 1973, ON THE ABOVE-ENTITLED MATTER. AT THE TIME OF THAT REPORT WE STATED THAT NO CLAIM HAD BEEN FILED IN THIS OFFICE RELATED TO THE ISSUES IN LITIGATION AND WE HAD NO OTHER INFORMATION CONCERNING THE CASE OTHER THAN THAT STATED IN THE COMPLAINT. SUBSEQUENT TO SUBMISSION OF OUR LITIGATION REPORT WE RECEIVED A LETTER DATED JANUARY 8, 1974, FROM THE DEPARTMENT OF COMMERCE ON BEHALF OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) REQUESTING A DECISION OF THIS OFFICE ON ONE OF THE ISSUES RAISED BY THE BLAHA COMPLAINT, THAT BEING THE LEGALITY OF PAYMENT OF THE MONTHLY LEAVE SUPPLEMENT TO UNLICENSED VESSEL CREWMEN EMPLOYED BY NOAA. THE DEPARTMENT ALSO CALLED ATTENTION TO THE PRACTICE OF PAYMENT OF A "WATCH STANDERS ALLOWANCE" TO LICENSED ENGINEERS, WHICH IT VIEWS AS BEING SIMILAR IN PURPOSE TO THE MONTHLY LEAVE SUPPLEMENT AND WHICH THE DEPARTMENT HAD BEEN PAYING PRIOR TO RECONSIDERATION OF IT IN LIGHT OF THE BLAHA LITIGATION. WE WERE ADVISED THAT AS A RESULT OF THIS RECONSIDERATION PAYMENT OF THE "WATCH STANDERS ALLOWANCE" HAD BEEN SUSPENDED PENDING OUR CONSIDERATION AND DECISION ON THE LEGALITY OF BOTH FORMS OF SUPPLEMENTAL WAGES.

BY LETTER DATED MARCH 5, 1974, WE HAVE ADVISED THE SECRETARY OF COMMERCE THAT, IN ACCORDANCE WITH LONG STANDING POLICY OF THIS OFFICE AND SINCE SUBSTANTIAL LEGAL QUESTIONS ARE INVOLVED IN THAT CASE, NO DECISION WOULD BE RENDERED AT THIS TIME ON EITHER QUESTION PRESENTED SINCE THE MONTHLY LEAVE SUPPLEMENT IS AN ISSUE NOW IN PENDING LITIGATION.

WE ENCLOSE FOR YOUR INFORMATION COPIES OF THIS EXCHANGE OF CORRESPONDENCE.