

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

February 14, 2013

10:12 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Eric Feige
Representative Lynn Gattis
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

Representative Bob Herron
Representative Craig Johnson
Representative Kurt Olson

COMMITTEE CALENDAR

OVERVIEW: DERELICT VESSELS ON STATE LANDS

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

WYN MENEFEE, Chief of Operations
Division of Mining, Land and Water (DMLW)
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Provided the overview on derelict vessels on state lands.

MICHAEL LUKSHIN, State Ports and Harbor Engineer
Division of Statewide Design and Engineering Services
Department of Transportation & Public Facilities (DOTPF)
Juneau, Alaska

POSITION STATEMENT: Contributed to the overview on derelict vessels on state lands.

CARL UCHYTIL, Vice President
Alaska Assoc. of Harbormasters & Port Administrators (AAHPA)
Juneau, Alaska

POSITION STATEMENT: Contributed to the overview on derelict vessels on state lands.

RACHEL LORD, Representative
Alaska Clean Harbors Program
Homer, Alaska

POSITION STATEMENT: Testified during the hearing on derelict vessels on state lands.

BRYAN HAWKINS, Harbormaster
Homer, Alaska

POSITION STATEMENT: Testified during the hearing on derelict vessels on state lands.

ACTION NARRATIVE

[10:12:16 AM](#)

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 10:12 a.m. Present at the call to order were Representatives Seaton, Kreiss-Tomkins, and Gattis; Representative Feige arrived as the meeting was in progress.

Overview: Derelict Vessels on State Lands

[10:12:39 AM](#)

CHAIR SEATON announced that the only order of business would be an overview of derelict vessels on state lands.

[10:12:51 AM](#)

WYN MENEFEE, Chief of Operations, Division of Mining, Land and Water (DMLW), Department of Natural Resources (DNR), said that derelict vessels are a problem and can be found in a variety of areas, which include: state submerged lands, state tidelands, state shore-lands and inland on navigable freshwaters, general state lands listed as multiple use, critical habitat areas, and in state parks. The derelicts may be ship or dinghy sized and can be defined in a number of ways, including: shipwrecks, abandoned vessels, old float-homes, private vessels, and work vessels. He reviewed the departmental authority, defined under statute AAC 96.020, which covers boat anchoring but doesn't provide for enforcement. Boats are allowed anchorage for 11 days without question, but after 14 days authorization must be secured from DNR's Division of Mining, Land and Water (DMLW)

usually in the form of a lease, or right of way permit. He pointed out that DNR lacks enforcement authority to fine violators, or, under the land law, direct authority to seize or take control of a derelict vessel. He explained that there is a procedure that allows abandoned vessels to be dealt with by following a lengthy public notice process. Under AS 30.30, language does address abandoned and derelict vessels, placing the issue under the purview of the Department of Transportation & Public Facilities (DOT&PF); authority which has been delegated in specific instances to DNR. Permitting for cleanup of shipwrecks and vessels is authorized through DMLW.

[10:17:10 AM](#)

MR. MENEFEЕ stressed that pro-active, prevention measures are not included under AS 30.30. There are no statutory means to prevent vessels from becoming derelict and abandoned or to provide a disincentive to boat owners, thus the focus is on how to clean up after the fact. Generally owners don't have money for removal, and disposal becomes a challenge. Abandoning a vessel on state lands is cheaper than paying for removal/disposal and boats are often scuttled in state waters and then wash ashore. Scuttled vessels are a problem as they often have contaminants aboard presenting an environmental concern, they may drift below surface into navigation channels, and they are expensive to remove. He provided a chart titled "Shipwrecks and Abandoned Vessels Removed," to illustrate the number of derelicts reported by DNR from 2004-2012, and the number that the agency has removed. The department has a backlog of 94 abandoned vessels identified on state lands, but the scope of the issue expands far beyond the catalogued number. He said removal costs vary according to the situation posed by each derelict and the progress is slow but continuous.

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REPRESENTATIVE KREISS-TOMKINS noted the discrepancy between the number of derelicts identified versus the number removed, and said the gap seems to have widened in recent years. He asked if there is a reason for the trend.

MR. MENEFEЕ responded that there is not a 1:1 relationship of report and removal, due to departmental staffing and funding abilities. He said it is not common to begin work on a cleanup activity and in doing so identify several more derelicts in the process.

REPRESENTATIVE KREISS-TOMKINS questioned why the discrepancy has expanded.

MR. MENEFEE offered that in recent years the department has been focusing on stewardship responsibilities that require additional time in the field, which then leads to more discoveries of derelicts.

[10:23:00 AM](#)

CHAIR SEATON asked if there is a catalogue of abandoned vessels.

MR. MENEFEE said presently there are 94, with many more not reported to the database. He said staff is being encouraged to begin adding each new derelict to the catalogue. He underscored that the scope of the problem is greater than the data indicates.

[10:24:08 AM](#)

MR. MENEFEE reviewed the removal of two 62 foot vessels from Jakolof Bay, near Homer, at a cost thus far of \$250,000, which included: raising, removal of hydrocarbons, stabilization, and towing to Homer for placement in dry storage. It is possible that some costs can be recovered through auction, or they may increase if disposal is required. Last May, near Seattle, he reported, a 140 foot sunken vessel cost Washington and the federal government \$5.4 million for cleanup and disposal, and another recently reported sinking in the same area is expected to cost over \$1 million. He noted that Washington State has a derelict vessel removal account funded by a \$3.00 boat registration fee, as a means to defray these costs.

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MR. MENEFEE directed attention to the committee packet handout titled "Derelict Vessels and Shipwrecks on DNR managed lands," to illustrate the two Jakolof Bay cleanup sites, with color photographs indicating the petroleum sheens around the submerged vessels. The boats were in poor condition and had been denied harbor entrance. Without access to tie up to a float, they were anchored on state land, and eventually sank due to snow load.

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CHAIR SEATON said the committee now understands the scope of the issue and can consider statutory measures. Proactive approaches

will require state agency coordination, he said, to avoid these expensive removal projects.

[10:29:58 AM](#)

MICHAEL LUKSHIN, State Ports and Harbor Engineer, Division of Statewide Design and Engineering Services, Department of Transportation & Public Facilities (DOTPF), paraphrased from a prepared statement, which read as follows [original punctuation provided]:

The State of Alaska has over 33,900 miles of coastline, far greater than the total coastline of the other remaining 49 states combined. Although the number of abandoned and derelict vessels in Alaska is unknown, these vessels are a public nuisance. Having effective legislation is important in protecting the environment and it will provide a significant public benefit to property owners and the municipalities.

AS 30.30 was established in 1975. At that time, the Department of Public Works (DPW) owned most of the public harbors in the state. As such, it was not too uncommon for the DPW to have to deal with sunken or abandoned boats within these state owned harbors. When DPW merged with the Department of Highways in 1977, DOT&PF inherited responsibility for AS 30.30 even though abandoned and derelict vessels are not a core function of the department. AS 30.30 needs to be updated to allow any State of Alaska department and all municipalities to have these powers.

DOT&PF supports the statutory changes proposed by the Alaska Association of Harbormasters and Port Administrators. Since 1986, DOT&PF has transferred 75 percent of its state owned harbors to local municipalities.

Prior to the FV Kupreanof and the FV Leading Lady, the most recent similar Alaskan problem was the sinking and raising of a 137-foot landing craft called the Sound Developer in 2009 at the mouth of the City of Cordova's harbor. The final bill for the effort was over \$5M. That was about the same cost (\$5M) that the State of Washington paid to deal with the clean-up efforts after the FV Deep Sea sank right over Whidbey Island's famed shellfish beds on May 12, 2012. On the

extreme end of the scale, it cost the Coast Guard ten months and \$22M to clean-up an abandoned 430-foot ex-World War II Navy Liberty Ship called the Davy Crockett that was being illegally scrapped and that broke apart on the Columbia River in 2010. There are an ever growing number of potential and real abandoned and derelict vessels in Alaska's waters. Since there are many older, less efficient boats still able to float (especially old wooden boats), in addition to boats removed from fishing due to rationalization and the IFQ programs, this problem will not go away. The suggested legislative changes to AS 30.30, if in effect at the time, would have allowed DNR to act immediately in the case of the Kupreanof and the Leading Lady. The powers afforded in AS 30.30 need to be shared with any state department and any municipality.

REPRESENTATIVE KREISS-TOMKINS asked whether DNR has a dedicated fund to handle the clean-up of a derelict vessel.

MR. LUKSHIN said that DOTPF does not have funds, and declined response regarding the DNR budget.

[10:35:49 AM](#)

CHAIR SEATON inquired about the issue of documented and undocumented vessels and asked how this aspect of concern is handled.

MR. LUKSHIN deferred, suggesting it may fall under the purview of the U.S. Coast Guard (USCG).

CHAIR SEATON referred to the resolution from the Alaska Association of Harbormasters and Port Administrators (AAHPA), available in the committee packet, and suggested that it would be necessary to understand the documentation aspect, if further regulation or statute were to be considered. The state's authority may not be any more inclusive and helpful than that of a municipality for seizing derelict vessels.

MR. LUKSHIN commented that some municipalities have local codes but the codes are not uniform across the state. He opined that state statute could provide legal purview and suggested that it should be extended to local authorities throughout the state, including incorporated as well as un-incorporated areas.

10:37:52 AM

CARL UCHYTIL, Vice President, Alaska Association of Harbormasters and Port Administrators (AAHPA), paraphrased from a prepared statement, which read as follows [original punctuation provided]:

The Alaska Association of Harbormasters and Port Administrators in our Resolution 2012-02 strongly urge support to proposed changes in Chapter 30.30 for Abandoned and Derelict Vessels. AAHPA believes delegation of authority under State Statute to the local municipalities is a step in the right direction in turning the tide of abandoned and derelict vessels in the State.

The condition of vessels operating in the State Waters of Alaska is diverse. [Ranging] from modern yachts and well maintained 80-yr. old wooden trollers to relatively new but decrepit live a-boards to turn of the century abandoned tug boats. The Harbormaster is consistently looking for tools to help best manage his harbor facility while keeping a vigilant eye on vessels which encroach on tidelands which they may or may not have authority to act on.

This proposed authority is necessary, throughout the state, but especially in smaller coastal communities, where legal and enforcement resources are not readily available to deal with the liabilities and hazards of abandoned and derelict vessels. The construction and operations of harbors by the AK Department of Transportation shortly after statehood resulted in regulations which empowered only ADOT to effectively deal with troublesome vessels. Expanding the language to include not only ADOT but other state agencies and municipalities would appear to be sound legislation.

This proposed delegation of authority to the local municipality will help to refine the relationship between state and city/borough responsibilities and will enable harbormasters in communities with limited legal resources or limited local ordinances to act with confidence in prosecuting derelict and abandoned vessels.

The modifications to Chapter 30.30 appear to have in place, sufficient authority which encourages the state or municipality to act in a timely manner and before the vessel is in extremis. This is important because of the disposal cost associated with a vessel that afloat is a small fraction of what it cost once a vessel takes on water, is submerged or discharges fuel or oil.

The Alaska Association of Harbormasters and Port Administrators thank you for your consideration of this important issue to the Alaskan coastal communities.

[10:41:29 AM](#)

MR. UCHYTIL, responding to a question from the committee chair, opined that the City and Borough of Juneau (CBJ) has sufficient authority to act strategically and tactically to deal with derelict vessels, but small communities don't have regulatory ordinances or the resources necessary to clean up tideland areas. The proposed change to AS 30.30 would help the smaller communities immensely, and also eliminate the ambiguity regarding the responsible agency.

CHAIR SEATON asked about the need to include language regarding the handling of hazardous waste associated with the vessels.

MR. UCHYTIL concurred that such language would be helpful.

CHAIR SEATON offered to receive further suggestions from AAHPA for inclusion in the proposed legislation, and he asked about information regarding the ability for the USCG to seize documented vessels.

MR. UCHYTIL suggested that the USCG has purview over vessels that are in open water; undocked. The CBJ has the ability to impound abandoned vessels at the docks.

[10:44:24 AM](#)

RACHEL LORD, Representative, Alaska Clean Harbors Program, stated support for the proposed legislation, and said that the age of the fishing fleet may begin to coincide with the appearance of more derelicts in the coming decade. The Alaska Clean Harbor Program is working with legal counsel to develop a

working database of the derelict and abandoned vessels in harbor areas.

[10:46:20 AM](#)

BRYAN HAWKINS, Harbormaster, said Homer has regained 1,400 feet of moorage space through the removal of derelict vessels. He said the work was accomplished with the help of local contractors, to break-up vessels with an average length of 90 feet. The bottom line is that dealing with derelict vessels could be called the hot potato management plan, as no one wants to handle it; however, it should be a proactive endeavor. Recognizing the problem and developing a plan is necessary, and a revenue source will need to be identified. He cited a bill being proposed in Washington State which stipulates that vessel past a certain age would require approval by authorities as fit for resale, to ensure maintenance has kept the vessel viable.

[10:49:35 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:49 a.m.