

H B

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PETRACACH INC

P.O. BOX 13209
MILE 114.8 PARKS HWY.
TRAPPER CREEK, AK. 99683

April 23, 1992

Dear Senator Curt Menard,

We would like to thank you for taking the time to meet with us and hear our concerns about the D.E.C. waste water and drinking water permitting process.

We were well received in all the offices we visited, and feel that the department will look at the problems and perhaps simplify the process for those trying to meet the regulations.

When we met with Commissioner Sandor, he expressed genuine concern and is reviewing the permitting process.

Once again our thanks.

Bill & Zena Newton

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

January 24, 1992

The Honorable Curt Menard, Chair
Senate Transportation Committee
State Capitol
Juneau, AK 99811-1182

Dear Senator Menard:

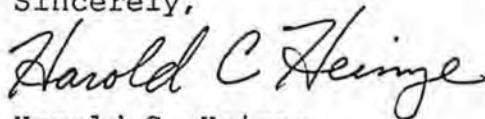
Subject: CSHB 232 (CRA), which relates to sunken and abandoned vessels and cargo.

Position: The Department of Natural Resources supports the intent of this bill, to help tideland owners (state or municipal governments) deal with the problem of shipwrecked vessels within their jurisdictions. However, since the bill passed the House of Representatives last spring we have learned that the existing bill's language may have disastrous effects on the ability of boat owners to obtain insurance for their vessels. We are working with the Department of Commerce and Economic Development, Division of Insurance, to develop new language for this bill that meets the concerns of all involved. We hope to have this language developed in time for the Senate Transportation Committee hearing.

Recommendation: Consider substitute language for the bill that meets the concerns of all involved parties.

We look forward to working with you and the bill's sponsor to resolve any outstanding problems. Please let me or Ron Swanson know if you have questions about this bill.

Sincerely,



Harold C. Heinze,
Commissioner

cc: Representative Jacko
Representative Navarre
Committee Members
Paul Fuhs, Legislative Liaison, Office of the Governor
Ron Swanson, Director, Division of Land

HB 232
Shipwrecks Act*

Section Analysis
March 26, 1991

* An Act relating to sunken and abandoned vessels and cargo; and providing for an effective date.

Summary: There is currently limited power in ports and harbors to effect the cleanup of wrecked or abandoned vessels. This act expands that authority to other state or municipal land, and includes cargo. It requires the removal of sunken or abandoned vessels and cargo unless the agency having jurisdiction gives permission to do otherwise, and provides penalties for non-compliance. It authorizes the appropriate agency to clean up the land if necessary, and to take custody of the vessel or cargo and sell it. It also authorizes a lawsuit to be filed to recover costs (plus double damages, if the vessel is 58 feet or over). In short, it ensures that state tidelands are cleaned-up, and limits the state's liability without protracted litigation.

Section 1. Broadens the powers of home rule municipalities to include AS 29.35.085 (sunken or abandoned vessels).

Section 2. Provides a cross reference for municipalities to regulate sunken or abandoned vessels under AS 30.30.

Section 3. Requires a person who wants to sink a vessel or cargo to get permission from the department or municipality having jurisdiction. To do so without permission is a class A misdemeanor.

Section 4. Knowing abandonment of a vessel or cargo is a class B misdemeanor.

Section 5. Defines abandonment.

Section 6. Requires a person who owns, controlled or had custody of the vessel or cargo when it was sunk to remove it and restore the state or municipal land within 30 days unless they have permission to do otherwise from the appropriate agency. It limits the agency's liability, even if permission to leave the vessel has been granted.

It also allows the appropriate agency to effect clean up and bring a court action against the appropriate person to recover costs and civil penalties (twice the costs of removal and restoration if the vessel is more than 58 feet overall). This section also allows the agency to assign its rights to recover costs to a third party in order to have the vessel removed (the civil penalty may not be assigned).

Defines owner.

It allows the agency or a peace officer to take custody of the vessel or cargo (immediately, if it threatens life, public safety, property, the environment, etc.). It also states that vessels and cargo taken into custody are subject to disposal, except for timber subject to As 45.50.210-.325 (log brands and abandoned/ salvage logs).

Section 7. Expands existing section regarding notice to owners that custody has been taken to include all state or municipal tidelands (it currently only covers harbors), and to cover cargo as well.

Section 8. Expands existing section regarding public auction of the vessel to include cargo and expand the allowable time for repossession from 20 days to 30. Adds cross reference to the notice provision above.

Section 9. Amends an existing section that states that a third party having an interest in the vessel or cargo may take possession before the date of auction. The amendment expands the section to apply to all state and municipal tidelands, and adds a bonding requirement for removal and restoration (the section already requires a bond sufficient to cover the value of the vessel or cargo).

Section 10. Amends existing section stating that a bill of sale transfers the agency's interest to apply to municipalities as well.

Section 11. Defines areas of jurisdiction: DOT/PF has jurisdiction in ports and harbors below tides; the state on all other state owned tidelands and waters; and municipalities on municipally owned tidelands.

Subsections are (a) and (b) are unclear however, they appear to have the following meanings. The act is inapplicable to historic properties, etc. sunk or abandoned prior to the effective date of the Act and designated under AS 41.35.010-.240. Otherwise it appears to be applicable to all vessels (but not cargo) sunk or abandoned before the effective date of the act; vessels and cargo sunk or abandoned on or after the effective date of the act.

There appears to be no reason to exempt abandoned cargo from the retroactive application of this law. Likewise, there appears to be no reason to exempt future shipwrecks/cargo from the historic preservation act. We therefore suggest the following:

Sec. 30.30.099. APPLICABILITY. (a) Except as provided in (b) of this section, AS 30.30.031 - 30.30.099 apply to all vessels and cargo of vessels that are sunk or abandoned before, on or after the effective date of this Act. The

successor in interest of the person who owned, controlled, or had custody of a vessel or cargo of a vessel subject to this subsection a the time the vessel was sunk or abandoned is subject to AS 30.30.031 - 30.30.099.

(b) AS 30.30.031 - 30.30.099 do not apply to sunk or abandoned vessels or cargo designated as historic monuments, sites, properties, locations, or remains under AS 41.35.010 - 41.5.240.

Subsection (c) states that this Act shall be construed to be consistent with the Article on log brands and salvage timber (AS 45.50.210 - 45.50.325. If the articles are not consistent, AS 45 controls.

Section 12. Changes the qualifier from "shall" to "may" (adopt regulations).

Section 13. Definitions.

Section 14. Repealer.

Section 15. Provides for an immediate effective date.

907-486-3910
Box 991



Kodiak, Alaska
99615

January 28, 1992

Senator Fred Zharoff
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Fred,

I understand that there will be a transportation committee hearing on House Bill 232.

As I have stated in the past this bill could devastate the fishing industry in Alaska. I am already paying \$96,000 per year for insurance. I can't afford any more additional expenses. I am only one of many Alaskan fishermen feeling the pinch of lower prices and shorter seasons.

Please do everything you can to stop this bill.

I will be in Anchorage at the Mineral Management Service meeting at the Sheraton Hotel for the rest of the week. Call if you need to talk to me.

Sincerely,

Alvin R. Burch

cc: Senator Kurt Menard, Chairman Senate Transportation Committee
Senate Transportation Committee

BIGHAM ENGLAR JONES & HOUSTON

ALFRED J. MORGAN JR.
 JAMES H. SIMONSEN
 JOSEPH A. KILBOURN
 DOUGLAS A. JACOBSEN
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 JAMES J. TAYLOR
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 WILLIAM P. SULLIVAN, JR.
 JAMES B. MOQUILLAN
 JOHN F. SCHEFFEL
 JAMES B. WOHAFON, JR.
 JOHN T. KOCHENDORFER
 LOUIS O. JULIANO
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 PAUL AMBOS

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PRIORITY MAIL

December 23, 1991

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 ONE GATEWAY CENTER
 NEWARK, N.J. 07102-8211
 201-643-1100
 FAX: 201-643-1124

TABLETS 'KEDGE'

RCA TELEK. 228338 BELMUR

Re: Alaska H. 232
 Our File No. 027289-30

Mr. Alan Burch
 Alaska Draggers Association
 P.O. Box 991
 Kodiak, Alaska 99615

Dear Mr. Burch:

As we discussed in our recent telephone conversation, American marine insurers are alarmed by pending legislation in Alaska. H. 232, now pending in the Senate, would prohibit abandonment of and require removal of grounded or sunken vessels and cargoes in Alaskan waters. The bill would establish procedures for their sale by auction. Apparently, some fishing vessels have run aground on the Alaskan coastline and that is the impetus for this measure.

Both marine underwriters and vessels owners would be severely burdened by this proposal. The requirement to remove a vessel or cargo applies to both owners of vessels and of cargo and their underwriters, as well as to any entities who controlled or had custody of the vessel or cargo at the time of the sinking. Consequently, charterers could also be held liable.

The costs recoverable include not only the cost of removing the vessel or the cargo but also environmental restoration costs which could be very high. There is no limitation as to amount, nor is there a statute of limitation. Pollution incidents could come within the scope of this bill. In addition, the legislation could be interpreted to require the removal and clean-up of wrecks abandoned or sunk at any time in the past. The abandoned vessel would not have to be an obstruction to navigation but merely "endanger" natural resources of the state. If enacted, this measure would conflict with federal maritime law.

It is apparent that this legislation could pose a substantial threat to marine enterprises in Alaska, particularly the commercial fishing industry and their insurers. We anticipate that if this legislation were enacted, many marine insurance coverages would become unavailable in Alaskan waters. Industry action could help to avoid a crisis. If no opposition is raised, the bill could pass the Alaska Senate quickly. In the House, it was unopposed.

We are enclosing several packets of material on H. 232 in response to your kind offer to distribute these to interested parties. Each packet contains:

- (1) a copy of H. 232;
- (2) an AIMU bulletin on the legislation;
- (3) a copy of AIMU correspondence with the sponsor of the legislation; and
- (4) a list of Alaskan legislators to be contacted.

Please let me know if you need any further information.
Best wishes for a very Happy New Year.

Very truly yours,
BIGHAM ENGLAR JONES & HOUSTON

BY: 

Marilyn L. Lytle

MLL:mag
Enc.



Glacier Charter Service

P.O. Box 1832 • Valdez, AK 99686 • (907) 835-5141
P.O. Box 70333 • Seattle, WA 98107 • (206) 789-2204

1/19/92

Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

John

Dear Sirs:

We of Glacier Charter Service, operating in Prince William Sound out of Valdez Alaska would be put out of business if insurance was not available to us or was financially out of our reach. We have been notified by our insurance company that if Alaska House Bill 232 were made law, insurance would be extremely expensive if available at all to ships and boats operating in Alaska. The law as it is now is adequate and is in line with the Federal Wreck Removal Statute.

My sincere desire is that you strongly oppose this bill.

Thank You,

Captain Frederick R. Rodolf



January 15, 1992

Senator Lloyd A. Jones, Vice Chairman
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

Dear Senator Jones:

The American Institute of Marine Underwriters (AIMU) is a trade association representing 100 marine insurers which underwrite over 90% of the ocean marine insurance written in the United States. A bill which has been referred to the Senate Committee on Transportation regarding abandoned vessels in Alaskan waters presents serious problems for vessel owners operating in Alaskan waters and their insurers. The bill is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (H. 232).

We believe that the bill will not accomplish its intended purpose. It would discourage availability of marine insurance rather than assure the availability of coverage. In order that insurance coverage for a liability be available from a marine insurance company, the liability must be defined and there must be a fixed limit. Insurance companies are not permitted to underwrite unlimited liabilities. It would be against public policy and state insurance laws to subject the assets of regulated companies to direct action for unlimited liability. The future costs associated with underwriting a class of business must be predictable and quantifiable. These basic underwriting requirements must be considered if your goal is to assure the availability of insurance to cover wreck removal from beaches.

If the bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. There are several specific problems with the bill from a marine underwriter's point of view. They include:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverages would be responsible;
- 4) retroactive liability;
- 5) lack of a statute of limitations.

If the bill were to become law as drafted, it is likely that several ocean marine coverages would become unavailable in Alaska. Underwriters would be concerned that policies never intended to cover costs encompassed by the bill might now be required to respond.

An underwriter relies heavily upon prior experience when assessing and pricing risk. A retroactive liability would cause further deterioration in an already unprofitable class of business. Insurance regulators should be particularly concerned about the impact of such legislation on a carrier's solvency.

The owner and the underwriter, who participated in a commercial venture and agreed to provide capacity and accepted a known risk in the past, and who were guilty of no wrongdoing according to the laws existing at the time, will be victimized by the retroactive provision.

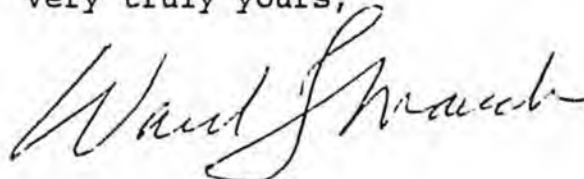
Assessing and pricing future risk, including restoration of the environment and the civil penalty for vessels over 58 feet, will be very difficult. It will almost certainly discourage insurance capacity, and, at best it will substantially increase the cost of available capacity.

The direct action provision against insurers is particularly onerous and would subject marine insurers to liabilities never contemplated when policies were written. There is no need to provide for direct action against insurers. The effect of this provision is particularly self-defeating.

The legislation as proposed would be particularly onerous for the domestic marine insurance industry since foreign marine underwriters would not be subject to the jurisdiction of the state and, therefore, would not be required to respond. The non-admitted, foreign underwriter would thereby enjoy a competitive advantage over the admitted, local carrier.

AIMU urges you to oppose H. 232. We would be pleased to cooperate with you or your staff in providing any further information.

Very truly yours,



Ward L. Mauck
President



Atlantic Mutual Insurance Company
Centennial Insurance Company

Executive Offices
17 Wall Street
New York, New York 10005
212 913 1300

January 6, 1992

The Honorable Curt Menard
State Capital
Juneau, Alaska 99801-1182

Re: An Act Relating to Sunken and Abandoned Vessels and Cargo
House Bill No. 232

Dear Senator Menard:

As underwriters of ocean marine insurance, we are writing to you to express concern about pending legislation which could seriously affect vessel and cargo owners operating in Alaskan waters and their insurers. The legislation is entitled, "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) and has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverages would be responsible;
- 4) retroactive liability;
- 5) lack of a statute of limitations;

These problems would gravely affect vessel owners, cargo owners and marine insurers.

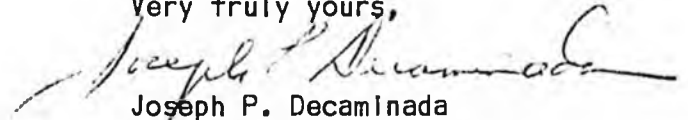
If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill would have a particularly negative impact on domestic and admitted foreign marine insurers, since jurisdiction over non-admitted foreign and alien insurers is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets and their degree of continuing service to the Alaskan people.



Page 2
Senator Menard
January 6, 1992

We request that as the Transportation Committee takes this bill under advisement, you consider the negative impact it will have on marine insurers stated herein.

Very truly yours,



Joseph P. Decaminada
Executive Vice President
Secretary and Counsel



NORTH AMERICAN REINSURANCE CORPORATION

ONE SANSOME STREET, SUITE 1650
SAN FRANCISCO, CA 94104

JAN 13 1992

TINA TANG
Regional Marine Manager
Secretary

January 10, 1992

TELEPHONE (415) 956-6900
(EX CA) (800) 227-4805

The Honorable George Jacko, Jr.
House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Jacko,

As underwriters of ocean marine insurance, we are writing to express concern about pending legislation which could seriously affect vessel owners operating in Alaskan waters and their insurers. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) which has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverages would be responsible;
- 4) retroactive liability;
- 5) lack of a statute of limitations.

These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets and their degree of continuing service to the Alaskan people.

We strongly urge that House Bill No. 232 not be recommended for approval.

Very truly yours,

TT./TBW

Reliance Insurance Company
A Reliance Group Holdings Company

4 Penn Center Plaza
Philadelphia, PA 19103
215 864,4000



Reliance

January 10, 1992

Senator Curt Menard
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

RE: Alaska House Bill 232

Dear Senator Menard:

As underwriters of ocean marine insurance, we are writing to express concern about pending legislation which could seriously affect vessel owners operation in Alaskan waters and their insurers. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) which has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

- 1) unlimited liability;
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These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets and their degree of continuing service to the Alaskan people.

We strongly urge that House Bill No. 232 not be recommended for approval.

Very truly yours,

James A. Cunningham
Assistant Vice President, Marine

JAC/jmm



American International Marine Agency
of New York, Inc.

70 Pine Street, New York, N.Y. 10270
212/770-7000 Cable Address "AMINTMA"
Telex #6716676 or 125227
ITT 420627 or 420724
Fax #212/968-8338

Direct Dial: 212-770-5932

January 14, 1992

VIA FACSIMILE: (907) 465-3756

The Honorable Curt Menard
Chairman
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

Dear Senator Menard:

As underwriters of ocean marine insurance, we are writing to express concern about pending legislation which could seriously affect vessel owners operating in Alaskan waters and their insurers. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) which has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

1. Unlimited liability;
2. Direct action against insurers;
3. Uncertainty as to which insurance coverages would be responsible;
4. Retroactive liability;
5. Lack of a statute of limitations.

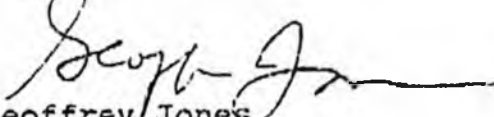
These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate results could be to increase the cost of underwriting ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets.

January 14, 1992
Page 2 of 2

We strongly urge that House Bill No. 232 not be recommended for approval.

Very truly yours,


Geoffrey Jones
Senior Vice President

GJ/nh

MAGONE DIVING AND SALVAGE, INC.

A Subsidiary of Magone Marine Service, Inc.

P.O. BOX 442 DUTCH HARBOR, ALASKA 99692

(907) 581-1400 FAX (907) 581-1495



TO: Senator Curt Menard
State Capitol
Juneau, AK. 99801-1182

RE: House bill 232

Dear Senator Menard ,

Along with others in the maritime industry I have concerns about bill (232) and the issue of wreck removal in general however my perspective may be some what different than those of most in the industry and therefore possibly of some interest to those considering this legislation.

First let me introduce myself and my business. I moved my ship repair business from northern California to Dutch Harbor in February of 1978. Because of the opportunity and potential Dutch Harbor had to offer and the grace of God , our business " Magone Marine Service Inc " and " Magone Diving and Salvage Inc." A solely owned subsidiary have grown to the combined strength of 42 employees with gross revenues over 6 million per year for the last 2 years.

We are not yet big business but in Alaska's fledgling maritime support infrastucture we are at least a significant player.

Since setting up in Dutch Harbor we have handled most of the successful salvage and or wreck removal projects undertaken in the Aleutians. We have completed successful Salvage or wreck removal operations as far north as Togiak, in Bristol Bay, Sand Point in the Shumagins to the east and on Atka Island in the Aleutians to the west.

In the last few years for reasons of salvage value , or as hazards to navigation we have removed from Alaska's shallow costal waters or beaches quite a number of vessels. some of the more note worthy being the : 260' Shin yang Ho, 103' Skagit Egale ; 90' Pegasus , 123' Sunset Bay . The " Swallow " , a japanese reefer ship of 307' we pulled from the rocks of Ulakta Head , just outside of "Dutch Harbor". The Swallow had been written off as a constructive total loss by her hull & machinery underwriters but the Protection and Indemnity underwriters responded to the public out cry as to her potential abandonment and contracted us to have the vessel removed.

So like other companies in the salvage business we have been keenly interested in the outcome of what wreck removal legislation we knew was coming down the pike.

Unlike some of our competitors however who mobilize up from California , Oregon and Washington ; we are an Alaskan corporation and therefore are also concerned with laws that effect the ecological and business environment of our state.

Let me say that I personally felt insulted that the owners of the Swallow could just abandon their wrecked tramper on the beach a mere 1/2 mile from my house.

However in the interest of protecting our beautiful state and maintain the quality of life for our children that all of us have come to love. Let us be wise in the methods we use to legislate these protective measures.

There are some legitimate concerns over the ensurability of vessels operating in our waters. Terms like unlimited liability are not acceptable to Marine underwriters ,and for good reason, they need to identify their risk if they are to price a policy .

We all need insurance if we are to operate at all. I suggest there are very knowledgeable Maritime attorneys who could help rewrite portions of this legislation to address the major concerns of abandonment but stay within the framework of existing Maritime insurance standards.

I feel that if this law was enacted retroactively it would cause an immediate severe if not crippling burden on owners and insurers who acted in good faith to leave a vessel at the time when that was how it was done up here for so many years. As a salvor I know that if you remove a casualty as soon as possible from its strand its always much cheaper . Once they've sat there for a year or so they are structurally so deteriorated that wreck removal becomes unbelievably expensive. My last point is this ; if Alaska state laws are much different than federal laws then we have the cart in front of the horse.

The greatest risk to our shores is not our own little fishing boats but rather the large commercial traffic passing through our waters.

I believe the problems of wreck removal should be dovetailed with better federal legislation or we are merely penalizing our own fleet and our domestic underwriters while the main problem remains unaddressed.

As a taxpayer it makes me mad to see the United States Coast Guard hiring companies to clean up after foreign vessels spill their bunkers but need be insured for only a portion of the normally expected cost of clean up or wreck removal.

Thank you for hearing my thoughts on this issue I commend your efforts to improve and protect this wonderful state. Let me know if I can be of any service.

cc Senator
Fred Zharoff

Sincerely,

A handwritten signature in cursive script, appearing to read "Owen Magone", with a horizontal line extending to the right.

President
Magone Marine Services Inc.
Magone Diving & Slavage INC.

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 11, 1990

**OFFER OF SETTLEMENT & COMPROMISE
PROTECTED UNDER EVIDENCE RULE 408**

Mr. Doug Fryer, Esq.
Mikkelboug, Bronz, Wells & Fryer
1001 Fourth Avenue, Suite 3300
Seattle, WA 98154

Mr. William Wuestenfeld, Esq.
Sandberg & Smith
310 K Street, Suite 500
Anchorage, AK 99501

Re: State of Alaska v. All Alaskan Seafoods

Gentlemen:

In a past conversation, Mr. Fryer inquired as to the State's position as to possible settlement of this matter. After receiving your recent offer of judgment of only \$25,000, we would like to share with you the state's view of this case.

As you know, the Alaska Department of Natural Resources manages the state tidelands upon which the All Alaskan is grounded. The unauthorized presence of the All Alaskan on state tidelands is a continuing trespass on state property and accordingly the Department of Natural Resources demands the removal of the wreck. How this is accomplished is a matter for All Alaska Seafoods and its insurers. The Department would be willing to review any proposals by your clients or their underwriters as to how to effectively and economically remove the wreck. Such a plan would have to meet the approval of DNR, the Department of Fish and Game, the Department of Environmental Conservation and appropriate federal and local agencies. If an acceptable removal operation can be completed, DNR would be willing to drop its trespass and nuisance damage claims resulting from the grounding.

As to the pollution/natural resource claims as a result of the spill, the state would be willing to settle these claims for the base oil spill penalties under AS 46.03.758 and state response costs. State response costs are relatively small in the neighborhood of \$5,000.

According to the figures supplied by All Alaskan Seafoods to the U.S. Coast Guard and ADEC at least 43,250 gallons of diesel fuel were released to the environment. Under the regulations

REPLY TO:

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ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

1st NATIONAL CENTER
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FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

Dept of Law

APR 27 1990

implementing the oil spill penalty provisions of AS 46.03.758, the waters near the grounding are designated as a critical marine environment. 18 AAC 75.520(1)(E) & (F). The base penalty for oil spills into a critical marine environment is \$2.50 a gallon. 18 AAC 75.570(1). Applying the toxicity, degradability and dispersability factors for marine diesel in 18 AAC 75.540 et. seq. to the base penalty (\$2.50 x .466) produces a net per gallon spill penalty of \$1.17. Using this figure, the total penalty for a spill of 43,250 gallons is \$50,602.50.

In light of your indisputable liability for oil spill penalties in excess of \$50,000, your offer of judgment is clearly inadequate even ignoring the fact that your client refuses to remove the All Alaskan from state lands. Moreover, the state believes it has a strong case that the spill resulted from gross negligence, thereby subjecting All Alaskan Seafoods to five times the base penalty or \$253,012.50. See AS 46.03.758(b)(2).

In the interests of resolving this matter without further litigation, the state is willing to settle this matter for its costs and the basic oil spill penalties, if All Alaska Seafoods will remove the wreck. The state is willing to negotiate a reasonable time frame for removal but is adamant in its position that this environmental blight be removed from its property.

As to your position that your marine protection and indemnity insurers are only obligated to remove the wreck if compelled to do so by a court injunction, we call your attention to Continental Oil Co. v. Bonanza Corp., 706 F.2d 1365 (4th Cir. 1983). In Continental Oil, the court held that an order by a government official to remove a wreck fell within the "compulsory by law" P & I policy provisions for wreck removal. In case there is any doubt in your mind as to the state's position, we enclose an order from the Division of Land & Water Management directly you to remove the M/V All Alaskan from state lands.¹ See also Seaboard Shipping v. Jocharanne Tugboat Corp., 461 F.2d 500, 504 (2d Cir. 1972) ("compulsory removal" met when pursuant to government order the wreck must be removed). If your P & I insurers insist in their

¹ Even without an order from a governmental official, the Continental court held that this condition was met "when a reasonable owner, fully informed, would conclude that failure to remove would likely expose him to liability imposed by law sufficiently great in amount and probability of occurrence to justify the expense of removal." Id. at 1372; see Zurich Ins. Co. v. Pateman, 692 F. Supp. 371, 377-80 (D.N.J. 1987). In light of your liabilities for continuing trespass, nuisance and per day penalties for violation of numerous state environmental statutes, failure to remove the vessel clearly exposes you to liability of such magnitude to justify the expense of removal.

unreasonable refusal to provide coverage, we suggest in light of the rapidly developing law of insurance bad faith in Alaska that your remedy is to remove the vessel and pursue a first party bad faith action against your insurer. See State Farm Fire & Casualty Co. v. Nicholson, 777 P.2d 1152 (Alaska 1989).

In sum, your failure to remove the All Alaskan is simply unjustified. The state is willing to fully litigate this matter, if necessary, to ensure removal. However, in the interests of resolving this dispute without further litigation, the state is willing to settle this matter along the lines discussed above.

If your clients are interested in such a settlement, I would appreciate hearing from you within two weeks of receipt of this letter. If your client's reaction is positive, we can then set up a time frame for your preparing a plan of operations and obtaining approvals from the appropriate state agencies.

Sincerely,

DOUGLAS B. BAILY
Attorney General



By: Breck C. Tostevin
Assistant Attorney General

Enclosure

cc: ~~Gary~~ Gustafson, DNR/DLWM
Bill H. Lamoreaux, ADEC/SCRO
Bruce Erickson, ADEC/AWDO
Lance Trasky, ADFG/Habitat

TRESPASS NOTICE AND ORDER TO QUIT

TO:

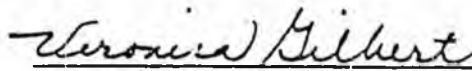
All Alaskan Seafoods Inc.
An Alaska Corporation
311 Mill Bay Road
Kodiak, AK 99615

Lloyd W. Canon, Registered Agent and/or

Other persons owning or having an interest in the vessel M/V All Alaskan.

Under AS 38.05.020 and 38.05.035, the director of the state division of land and water management has the authority and responsibility to manage and control state property and may issue orders to carry out that function. By virtue of the authority delegated to this office by the director, YOU ARE HEREBY NOTIFIED:

1. The M/V All Alaskan is aground on tidelands of the State of Alaska; namely near the northeast point of St. Paul Island, Alaska.
2. Your failure to remove the M/V All Alaskan constitutes an unauthorized remaining unlawfully upon the premises of the State of Alaska, namely the tidelands at the northeast point of St. Paul Island.
3. Your use and occupancy is unauthorized and contrary to law. Accordingly,
4. YOU ARE HEREBY ORDERED to quit your use and occupancy and to vacate the premises immediately and remove the M/V All Alaskan.
5. YOU ARE FURTHER ORDERED to remove all personal property and structures from the premises within thirty (30) days of this notice, including equipment, debris or other items of anything kind whatsoever.



Veronica Gilbert
Regional Manager
Division of Land Water
Management

CERTIFICATE OF SERVICE

On this date a correct copy of the TRESPASS NOTICE AND ORDER TO QUIT was mailed to the All Alaska Seafoods, Inc., by depositing the same in the U.S. Mail at Anchorage, Alaska, postage prepaid.

April 11, 1990
Date

Barbara L. Isaac
Signature



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P. O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-1991

June 15, 1989

MEMORANDUM

TO: Representative George Jacko

ATTN: Ingrid Jacobsen

FROM: Karla Hart *KH*
Legislative Analyst

RE: Responsibility for Abandoned Vessels on Alaska Beaches
Research Request 89.389

You requested information on abandoned vessels on Alaska beaches. Specifically, you asked what resources are dedicated to their removal, what agencies are involved, who is liable for the costs of removal and what environmental ramifications exist.

This memorandum addresses vessels which end up on Alaska beaches, whether abandoned on site or following accidental loss or grounding. In summary, there are no resources dedicated to the removal of abandoned vessels, nor is there any estimate on the number or environmental consequences of such vessels.

AGENCY RESPONSIBILITY AND INVOLVEMENT

Virtually all Alaska beaches are state-owned below mean high tide. Above mean high tide, where most vessels are ultimately grounded, property may be of federal, state, municipal or private ownership.

Federal

The U.S. Coast Guard is directly concerned with abandoned vessels under two circumstances: 1) if the vessel has petroleum products on board--making it a potential polluter, and 2) if the vessel is a hazard to navigation. In both instances, the Coast Guard first attempts to contact the owner of the vessel to address the problem. If no contact is made, then the incident becomes a federal case, with federal funds expended to remove potential pollutants and/or remove or destroy a vessel which is a hazard to navigation. Once the vessel no longer poses a pollution or navigation hazard, direct Coast Guard involvement ceases. Indirectly, local Coast Guard search and rescue personnel are aware of abandoned vessels which may confuse search and rescue operations in their jurisdiction.

Background Research

Representative Jacko
June 15, 1989
Page 2

The U.S. Forest Service has responsibility for the vast majority of coastal lands above mean high tide in southeast and portions of southcentral Alaska.¹ Although resources are not specifically allocated to the removal of abandoned vessels, such vessels may be removed by the Forest Service when a Forest Service vessel in the area can effect the removal while performing other tasks.

Abandoned vessels are treated under abandoned personal property regulations, requiring the Forest Service to provide 30 days notice before disposing of any abandoned personal property. If an abandoned vessel has registration numbers, the Forest Service attempts to contact the owner to remove the vessel. The Forest Service may cite individuals for illegally placing personal property (including boats) on National Forest Lands. [36 CFR 261.10(a), (e) and (j)]

Other federal agencies, including the National Park Service, Bureau of Land Management and Department of Defense, may also be concerned with abandoned vessels on property under their jurisdiction. These agencies were not contacted.

State of Alaska

Abandonment of vessels in Alaska is unlawful. Upon conviction, a person abandoning a vessel is guilty of a misdemeanor and is punishable by a fine of not more than \$500, or by imprisonment for a period of not more than six months, or both (AS 30.30.010).

The Department of Transportation and Public Facilities (DOT&PF) has statutory authority to deal with abandoned and derelict vessels (AS 30.30.010-100). Peace officers may also take abandoned vessels into custody, to be disposed of by DOT&PF. According to Jon Scribner, southeast regional director, DOT&PF, the department is concerned only with vessels which are abandoned within state harbor facilities (and most of those facilities are under municipal control and responsibility). The department does not expend, and has never expended, resources on vessels abandoned outside of state harbor facilities.

As manager of state lands, including all tidelands, the Department of Natural Resources (DNR) is concerned with abandoned vessels; however, DNR has neither statutory authority nor funding to address this concern. Gary Gustafson, director, Division of Land and Water Management, DNR, said that in addition to

¹The Forest Service is interested in any state efforts to deal with abandoned boats. Contact: Vivian Keyes, USFS, Juneau 789-3111.

Representative Jacko
June 15, 1989
Page 3

being potential pollutants and nuisances, abandoned vessels pose potential liability problems.²

The Department of Environmental Conservation is involved with abandoned vessels only to the extent that they pose pollution concerns. No resources are allocated specifically for problems associated with abandoned vessels.

Municipal

Municipalities may adopt ordinances addressing vessels abandoned within their boundaries. In addition, municipal peace officers may take possession of abandoned vessels and turn them over to DOT&PF for disposal (AS 30.30.010-020).

ALTERNATIVES FOR CONSIDERATION

The Department of Natural Resources may be a more appropriate agency than the Department of Transportation and Public Facilities to address the removal or destruction of vessels abandoned outside of improved harbors. Of three coastal states with statutes specifically addressing abandoned vessels, Hawaii places authority within their Department of Transportation, Florida within the Department of Natural Resources and Oregon with their sheriffs.

Under present Alaska statutes relating to abandoned and derelict vessels, there are no provisions for recovering the cost of removing or destroying an abandoned vessel. In Florida, "All costs incurred by the department [of Natural Resources] in the removal of any abandoned or derelict vessel [when the same obstructs or threatens navigation or in any way constitutes a danger to the environment] shall be recoverable against the owner thereof."³

To support the removal of abandoned vessels (and perhaps marine litter in general), a grant program could be established.⁴ One source of funding for

²The Department of Natural Resources is presently involved in legal action, in cooperation with the Departments of Law and Environmental Conservation and local governments and a village corporation, against the owners and insurers of two crab processing vessels which are grounded near the communities of St. Paul and Dutch Harbor.

³Florida Statutes 823.11.

⁴A portion of the Florida Coastal Protection Trust Fund (revenues derived from taxes and fees levied against potential pollutants upon importation to Florida) is used to fund a grant program to coastal local governments for the removal of derelict vessels from the public waters of the state.

Representative Jacko
June 15, 1989
Page 4

such a program would be to impose an additional fee on boat owners at the time of vessel registration. Legislation to provide for state conducted registration of vessels is presently under consideration (HB 134 and SB 111).

* * *

I hope this information is helpful. If you have questions, please call.

Article 1. Abandoned Vessels.

Section	Section
10. Abandonment of vessel unlawful	50. Public auction
20. Disposition of certain abandoned vessels	60. Possession by interested party
30. Limitation on applicability	70. When public auction not required
40. Notice to owner	80. Effect of sale

Sec. 30.30.010. Abandonment of vessel unlawful. (a) A person may not store or leave a vessel in a wrecked, junked or substantially dismantled condition or abandoned upon any public water, or at a port or harbor, of the state, without the consent of the agency having jurisdiction of the water, port or harbor, or docked at any private property without the consent of the owner of the property.

(b) The department or a peace officer may remove a derelict vessel from public water in any instance when the vessel obstructs or threatens to obstruct navigation, contributes to air or water pollution, or in any other way constitutes a danger or potential danger to the environment.

(c) This section may not be construed to contravene any applicable federal law or regulation.

(d) A person who violates this section, upon conviction, is guilty of a misdemeanor and is punishable by a fine of not more than \$500, or by imprisonment for a period of not more than six months, or by both. (§ 1 ch 131 SLA 1975)

Sec. 30.30.020. Disposition of certain abandoned vessels. A vessel that has been left unattended for a continuous period of more than 30 days and is in the waters of the state or on public property, or is on private property without authorization of the owner or occupant of the property, may be taken into custody by the department or a peace officer and disposed of by the department under this chapter. (§ 1 ch 131 SLA 1975)

Sec. 30.30.030. Limitation on applicability. Wherever outside of an organized municipality in the state it is, or has become, the custom, common or accepted practice to anchor, moor or otherwise leave a vessel in a port or harbor, or in the public waters, of the state in such a manner that it does not threaten or obstruct navigation, or to store or otherwise leave a vessel without permission on public or private property, unattended for a period of more than 30 days, where climatic conditions make use of the vessel impracticable, or applicable provisions of law preclude use of the vessel during that period of time, the unattended anchoring, mooring, storing or leaving of the vessel does not constitute abandonment of the vessel as that term is used in AS 30.30.010 — 30.30.020. (§ 1 ch 131 SLA 1975)

Sec. 30.30.040. Notice to owner. On taking custody of an abandoned vessel, a written notice immediately shall be posted on the vessel

and a duplicate return receipt to the owner's last known address of a state or federal vessel, to the vessel if not received. A notice need not be posted whose interest is in a federal agency.

Sec. 30.30. within 20 days after public sale in general circulation, more than five days after receipt, the vessel is donated to a

Sec. 30.30. an interest in the date of the port or harbor use and any other the vessel. If registered or vessel, pay to security when security, if received. (§ 1

Sec. 30.30. auction is for vessel, as determined. The appraisal purchase or public advertisement circulation. of it as junk (§ 1 ch 131

Sec. 30.30. under AS 30.30.040 from the date governed by

and a duplicate of that notice sent by registered or certified mail, with a return receipt, to the registered owner of the vessel at the registered owner's last known address and to all lienholders shown on the records of a state or federal agency. The notice shall contain a brief description of the vessel, the location of custody, and the intended disposition of the vessel if not repossessed within 20 days after the mailing of the notice. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state department or a federal agency. (§ 1 ch 131 SLA 1975)

Sec. 30.30.050. Public auction. If the vessel is not repossessed within 20 days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation. However, the public auction may not be held less than five days after the publication of the advertisement. If no bid is received, the vessel may be sold by negotiation, disposed of as junk, donated to a governmental agency, or destroyed. (§ 1 ch 131 SLA 1975)

Sec. 30.30.060. Possession by interested party. A person having an interest in an abandoned vessel may take possession of it before the date of the public auction upon payment to the department of all port or harbor use fees, towing, handling, storage, appraisal, advertising and any other expenses incurred by the department in connection with the vessel. If the person taking possession of the vessel is not the registered owner, the person shall, before taking possession of the vessel, pay the expenses incurred by the department and post adequate security which may not exceed the appraised value of the vessel. The security, if not forfeited, shall be returned to the person one year after receipt. (§ 1 ch 131 SLA 1975)

Sec. 30.30.070. When public auction not required. Public auction is not required when the appraised value of an abandoned vessel, as determined by an independent appraiser is less than \$100. The appraiser must have at least one year of experience in the sale, purchase or appraisal of vessels. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the department may sell the vessel by negotiation, dispose of it as junk, donate the vessel to a governmental agency, or destroy it. (§ 1 ch 131 SLA 1975)

Sec. 30.30.080. Effect of sale. The transfer of interest by sale under AS 30.30.050 — 30.30.070 shall be evidenced by a bill of sale from the department, considered a transfer by operation of law, and governed by applicable provisions of law. (§ 1 ch 131 SLA 1975)

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Article 2. Derelict Vessels.

Section

- 90. Derelict vessel
- 100. Disposition of derelict vessel

Sec. 30.30.090. Derelict vessel. A vessel that has been left unattended for a continuous period of more than 24 hours is a derelict if

(1) the vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or

(2) the vessel has been moored or otherwise left in the water of the state or on public property contrary to law, or regulations adopted by the department, or the vessel has been left on private property without authorization of the owner or occupant of the property and if

(A) the vessel's certificate of number or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a state department or the United States Coast Guard;

(B) the last registered owner of record disclaims ownership and the current owner's name or address cannot be determined;

(C) the vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or

(D) the vessel registration records of a state department and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented and the owner's name or address cannot be determined. (§ 1 ch 131 SLA 1975)

Sec. 30.30.100. Disposition of derelict vessel. (a) The department may take or cause a derelict vessel to be taken into custody immediately. Upon taking custody of a derelict vessel the department shall concurrently

(1) publish a notice of intended disposition once in a newspaper of general circulation;

(2) when possible, post a notice of intended disposition on the vessel; and

(3) serve a duplicate of the notice of intended disposition by certified mail, with a return receipt, on

(A) the registered owner of the vessel, if known, at the registered owner's last known address or the address on record with a state department or the United States Coast Guard; and

(B) all lienholders who have filed a financing statement indexed in the name of the registered owner, or who are shown on the records of a state department or the United States Coast Guard.

(b) If the vessel is not repossessed within 20 days after the publication or mailing of the notice, whichever occurs later, the vessel may be disposed of by negotiated sale except that when two or more

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prospective purchasers indicate an interest in purchasing the vessel the vessel will be sold at public auction to the highest bidder in the same manner prescribed under AS 30.30.050.

(c) If no prospective purchaser indicates a desire to purchase the vessel, the vessel may be disposed of as junk, donated to a governmental agency, or destroyed. (§ 1 ch 131 SLA 1975)

Collateral references. — Wrecked vessels: rights in and ownership of wrecked or derelict vessels and their contents not cast upon the shore, 63 ALR2d 1369.

Article 3. Vessels Abandoned on Business Premises of Persons Engaged in Repair Business.

Section	Section
110. Disposition of vessels by persons in vessel repair business	130. Sale or disposition of vessel
120. When vessel abandoned	140. Disposition of proceeds
	150. Effect of transfer of title

Sec. 30.30.110. Disposition of vessels by persons in vessel repair business. When a person abandons a vessel on the premises of a vessel repair business, the owner of the business or the business owner's authorized representative may sell or dispose of the vessel under AS 30.30.110 — 30.30.150. (§ 1 ch 131 SLA 1975)

Sec. 30.30.120. When vessel abandoned. A vessel is abandoned on the premises of a vessel repair business when all of the following conditions have been satisfied:

(1) the service requested or required by a person whose vessel is towed or brought to a vessel repair business, including but not limited to towing and rendering estimates of the cost of repairs, has been performed;

(2) no authorization is given to perform any further service with respect to the vessel, but the vessel is left on the repair business premises;

(3) the owner of the repair business or the business owner's authorized representative has given notice by registered or certified mail, with a return receipt, to the registered owner of the vessel at the address on record at the vessel repair business and the address on record in a state department or the United States Coast Guard, and to any person with a recorded interest in the vessel, stating that if the vessel is not repossessed within 30 days after the mailing of the notice it will be sold or disposed of; the notice also shall contain a description of the vessel and its location, and it need not be sent to an owner or a person with an unrecorded interest in the vessel whose name or address cannot be determined; and

(4) the vessel is not repossessed within the 30-day period specified in (3) of this section. (§ 1 ch 131 SLA 1975)

Sec. 30.30.130. Sale or disposition of vessel. When a vessel is abandoned, the owner of the vessel repair business, or the business owner's authorized representative, after one public advertisement in a newspaper of general circulation in the state, may negotiate a sale of the vessel or dispose of it. However, the vessel may not be sold or disposed of within less than five days after publication of the advertisement. (§ 1 ch 131 SLA 1975)

Sec. 30.30.140. Disposition of proceeds. The authorized seller of the abandoned vessel is entitled to the proceeds of the sale to the extent that compensation is due to the seller for services rendered with respect to the vessel, including reasonable and customary charges for towing, handling, storage, and the cost of notices and advertising required by AS 30.30.130. A lienholder shall receive priority of payment from the balance of the proceeds to the extent of the lien. Any remaining balance shall be forwarded to the registered owner of the vessel, if the registered owner can be found. If the registered owner cannot be found, the balance shall be deposited with the commissioner of administration and shall be paid out to the registered owner of the vessel if a proper claim is filed for it within one year from the execution of the sale agreement. If no claim is made within that year, the money shall escheat to the state. (§ 1 ch 131 SLA 1975)

Sec. 30.30.150. Effect of transfer of title. The transfer of title and interest by sale under AS 30.30.140 is a transfer by operation of law. However, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest. (§ 1 ch 131 SLA 1975)

Article 4. Miscellaneous.

- Section
- 160. Regulations
- 170. Definitions
- 180. Short title

Sec. 30.30.160. Regulations. The department shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of this chapter. (§ 1 ch 131 SLA 1975)

Sec. 30.30.170. Definitions. In this chapter

(1) "department" means the Department of Transportation and Public Facilities, division of waters and harbors;

(2) "municipality" means a home rule or general law borough or city including but not limited to a unified municipality organized under AS 29.68;

(3) "vessel" means every description of watercraft or other artificial contrivance, other than a seaplane on the water, used or capable of being used as a means of transportation on or through the water;

(4) "water territorial state, as defined in § 11 (1975)

Revisor's waters and

Sec. 30.30.170. Abandoned and

Section 10. Interference with navigation 20. Discharge of water

Sec. 30.30.170. Who may moor a buoy or marker in a river, or in the United States barge, shall remove the authority and upon more than one month from the date of the amendment § 20.30.170

Revised 11.65.020

Sec. 30.30.170. Person who operates a vessel on a navigable river or stream shall be punished more than \$500. (§ 20.30.170)

Revised 11.65.010

Chapter 15. State Participation in Port Facilities and Development.

Section 70. Definitions

Sec. 30.15.070. Definitions. In this chapter

- (1) "commissioner" means commissioner of transportation and public facilities;
- (2) "department" means Department of Transportation and Public Facilities;
- (3) *[Repealed, § 88 ch 74 SLA 1985.]*
- (4) "port facilities" means docks, wharves, bulkheads, seawalls, landfills, warehouses, staging areas, transfer spans and aprons, lifting equipment and similar structures together with the necessary equipment and facilities required to accommodate waterborne commerce and shipping, including but not limited to combined port and ferry terminal facilities;
- (5) "project costs" means the cost of financing or borrowing, site acquisition and rights-of-way, planning, engineering and designing, construction, equipment acquisition and installation, but does not include the cost of operation or maintenance of the port facilities once constructed or the cost of feasibility studies required in making application for a grant under this chapter. (§ 1 ch 85 SLA 1974; am E.O. No. 39, § 11 (1977); am § 88 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment repealed paragraph (3), which defined "municipality."

Chapter 30. Abandoned and Derelict Vessels.

Article 4. Miscellaneous (§ 30.30.170)

Article 4. Miscellaneous.

Section 170. Definitions

Sec. 30.30.170. Definitions. In this chapter

- (1) "department" means the Department of Transportation and Public Facilities, division of waters and harbors;
- (2) *[Repealed, § 88 ch 74 SLA 1985.]*
- (3) "vessel" means every description of watercraft or other artificial contrivance, other than a seaplane on the water, used or capable of being used as a means of transportation on or through the water;

(4) "waters territorial limit state, as defined § 11 (1977); "

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§ 30.30.170 NAVIGATION, HARBORS AND SHIPPING § 30.30.170

(4) "waters of this state" means the navigable waters within the territorial limits of the state, and the marginal sea adjacent to the state, as defined in AS 44.03. (§ 1 ch 131 SLA 1975; am E.O. No. 39, § 11 (1977); am § 88 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment repealed paragraph (2), which defined "municipality."

December 28, 1989
P.O. Box 220521
Anchorage AK 99522

Oil Spill Commission
707 A Street
Anchorage, AK 99501

Dear Staff,

It is my understanding that the Commission is wrapping up the oil spill contingency recommendation to be submitted to the state. Unfortunately, I was out of town when you had your public input meetings in Anchorage. I have seven years of experience of salvaging boats in Alaska while working for a local diving company and feel I have a realistic insight to the procedure that is usually followed once there is boating accident. It is because of this experience and the amount of waste and destruction to the shorelines and wildlife I have witnessed that makes me concerned with the smaller boat accidents as well as the large tankers (in 1989 alone, NOAA listed at least twenty boat/barge accidents, most of which involve oil spills).

If a boat, regardless of the size, "goes up on the rocks" the Coast Guard, insurance representative, owner representative, and a marine surveyor along with the divers are called to the scene. The marine surveyor assembles a damage report, cost of repair, and a decision is made whether the boat is salvageable or not. If the boat can be fixed within the insured amount, all is fine. The boat is then repaired or floated to a repair dock, and minimal damage to the coastline is done. If the cost of the repair will exceed the insured amount, and Coast Guard is satisfied that there is not an OIL pollution problem, everyone throws up their hands and goes home. The owner collects from the insurance company who leaves the boat to rust where it is because there are no laws protecting our beaches from this kind of pollution. If boat owners are going to fish and perform other work in Alaska's waters, then they should be responsible for cleaning up after themselves. A law should be passed requiring that a shoreline, after a boating accident, be in the same condition when cleanup or salvage is complete than before the accident. That means no oil should be left to kill wildlife or disperse, no rotting crab traps, boat parts, or hull pieces. And, a boat should not be blown up in place unless all the pieces can be recovered and removed. Ironically, when the insurance company declares the boat a total loss, they will demolish the boat in place, not trying to salvage any equipment, to reduce the cost of their loss, another waste that could reduce costs.

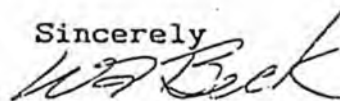
The people of Alaska, the individual municipalities of the state, and/or the state itself, should not have to bear the burden of the cost of restoring an area because of an individual's neglect.

We need to put a stop to a practice that is becoming all too common. It should not be a case of "Out of Sight, Out of Mind". A boat should not be allowed to sit and rust on the shoreline, just because it wasn't in front of your house. They are a form pollution; and, the state should give fair warning to all boat owners, insurance underwriters and companies that we are going to protect these shores and preserve them, and the owners will be held liable for their neglect.

Alaska needs to have a set policy, procedures to follow once there is a boating accident so everyone will know who to call, who is responsible, who is liable, and who is in charge. I have been on too many jobs where the oil has drifted away, time/money is wasted, or a salvageable boat is lost because no one knew who was calling the shots. No one wanted to take charge. Now is the time to create these laws to reflect this attitude. Once again this concept of making people responsible for their own actions, and creating set procedures should be part of your oil spill contingency recommendation to the state.

If you would like more information please feel free to call me. Thank you.

Sincerely



William T. Beck
(907)--248-1967

cc: Govenor Steve Cowper
cc: Representative Cliff Davidson
cc: Senator Bettye Fahrenkamp
cc: Senator Patrick Rodey
cc: Frank Murkowski
cc: Senator Ted Stevens
cc: Congressman Don Young

14 September 1990

SEP 24 1990

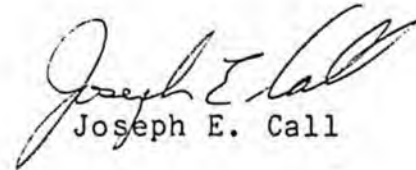
Dear Representative Jacko,

I am writing to request information for my wife and I to use in our consideration of relocating to Alaska. We would appreciate information on the area you represent to help us with our decision of location. Several considerations that we are examining are employment, housing and education. Specifically, we would like to request addresses of employers in your area, types of employment and salary ranges. This information would be extremely beneficial in our search.

My wife and I are both college graduates and have several years of varied experience. I have served over six years with the Army and am currently a Captain in the Infantry. I have a Bachelor's degree in History and have considered teaching as a possible area of employment. My wife has a Master's degree in Counseling and Human Development and is currently employed in the chemical dependency area. We would both like to consider a variety of employment opportunities.

We look forward to your response with information that we can use in our relocation to your wonderful state of Alaska. Please address any information you feel may be beneficial to: Joseph and Tammy Call, 2609 Phyllis Drive, Copperas Cove, Texas, 76522. Thank you.,

Sincerely,


Joseph E. Call

Matson.

COMMITTED TO SERVING HAWAII BEST

NORTHWEST TO HAWAII

VESSEL	VOY.	DEPARTS PORTLAND		DEPARTS SEATTLE		TRANSFERRING AT HONOLULU			
		DATE	TIME	DATE	TIME	NAWAHAWA	KAIHERU	HELO	KAUAI
MAHUKAHI	286	June 16	June 15	June 22	June 21	June 25	June 24	June 24	June 25
MAHUKAHI	328	June 31	June 28	June 28	June 28	July 2	June 30	July 10	July 2
MAHUKAHI	400	June 28	June 28	July 6	July 6	July 8	July 7	July 8	July 8
MAHUKAHI	527	July 8	July 8	July 13	July 13	July 16	July 14	July 18	July 18
MAHUKAHI	581	July 12	July 13	July 20	July 20	July 23	July 21	July 22	July 23

HAWAII TO NORTHWEST

VESSEL	VOY.	DEPARTS HONOLULU		ARRIVES SEATTLE	
		DATE	TIME	DATE	TIME
MAHUKAHI	329	June 18	June 18	June 25	June 25
MAHUKAHI	406	June 23	June 23	July 2	June 28
MAHUKAHI	528	June 20	June 20	July 8	July 8
MAHUKAHI	490	July 7	July 7	July 18	July 12
MAHUKAHI	627	July 14	July 14	July 23	July 19

MARSHALL ISLANDS SERVICE VIA HONOLULU

VESSEL	VOY.	DEPARTS HONOLULU		ARRIVES JOHNSTON ISLAND		ARRIVES KWAJALEIN		ARRIVES MAJURO	
		DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME
BLANDIER	38	July 3	July 3	July 7	July 7	July 10	July 10	July 18	July 18
BLANDIER	30	August 2	August 2	August 8	August 8	August 12	August 12	August 13	August 13
BLANDIER	40	August 30	August 30	September 3	September 3	September 11	September 11	September 12	September 12

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21



WEEKLY EXPRESS SERVICE TO JAPAN, KOREA, TAIWAN, HONG KONG, SINGAPORE, AND THAILAND

PNW EXPRESS SERVICE TRANS-PACIFIC WESTBOUND - TO ASIA

VESSEL	PACIFIC BRIDGE		CALIFORNIA HERRA		CALIFORNIA ACOLTA		CALIFORNIA JACAR		CALIFORNIA VALER		PACIFIC BRIDGE		CALIFORNIA HERRA		CALIFORNIA ACOLTA	
	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME
New York (031)	6/17	6:24	6/21	6:27	6/14	6:14	6/14	6:21	6/14	6:21	6/17	6:24	6/21	6:27	6/14	6:14
Chicago (031)	6/18	6:28	6/21	6:27	6/14	6:14	6/14	6:21	6/14	6:21	6/17	6:24	6/21	6:27	6/14	6:14
Seattle (031)	6/17	6:24	6/21	6:27	6/14	6:14	6/14	6:21	6/14	6:21	6/17	6:24	6/21	6:27	6/14	6:14
Vancouver B.C.	6/24	6:27	6/27	6:33	6/20	6:20	6/20	6:27	6/20	6:27	6/24	6:31	6/21	6:27	6/14	6:14
Portland	6/28	6:31	6/31	6:37	6/24	6:24	6/24	6:31	6/24	6:31	6/28	6:35	6/25	6:31	6/18	6:18
Susan	6/12	6:18	6/15	6:21	6/8	6:08	6/8	6:15	6/8	6:15	6/12	6:18	6/15	6:21	6/8	6:08
Indigo	6/14	6:21	6/17	6:27	6/10	6:10	6/10	6:17	6/10	6:17	6/14	6:21	6/17	6:27	6/10	6:10
Tokyo	6/8	6:13	6/20	6:27	6/13	6:13	6/13	6:20	6/13	6:20	6/17	6:24	6/24	6:31	6/17	6:17
Shanghai	6/7	6:14	6/21	6:28	6/14	6:14	6/14	6:21	6/14	6:21	6/18	6:25	6/25	6:32	6/18	6:18
Nagoya	6/7	6:14	6/21	6:28	6/14	6:14	6/14	6:21	6/14	6:21	6/18	6:25	6/25	6:32	6/18	6:18
Kobe	6/7	6:14	6/21	6:28	6/14	6:14	6/14	6:21	6/14	6:21	6/18	6:25	6/25	6:32	6/18	6:18
HONG KONG	6/12	6:18	6/28	6:35	6/21	6:21	6/21	6:28	6/21	6:28	6/25	6:32	6/25	6:32	6/21	6:21

PNW EXPRESS SERVICE TRANS-PACIFIC EASTBOUND - TO NORTH AMERICA

VESSEL	CALIFORNIA HERRA		CALIFORNIA ACOLTA		CALIFORNIA JACAR		CALIFORNIA VALER		PACIFIC BRIDGE		CALIFORNIA HERRA		CALIFORNIA ACOLTA		CALIFORNIA VALER	
	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME
Tokyo	6/14	6:21	6/28	6:35	6/21	6:21	6/21	6:28	6/21	6:28	6/25	6:32	6/25	6:32	6/21	6:21
Kobe	6/18	6:25	6/30	6:37	6/25	6:25	6/25	6:32	6/25	6:32	6/29	6:36	6/29	6:36	6/25	6:25
Nagoya	6/18	6:25	6/30	6:37	6/25	6:25	6/25	6:32	6/25	6:32	6/29	6:36	6/29	6:36	6/25	6:25
Shanghai	6/18	6:25	6/30	6:37	6/25	6:25	6/25	6:32	6/25	6:32	6/29	6:36	6/29	6:36	6/25	6:25
Tokyo	6/20	6:27	6/31	6:38	6/27	6:27	6/27	6:34	6/27	6:34	6/31	6:38	6/31	6:45	6/27	6:27
Chicago	6/2	6:3	6/18	6:25	6/11	6:11	6/11	6:18	6/11	6:18	6/15	6:22	6/15	6:29	6/11	6:11
Chicago	6/7	6:8	6/17	6:24	6/10	6:10	6/10	6:17	6/10	6:17	6/21	6:28	6/21	6:28	6/17	6:17

UNWANTED GUESTS OF THE ALASKA COAST Wildlife Pay For Abandoned Ships

By JEAN GELINAS, Jr.
Daily Shipping News Staff

Alaskan marine wildlife are having to deal with fuel, asbestos, urea, detergents, freon and ammonia, as well as objects such as plastic bags, tarps, stray netting and styrofoam coming from shipwrecks along the coast.

Despite Coast Guard efforts to get petroleum products off grounded ships, there are often substantial spills, and, when the ships begins to break-up, everything from styrofoam to asbestos starts to go ashore, according to Bruce Erickson, western district office manager for the Alaska Department of Environmental Conservation.

These chemicals and objects affect wildlife from seals, birds and sea lions to the smaller life forms on which larger animals feed.

"The oils pose a particular problem for those animals that rely on defenses that are easily broken down like the fur sea, sea otters and various bird."

In addition, Erickson said waste streams coming from

these vessels can lessen the biochemical oxygen demand (BOD) of the water surrounding the vessels.

"BOD is the amount of oxygen that a body of water has in order to break-down hazardous materials. A good system will have a 125 to 250 BOD rating."

"Some of the BOD ratings for the waste streams from the wrecks can be up to three times less."

Erickson also noted that there are dangers caused by the cargoes left behind on most of these vessels. "Rotting crab and fish create hydrogen sulfide gas which is highly toxic to both humans and animals alike."

He claims that in the cargoes of the ship ALL ALASKAN, off the coast of St. Paul Island, hydrogen sulfide levels have reached the lethal levels. "One whiff and you're gone. Plus it can blow-up if conditions are right. We haven't had any deaths or injuries to either wildlife or humans that I know of yet, but this is a very real danger with a very real consequence."

Erickson claims that eventually rotted cargoes fall through rusted hulls and create a zero BOD rating around the rotted cargo.

"Nothing can live in the water at this rating. There's no oxygen left."

Chemicals aside, marine animals also face the gauntlet of objects, which either wash ashore or continue floating in the sea.

"Some of these processors carry thousands of plastic bags which find their way off a boat

and into the water," said Erickson. "The bags snag birds which either drown or suffocate. Plus we have what we call the 'ghost fleet' of many nets from various wrecks and trawlers." The nets either come ashore and entangle seals and otters or they remain at sea where they entangle the animals and drown them.

Despite the problems, state agencies are strapped for clean-up funds. There are not nearly enough facilities, people and equipment to do an adequate job, according to Erickson.

"Part of the problem with these wrecks is that they are often in remote locations in difficult weather conditions making it hard for clean-up crews to get there," said Lance Traski of the Alaskan Fish & Game Department. Traski notes that it can take up to two weeks for clean-up crews to get to a wreck once it has occurred.

"Besides, there are so many of these groundings that occur in the small islands in the Aleutian chain, that it is impossible to get to most of them in a timely fashion."

Brad Smith of the National Marine Fisheries Service agreed. "The practicality of getting to the wrecks is not very good. They're quite remote. For any rookery in the Pribilof islands in the summer breeding months, an abandoned vessels is as worst case scenario as we can envision," said Smith.

He also noted that because there is such a dense population of seals in such a small

area as the rookeries, that any environmental danger directly effects many seals all at once. "We also really have no contingency plans for rehabilitation of these animals should they become impacted. It's just a mess."

The 43 square mile St. Paul island of the Pribilof chain, is burdened with seven wrecked fishing vessels and is, "gravely impacted," by the vessels, said George Pletnikoff, assistant to the city manager of the City of St. Paul.

The trawler TERMINATOR sits right outside of a bird rookery while the processor ALL-ALASKAN is impacting the valuable for seal breeding ground, according to Pletnikoff.

"Because of the dangers that these wrecks cause, and the hazardous materials on board, we have to expend much energy here in making sure that clean-up occurs quickly in order to mitigate damages to the rookeries. We often have to destroy sensitive tundra in getting machinery to the wrecks. It takes about 50 years for the tundra to regenerate itself."

"We have no choice but to do all we can to clean-up the mess. The rookeries can't wait for weeks or months to get hazardous materials out. But, afterwards is when we start realizing the costs of our efforts. For a small island like St. Paul, it is becoming increasingly difficult."

"We do not have the funds nor the equipment to get everything in time and the wildlife are the ones that are suffering."

Governor Tells Of Opportunity In Washington

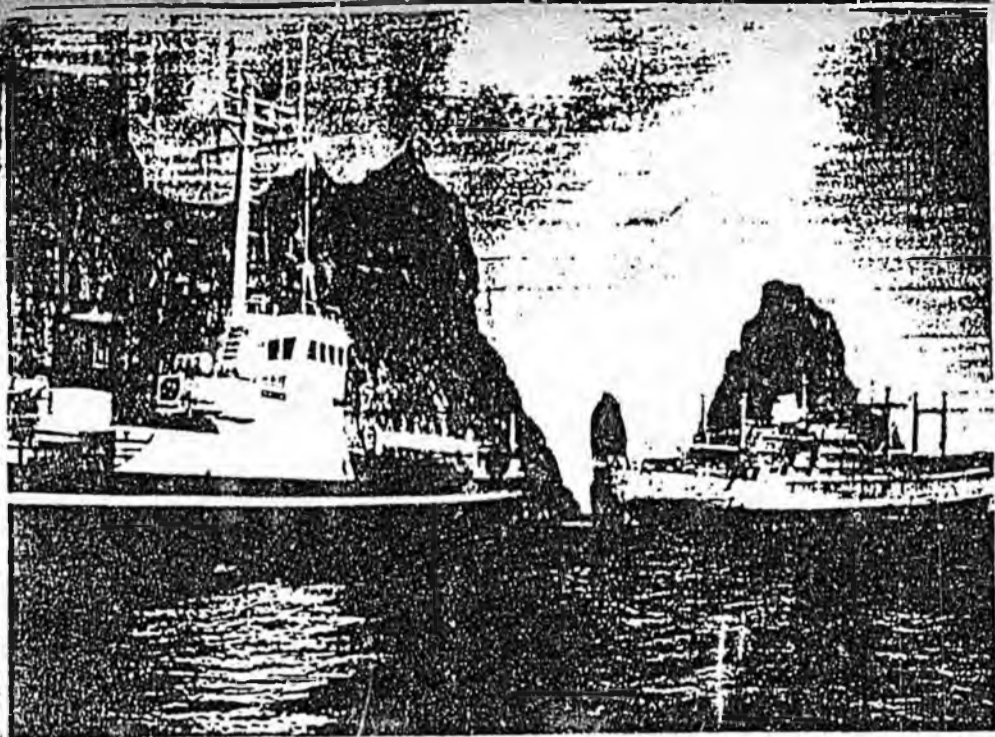
SEATTLE—Over 130 foreign buyers were told about Washington State export opportunities by Gov. Booth Gardner during his opening remarks to the U.S. Meat Export Federation's 1991 Foreign Buyers' Conference in Seattle, June 5 - June 8.

Meat industry executives from Japan, Mexico, Hong Kong, South Korea, Taiwan, Malaysia and Singapore were represented at this event, the only one of its kind in

PRC Hits HK 'Bill Of Rights'

BEIJING—(AP/WIDE)—Basic Law, a Chinese drafted planned for Hong Kong

In 1990, meat exports climbed to record \$2.3 billion



UNWANTED GUESTS PART THREE:

Wreck And Leave Is 'Foolish' Error

By JEAN GELINAS, Jr.
Daily Shipping News Staff

Owners and insurance companies who leave wrecked fishing boats because they feel that it is cheaper than salvaging may be foolish.

If a boat is saved and re-floated, it can often be repaired at much less a cost than if left on the beach, according to Kerry Walsh, marketing director for Fred Devine Diving and Salvage Inc., in Perland.

Walsh pointed to the ARCTIC WIND which sunk with a full load of crab on board in Kalekta Bay near Unalaska Island. Fred Devine Salvage crews removed the crab and re-floated the vessel. It is still in use today as a fishing vessel.

"They are going to have to remove the vessels eventually, and with new legislation and lawsuits, their costs can really add up to much more than what a new vessel might cost. Salvaging the vessel immediately may cost up to \$1 million but leaving it for a year or longer may cost upwards of \$5 million since removing the vessel becomes so much more difficult. Plus, salvaging the vessel immediately makes it so much easier for us."

Removing abandoned and sunken vessels from Alaskan waters can prove difficult for salvage companies. Because of varying conditions, each case is different.

Most often, a salvage company will first work to address any environmental problems, clean-up spills and deal with removal of any hazardous materials which could cause harm to wildlife and humans. "We usually are required to remove any oils, contain any spills and make sure that any toxic substances are taken off board. Alaska has some strict oil legislation. We usually lighter the oil into barges or other safe containers and call other companies which deal specifically with such hazardous substances as freon, ammonia and asbestos," Walsh said.

"After this hazardous material mitigation, what we would do is pretty much dependent on the specific situation of the wreck."

If a vessel has not sustained much structural damage and has remained fairly stable, it is likely that the salvage company will attempt to remove a wreck from a beach or rocks by attaching winches and dragging it out to sea to be sunk or to a salvage/repair yard.

"This rarely happens, though," commented Walsh. "More than likely, when a vessel runs aground on rocks, there are going to be some holes."

"With these wrecks in Alaska, they have been left for

so long after their initial grounding that small holes become bigger holes, cracks in the hull occur and rough seas generally batter a vessel pretty badly. Also, in the winter months, wrecks can become burdened with up to four feet of ice which stresses the frame significantly." It is then necessary for the salvage company to insure the watertight integrity of the vessel before moving it. The company will block off all holes on the upward side of the vessel and attempt to plug any hull holes with steel plate.

The next step, according to Walsh, is to de-water the hull. "Again, though, because most of these ships in Alaska have been wrecked and abandoned for so long, there is usually a lot of sand which may have accumulated at the bottom," said Walsh. Therefore, it is necessary to remove sand by either slurring it or air-lifting it.

Slurring calls for the sand to be disturbed by air jets. The sand then mixes with the water and is pumped out all together. In air-lifting, air is pumped through a steel-pipe placed in the hull. The air creates bubbles which rise into a tube near the pipe. In rising through the pipe, the air bubbles create a vacuum which sucks up the sand through the tube.

In the case of a cracked vessel, the salvage crew may create temporary bulkheads and float out the pieces individually. If there is substantial damage to the underside of the vessel, they may use a technique used in re-floating the EXXON VALDEZ, said Walsh.

In this technique, the hull is secured for watertightness on all sides except the underside. Then, using low-pressure/high volume blowers located on the deck, air is pumped into the hull. The air forces the water out of the hull and creates an air bubble which acts as the new hull bottom. The vessel can then be moved on a cushion of air.

As well as wrecked vessels, Alaskan waters contain many sunken ships which offer a further set of circumstances for a salvage company. "First we would attempt to take off the hazardous materials. Then, depending on where the wreck is, water conditions, and the owner's and authorities' intent for the vessel, we determine what we will do."

He claims that often it will be decided to raise a wreck sunk. In this case, divers would remove any mast or equipment which would block navigational channels. It is standard practice to clear these channels to 30 feet deep at its lowest average low-tide level.

If the ship is re-floated, air bags will be positioned around the hull and slowly filled with air until the ship breaks water level. Then, the vessel will usually be kept afloat using the air bubble method.

"Water pressure decreases as the vessel rises causing the air bags to expand, raising the vessel quicker and quicker. We have to be really careful in regulating the amount of air in the bags to make sure the vessel doesn't rush to the surface and break through the water all of a sudden," Walsh said.

Because of these pressure difficulties, it may be necessary to re-position the bags

several times in re-floating.

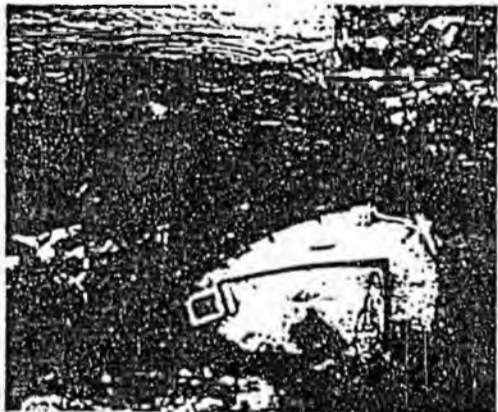
"Salvaging a vessel, especially in Alaska, offers so many different circumstances that it is difficult to pinpoint what should be done all of the time. Each wreck is different and challenges us every time," said Walsh. "Alaskan shipwrecks do share a similar quality however. They have been left sitting for far too long."

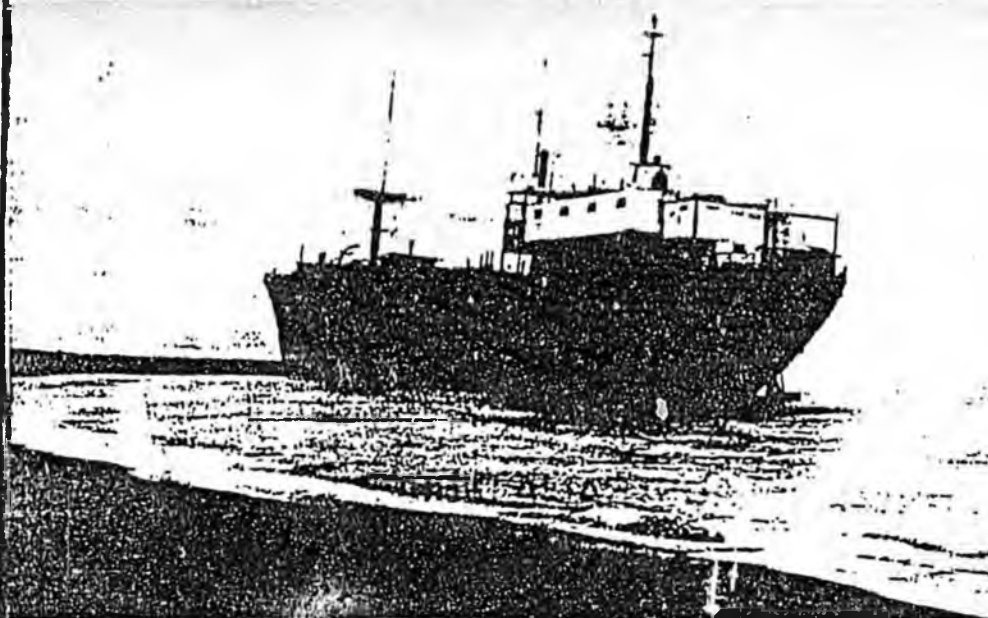
"Shipowners and authorities have to realize that time is of the essence. You wouldn't call three fire departments to get bids on putting out a fire at your house that is happening now but that's what is happening in Alaska right now."



Time is essential in the salvage of ships along the Alaskan coast. In one year the ALASKAN MONARCH, shown shortly after its grounding off St. Paul Island (top photo) went from an intact ship capable of salvage to pieces of scrap scattered along the shore.

—Photos Courtesy Fred Devine Inc.





The ALL ALASKAN, owned by All-Alaska Seafoods Inc. of Seattle, grounded on St. Paul Island in 1987. The ship and All-Alaska Inc. is involved in litigation with the State of Alaska which wants the wreck removed.

Alaska Forcing Removal Of Wrecks

BY JEAN GELINAS Jr.

Daily Shipping News Staff

Alaska wants abandoned shipwrecks removed from their coast.

The "Shipwreck Bill" awaits state Senate approval after passing the Alaskan House of Representatives with 38 votes in favor, 1 abstention and 1 absentee.

The bill is under review by the Alaskan Senate Transportation Committee.

The Alaskan legislature will re-convene Jan. 1, 1992. Rep. Jacko estimates that the bill will come to a vote sometime either in January or February.

The "Shipwreck Bill" (HB232) was introduced into the Alaskan House on April 19 by representatives George Jacko Jr., of the Bristol Bay and Aleutian chain district, and Mike Nayarre, who represents Cook Inlet and the Kenai Peninsula.

The intent of the bill is to force removal of shipwrecks/hulks along the coast.

"The people of Alaska should not have to pay for abandoned vessels or the cost of restoring an area. Owners need to know that this will not be tolerated," Jacko said.

"The Aleutian chain is becoming a junkyard of boats and no one is taking responsibility for their removal. Our shorelines and wildlife are far too precious to be subjected to this kind of treatment."

"My constituency is particularly impacted since many of the wrecks have happened in the Aleutian and Pribilof Islands," Jacko commented.

Jacko's bill strictly prohibits sinking and abandonment of vessels on Alaskan-owned land. It states that if any vessel is left abandoned or sunken for longer than thirty days, authorities and municipalities, "may bring an action in the superior court against a person who owned, controlled or had custody of the vessel or the cargo at the time of sinking or abandonment to recover the costs of removing the vessel or cargo from the land or water of the State or municipality and of restoring State and municipal land or water damaged as a consequence of the sinking or abandonment."

If an abandoned vessel is 58 feet or longer—which most processors and trawlers are—owners will be subject to "twice the costs of removal and restoration."

The bill further states that "the insurer of a person who is subject to an action may be joined in the action to the extent that the contract of insurance between the person and the insurer includes coverage of costs of removal, restoration, or civil penalties."

"The bill is good too because it means if a vessel is abandoned on Alaskan lands,

owners can be held liable. Beforehand, owners would claim that since their agreement with the property and indemnity clubs (P&I) said that they (insurance companies) would take away wreckage, they, as owners, feel they are no longer liable for the wreckage. Now the owners will not be able to pass-the-buck so easily," said Breck Tostevin, assistant attorney general to the State of Alaska.

"The way it works is like a car wreck. When you total your car, you collect from your insurance company and leave the wreck there for the insurance company to remove," Tostevin said. "What is happening here is that a lot of the P&I clubs which insure the hulls on these wrecked vessels, are not living up to their contracts."

"They are responsible for getting that stuff out of here. Yet, since most of these wrecks have sat for one or more years, the cost of removal can be up to \$2 million. P&I clubs realize that it's easier and cheaper just to leave the wreck and the cargo there."

In addition to the bill, Tostevin and Chuck Ray, representing the Tanadgusix

Corp. (TDX)—owner of the upland area of St. Paul Island—are bringing suit against All-Alaskan Seafoods Inc., the owner/operator of the 340-foot fish processing vessel M/V ALL ALASKAN which ran aground on St. Paul Island in 1987. The ALL ALASKAN was carrying 500,000 pounds of frozen, processed crab, wrapped in plastic, when it ran aground.

Alaska and TDX are seeking damages in accordance with various Alaskan environmental, hazardous material and solid waste statutes. They are also bringing suit regarding trespassing and public nuisance statutes.

"We have to do this in order to get owners to take us seriously," Tostevin stated. The current Abandoned & Derelict Ship Act is the Alaskan statute which deals with this particular situation but, "does not carry much punch."

"If a shipowner is to sink or abandon a wreck, all we could do under this law is fine the owner \$500 and charge them with a misdemeanor," Tostevin commented.

Using these various statutes they hope to bring substantial

finances against All-Alaskan Seafoods Inc. through litigation. Under oil spill legislation in Alaska, All-Alaskan Seafoods Inc. is being charged \$50,000 for 43 gallons of diesel fuel spilled. Also, by not removing the vessel and causing various environmental hazards, All-Alaskan Seafoods is facing a \$500 to \$100,000 initial fine for "each violation," plus \$5,000 a day thereafter for each violation. The ALL ALASKAN has been abandoned since March 1987 and faces more than six violations in the State's suit.

Because Tostevin and the State must go to these varied statutes in order to effectively prosecute owners of abandoned vessels, he is happy to see the new legislation.

"It's a great thing. It will make it easier on us. We will have one law with the positive remedies of all the environmental and solid waste laws combined. I think owners need to realize that they can get dinged badly if they leave their vessels sitting around after they've run aground."

Friday: Environmental/Safety Dangers Remain



The TERMINATOR is one of hundreds of fishing processors and trawlers which lay abandoned on Alaskan lands.

PORT OF PORT
 Marine Department
 Activity Report Pub
 On Page 8

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BOON BAY CALENDAR

VESSEL (AGENT)	DESTINATION	DATE
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
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Comet (110) CB		6/19/91

PUGET SOUND Vessels In Port

EXPECTED SHIP POSITIONS—4 AM TODAY

VESSEL (AGENT)	LOCATION
Comet (110) CB	Port 10
Comet (110) CB	Port 7
Comet (110) CB	Port 10
Comet (110) CB	Port 10
Comet (110) CB	Port 10
Comet (110) CB	Port 10
Comet (110) CB	Port 10
Comet (110) CB	Port 10
Comet (110) CB	Port 10
Comet (110) CB	Port 10

GRAYS HARBOR CALENDAR

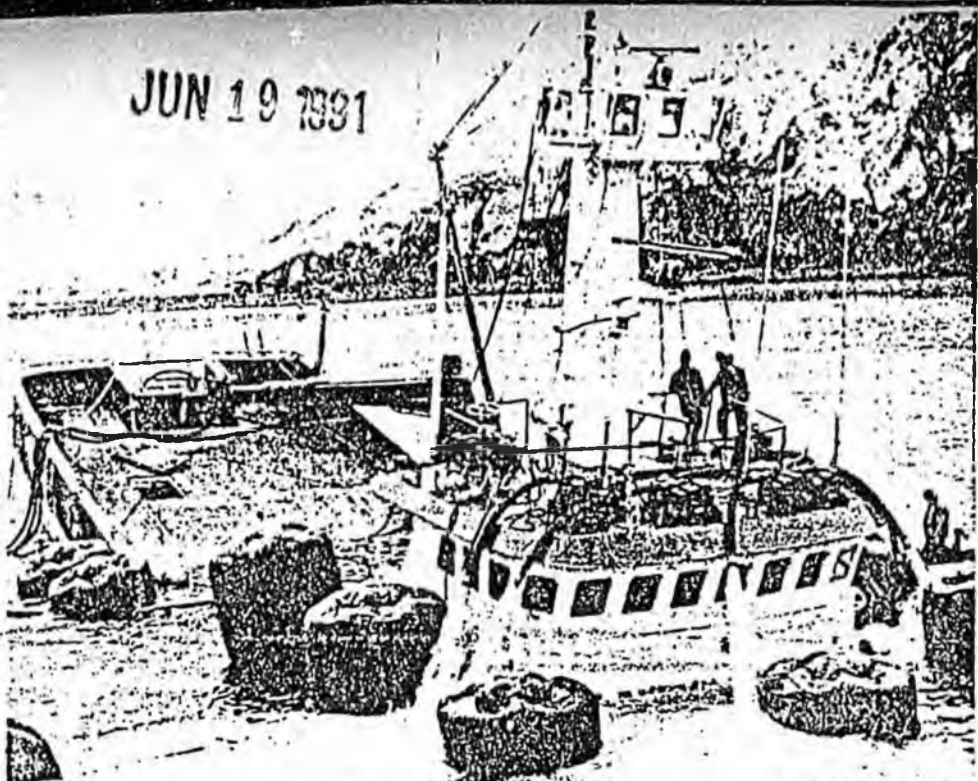
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 and let the obstacle course begin at
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REG
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Salvage of sunken vessels in Alaska waters is frequently difficult but not impossible. The 123-foot crab boat ARTIC WIND was raised from 150 foot deep in Kalekta Bay near Unalaska in the Aleutians. The vessel has since been repaired and is working as a crabber again.
 —Photo Courtesy Fred Devina Inc.

UNWANTED GUESTS PART THREE: Wreck And Leave Is 'Foolish' Error

—SEE STORY ON PAGE 3

WTC Presents June Seminar On Education

A program addressing the international training needs of American business will be presented June 19-20 at World Trade Center Portland (WTCP).
 The programs, entitled "Response of the Nation's Two-Year Colleges to the International Training Needs of American Business," is attracting educators from several western states.
 The two-day program, hosted by World Trade Center Portland and the Small Business International Trade Program of Portland Community College, costs \$65.
 Contact Diane Hunt, WTCP, (503) 464-8887, for registration information.

IDENTIFICATION KEY ON PAGE 6

More Salmon On ESA List

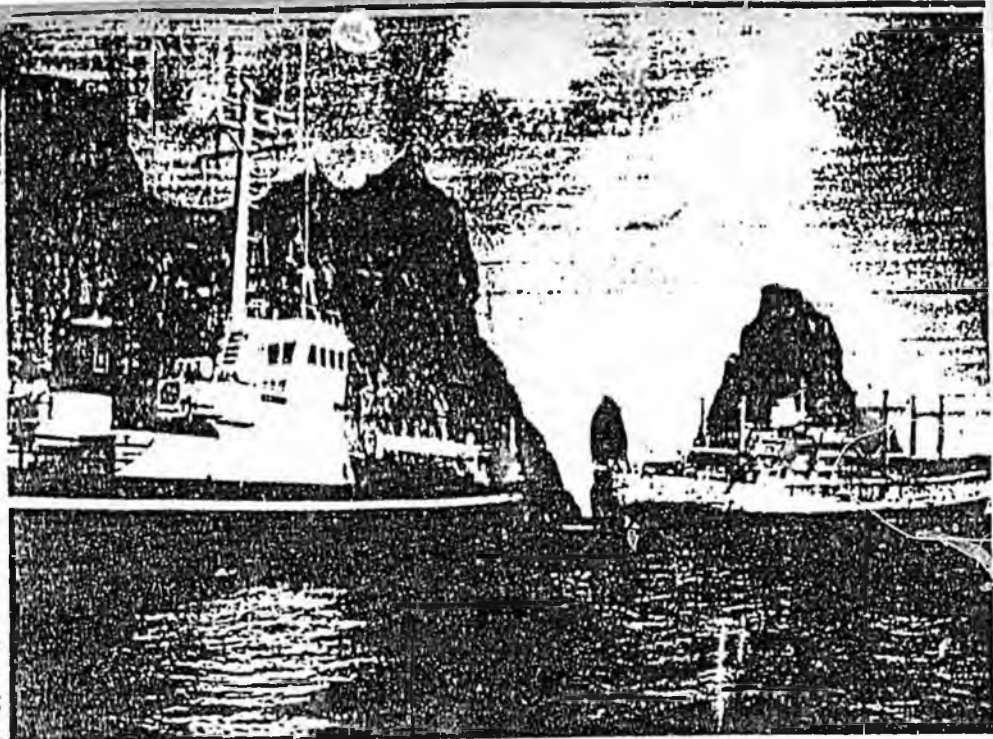
WASHINGTON—In a move that could affect grain shipments on the Columbia and Snake rivers, federal officials tentatively listed two Northwestern salmon types as threatened species on Friday.
 At a news conference in Seattle, the National Marine Fisheries Service proposed that the Snake River's fall Chinook salmon be given protection under the endangered species act and recommended the spring and summer runs of the Chinook be treated as a single population and given the same threatened status.
 However, the fisheries service determined another species, the Lower Columbia Coho, does not warrant protection. In April the agency proposed that the Snake River's Sockeye salmon be given endangered status.
 Adding more salmon to the list of threatened and endangered species could carry what some predict would be great economic ramifications for fishermen, shippers, farmers and utility ratepayers who depend on the rivers for water and hydroelectric power.
 The Snake River flows through Washington's primary white wheat crop area.
 Officials for the region's largest power wholesaler, the Bonneville Power Administration, have suggested that salmon protection could result in wholesale rate increases ranging from 10 percent to 33 percent because water used to generate power would have to be released free of the turbines.
 The National Grain and Feed Association has recommended boosting water flows for two weeks each spring to aid fingerling salmon on their run to the sea. However, fish and environmental groups favor a plan that would increase river flows a full two months each spring.
 Barge operators worry that a two-month increase in flows could raise their costs by millions of dollars and force producers to turn instead to rail or truck shipment. Washington wheat growers are also concerned that a salmon recovery plan could jeopardize the Pacific Northwest's reputation as a reliable supplier of soft winter wheat.

Port Vancouver Meets Tuesday

Port of Vancouver's board of commissioners will be meeting June 11, 9:30 a.m., at 3103 Lower River Rd. in Vancouver USA.
 They will be reviewing the Inter-governmental Resource Center (IRC) annual contribution to the transportation unified work program

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Daily Shipping News 6/19/91



UNWANTED GUESTS PART THREE:

Wreck And Leave Is 'Foolish' Error

By JEAN GELINAS, Jr.

Daily Shipping News Staff

Owners and insurance companies who leave wrecked fishing boats because they feel that it is cheaper than salvaging may be foolish.

If a boat is saved and re-floated, it can often be repaired at much less a cost than if left on the beach, according to Kerry Walsh, marketing director for Fred Devine Diving and Salvage Inc., in Portland.

Walsh pointed to the AR-TIC WIND which sunk with a full load of crab on board in Kaleka Bay near Unalaska Island. Fred Devine Salvage crews removed the crab and re-floated the vessel. It is still in use today as a fishing vessel.

"They are going to have to remove the vessels eventually, and with new legislation and lawsuits, their costs can really add up to much more than what a new vessel might cost. Salvaging the vessel immediately may cost up to \$1 million but leaving it for a year or longer may cost upwards of \$5 million since removing the vessel becomes so much more difficult. Plus, salvaging the vessel immediately makes it so much easier for us."

Removing abandoned and sunken vessels from Alaskan waters can prove difficult for salvage companies. Because of varying conditions, each case is different.

Most often, a salvage company will first work to address any environmental problems, clean-up spills and deal with removal of any hazardous materials which could cause harm to wildlife and humans. "We usually are required to remove any oils, contain any spills and make sure that any toxic substances are taken off board. Alaska has some strict oil legislation. We usually lighter the oil into barges or other safe containers and call other companies which deal specifically with such hazardous substances as freon, ammonia and asbestos," Walsh said.

"After this hazardous material mitigation, what we would do is pretty much dependent on the specific situation of the wreck."

If a vessel has not sustained much structural damage and has remained fairly stable, it is likely that the salvage company will attempt to remove a wreck from a beach or rocks by attaching winches and dragging it out to sea to be sunk or to a salvage repair yard.

"This rarely happens, though," commented Walsh. "More than likely, when a vessel runs aground on rock, there are going to be some holes."

"With these wrecks in Alaska, they have been left for

so long after their initial grounding that small holes become bigger holes, cracks in the hull occur and rough seas generally batter a vessel pretty badly. Also, in the winter months, wrecks can become burdened with up to four feet of ice which stresses the frame significantly." It is then necessary for the salvage company to insure the watertight integrity of the vessel before moving it. The company will block off all holes on the upward side of the vessel and attempt to plug any hull holes with steel plate.

The next step, according to Walsh, is to de-water the hull. "Again, though, because most of these ships in Alaska have been wrecked and abandoned for so long, there is usually a lot of sand which may have accumulated at the bottom," said Walsh. Therefore, it is necessary to remove sand by either slurring it or air-lifting it.

Slurring calls for the sand to be disturbed by air jets. The sand then mixes with the water and is pumped out all together. In air-lifting, air is pumped through a steel-pipe placed in the hull. The air creates bubbles which rise into a tube near the pipe. In rising through the pipe, the air bubbles create a vacuum which sucks up the sand through the tube.

In the case of a cracked vessel, the salvage crew may create temporary bulkheads and float out the pieces individually. If there is substantial damage to the underside of the vessel, they may use a technique used in re-floating the EXXON VALDEZ, said Walsh.

In this technique, the hull is secured for watertightness on all sides except the underside. Then, using low-pressure/high volume blowers located on the deck, air is pumped into the hull. The air forces the water out of the hull and creates an air bubble which acts as the new hull bottom. The vessel can then be moved on a cushion of air.

As well as wrecked vessels, Alaskan waters contain many sunken ships which offer a further set of circumstances for a salvage company. "First we would attempt to take off the hazardous materials. Then, depending on where the wreck is, water conditions, and the owner's and authorities intent for the vessel, we determine what we will do."

He claims, "Not often it will be decided to leave a wreck sunk. In this case, divers would remove any mast or equipment which would block navigational channels. It is standard practice to clear these channels to 30 feet deep at its lowest average low-tide level.

If the ship is re-floated, air bags will be positioned around the hull and slowly filled with air until the ship breaks water level. Then, the vessel will usually be kept afloat using the air bubble method.

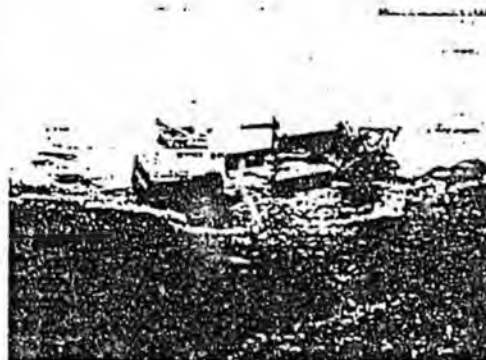
"Water pressure decreases as the vessel rises causing the air bags to expand, raising the vessel quicker and quicker. We have to be really careful in regulating the amount of air in the bags to make sure the vessel doesn't rush to the surface and break through the water all of a sudden," Walsh said.

Because of these pressure difficulties, it may be necessary to re-position the bags

several times in re-floating.

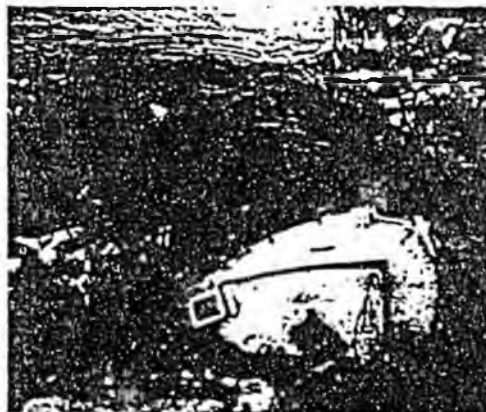
"Salvaging a vessel, especially in Alaska, offers so many different circumstances that it is difficult to pinpoint what should be done all of the time. Each wreck is different and challenges us every time," said Walsh. "Alaskan shipwrecks do share a similar quality however. They have been left sitting for far too long."

"Shipowners and authorities have to realize that time is of the essence. You wouldn't call three fire departments to get bids on putting out a fire at your house that is happening now but that's what is happening in Alaska right now."



Time is essential in the salvage of ships along the Alaskan coast. In one year the ALASKAN MONARCH, shown shortly after its grounding off St. Paul Island (top photo) went from an intact ship capable of salvage to pieces of scrap scattered along the shore.

—Photos Courtesy Fred Devine Inc.



Board of Marine Underwriters of San Francisco, Incorporated

AN AFFILIATE OF AMERICAN INSTITUTE OF MARINE UNDERWRITERS

233 SANSOME STREET

San Francisco, California 94104

TELEPHONE
(415) 981-0350

January 15, 1992

Joh

The Honorable Curt Menard
Chairman
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

Dear Senator Menard:

The Board of Marine Underwriters of San Francisco, Inc. is a trade association representing 19 companies underwriting marine insurance in the Western United States. Pending legislation which would seriously affect marine underwriters has come to our attention. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo."

From a marine underwriter's perspective, there are several important problems with the bill. They include:

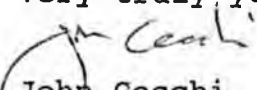
1. Unlimited liability;
2. Direct action against insurers;
3. Uncertainty as to which insurance coverages would be responsible;
4. Retroactive liability;
5. Lack of a statute of limitations.

These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate results could be to increase the cost of underwriting ocean marine insurance in Alaska. Consequently vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets.

We strongly urge that House Bill No.232 not be recommended for approval.

Very truly yours,


John Cecchi
President



**American International Marine Agency
of New York, Inc.**

70 Pine Street, New York, N.Y. 10270
212/770-7000 Cable Address "AMINTMA"
Telex #6716676 or 125227
ITT 420627 or 420724
Fax #212/968-8338

Direct Dial: 212/770- 5932

January 14, 1992

VIA FACSIMILE: (907) 465-3756

The Honorable Curt Menard
Chairman
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

Dear Senator Menard:

As underwriters of ocean marine insurance, we are writing to express concern about pending legislation which could seriously affect vessel owners operating in Alaskan waters and their insurers. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) which has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

1. Unlimited liability;
2. Direct action against insurers;
3. Uncertainty as to which insurance coverages would be responsible;
4. Retroactive liability;
5. Lack of a statute of limitations.

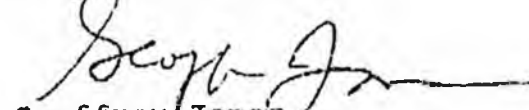
These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate results could be to increase the cost of underwriting ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets.

January 14, 1992
Page 2 of 2

We strongly urge that House Bill No. 232 not be recommended for approval.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Geoffrey Jones", with a long horizontal flourish extending to the right.

Geoffrey Jones
Senior Vice President

GJ/nn



907-486-3910
Box 991

Kodiak, Alaska
99615

January 28, 1992

Senator Fred Zharoff
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Fred,

I understand that there will be a transportation committee hearing on House Bill 232.

As I have stated in the past this bill could devastate the fishing industry in Alaska. I am already paying \$96,000 per year for insurance. I can't afford any more additional expenses. I am only one of many Alaskan fishermen feeling the pinch of lower prices and shorter seasons.

Please do everything you can to stop this bill.

I will be in Anchorage at the Mineral Management Service meeting at the Sheraton Hotel for the rest of the week. Call if you need to talk to me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alvin R. Burch".

Alvin R. Burch

cc: Senator Kurt Menard, Chairman Senate Transportation Committee
Senate Transportation Committee

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PRIORITY MAIL

December 23, 1991

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FAX 802-223-0739

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801-643-1503
FAX: 801-643-1182

CABLES "KEDDE"

RCA TELEX: 228932 BBJHUR

Re: Alaska H. 232
Our File No. 027289-30

Mr. Alan Burch
Alaska Draggers Association
P.O. Box 991
Kodiak, Alaska 99615

Dear Mr. Burch:

As we discussed in our recent telephone conversation, American marine insurers are alarmed by pending legislation in Alaska. H. 232, now pending in the Senate, would prohibit abandonment of and require removal of grounded or sunken vessels and cargoes in Alaskan waters. The bill would establish procedures for their sale by auction. Apparently, some fishing vessels have run aground on the Alaskan coastline and that is the impetus for this measure.

Both marine underwriters and vessels owners would be severely burdened by this proposal. The requirement to remove a vessel or cargo applies to both owners of vessels and of cargo and their underwriters, as well as to any entities who controlled or had custody of the vessel or cargo at the time of the sinking. Consequently, charterers could also be held liable.

The costs recoverable include not only the cost of removing the vessel or the cargo but also environmental restoration costs which could be very high. There is no limitation as to amount, nor is there a statute of limitation. Pollution incidents could come within the scope of this bill. In addition, the legislation could be interpreted to require the removal and clean-up of wrecks abandoned or sunk at any time in the past. The abandoned vessel would not have to be an obstruction to navigation but merely "endanger" natural resources of the state. If enacted, this measure would conflict with federal maritime law.

It is apparent that this legislation could pose a substantial threat to marine enterprises in Alaska, particularly the commercial fishing industry and their insurers. We anticipate that if this legislation were enacted, many marine insurance coverages would become unavailable in Alaskan waters. Industry action could help to avoid a crisis. If no opposition is raised, the bill could pass the Alaska Senate quickly. In the House, it was unopposed.

We are enclosing several packets of material on H. 232 in response to your kind offer to distribute these to interested parties. Each packet contains:

- (1) a copy of H. 232;
- (2) an AIMU bulletin on the legislation;
- (3) a copy of AIMU correspondence with the sponsor of the legislation; and
- (4) a list of Alaskan legislators to be contacted.

Please let me know if you need any further information.
Best wishes for a very Happy New Year.

Very truly yours,
BIGHAM ENGLAR JONES & HOUSTON

By: Marilyn L. Lytle

Marilyn L. Lytle

MLL:mag
Enc.

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January 10, 1992

Senator Curt Menard
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

RE: Alaska House Bill 232

Dear Senator Menard:

As underwriters of ocean marine insurance, we are writing to express concern about pending legislation which could seriously affect vessel owners operation in Alaskan waters and their insurers. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) which has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverage would be responsible;
- 4) retroactive liability;
- 5) lack of a statute of limitations.

These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets and their degree of continuing service to the Alaskan people.

We strongly urge that House Bill No. 232 not be recommended for approval.

Very truly yours,

A handwritten signature in cursive script that reads 'James A. Cunningham'. The signature is written in dark ink and is positioned above the printed name.

James A. Cunningham
Assistant Vice President, Marine

JAC/jmm

January 6, 1992

The Honorable Curt Menard
State Capital
Juneau, Alaska 99801-1182

Re: An Act Relating to Sunken and Abandoned Vessels and Cargo
House Bill No. 232

Dear Senator Menard:

As underwriters of ocean marine insurance, we are writing to you to express concern about pending legislation which could seriously affect vessel and cargo owners operating in Alaskan waters and their insurers. The legislation is entitled, "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) and has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverages would be responsible;
- 4) retroactive liability;
- 5) lack of a statute of limitations;

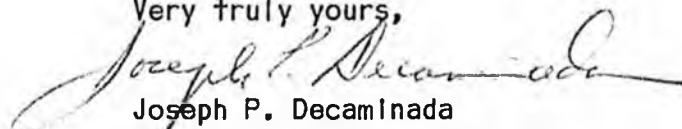
These problems would gravely affect vessel owners, cargo owners and marine insurers.

If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill would have a particularly negative impact on domestic and admitted foreign marine insurers, since jurisdiction over non-admitted foreign and alien insurers is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets and their degree of continuing service to the Alaskan people.

Page 2
Senator Menard
January 6, 1992

We request that as the Transportation Committee takes this bill under advisement, you consider the negative impact it will have on marine insurers stated herein.

Very truly yours,



Joseph P. Decaminada
Executive Vice President
Secretary and Counsel



NORTH AMERICAN REINSURANCE CORPORATION

ONE SANSOME STREET, SUITE 1650
SAN FRANCISCO, CA 94104

TINA TANG
Regional Marine Manager
Secretary

January 10, 1992

TELEPHONE (415) 956-6900
(EX CA) (800) 227-4805

The Honorable Curt Menard
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

Dear Senator Menard,

As underwriters of ocean marine insurance, we are writing to express concern about pending legislation which could seriously affect vessel owners operating in Alaskan waters and their insurers. The legislation is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (House Bill No. 232) which has been referred to your committee.

From a marine underwriter's perspective, there are several important problems with the bill. They include:

- 1) unlimited liability;
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- 4) retroactive liability;
- 5) lack of a statute of limitations.

These problems would gravely affect both vessel owners and marine insurers.

If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill will have a particularly negative impact on domestic marine insurers, since jurisdiction over foreign underwriters is questionable. Enactment would adversely affect American marine insurers' level of competitiveness in world markets and their degree of continuing service to the Alaskan people.

We strongly urge that House Bill No. 232 not be recommended for approval.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Tina Tang", written over a horizontal line.

TT/nw



January 15, 1992

Senator Curt Menard, Chairman
Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

Dear Senator Menard:

The American Institute of Marine Underwriters (AIMU) is a trade association representing 100 marine insurers which underwrite over 90% of the ocean marine insurance written in the United States. A bill which has been referred to the Senate Committee on Transportation regarding abandoned vessels in Alaskan waters presents serious problems for vessel owners operating in Alaskan waters and their insurers. The bill is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo" (H. 232).

We believe that the bill will not accomplish its intended purpose. It would discourage availability of marine insurance rather than assure the availability of coverage. In order that insurance coverage for a liability be available from a marine insurance company, the liability must be defined and there must be a fixed limit. Insurance companies are not permitted to underwrite unlimited liabilities. It would be against public policy and state insurance laws to subject the assets of regulated companies to direct action for unlimited liability. The future costs associated with underwriting a class of business must be predictable and quantifiable. These basic underwriting requirements must be considered if your goal is to assure the availability of insurance to cover wreck removal from beaches.

If the bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. There are several specific problems with the bill from a marine underwriter's point of view. They include:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverages would be responsible;
- 4) retroactive liability;
- 5) lack of a statute of limitations.

If the bill were to become law as drafted, it is likely that several ocean marine coverages would become unavailable in Alaska. Underwriters would be concerned that policies never intended to cover costs encompassed by the bill might now be required to respond.

An underwriter relies heavily upon prior experience when assessing and pricing risk. A retroactive liability would cause further deterioration in an already unprofitable class of business. Insurance regulators should be particularly concerned about the impact of such legislation on a carrier's solvency.

The owner and the underwriter, who participated in a commercial venture and agreed to provide capacity and accepted a known risk in the past, and who were guilty of no wrongdoing according to the laws existing at the time, will be victimized by the retroactive provision.

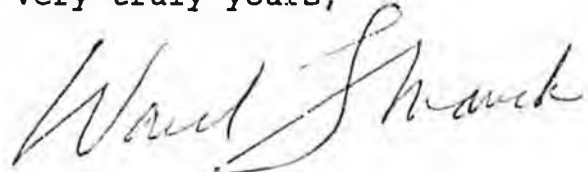
Assessing and pricing future risk, including restoration of the environment and the civil penalty for vessels over 58 feet, will be very difficult. It will almost certainly discourage insurance capacity, and, at best it will substantially increase the cost of available capacity.

The direct action provision against insurers is particularly onerous and would subject marine insurers to liabilities never contemplated when policies were written. There is no need to provide for direct action against insurers. The effect of this provision is particularly self-defeating.

The legislation as proposed would be particularly onerous for the domestic marine insurance industry since foreign marine underwriters would not be subject to the jurisdiction of the state and, therefore, would not be required to respond. The non-admitted, foreign underwriter would thereby enjoy a competitive advantage over the admitted, local carrier.

AIMU urges you to oppose H. 232. We would be pleased to cooperate with you or your staff in providing any further information.

Very truly yours,



Ward L. Mauck
President



M/V MARCY J

F/V ANITA J
Harold Jones

1217 Kouskov
~~Box 182~~
Kodiak, Alaska 99615
tel. (907) 486-4487

February 13, 1992

Senator Curt Menard
State Legislature
Pouch 5
Juneau, Alaska 99811

Dear Senator Menard,

I understand that House Bill #232 will be worked in the committee chaired by you.

I sincerely urge you and your colleagues to do everything in your power to kill this bill!

I have been an Alaska resident fisherman since 1947 and have participated in every type of fishing operation; from Southeast salmon trolling to Bering Sea King Crab; and at the present time am owner of two large fishing vessels.

I do not believe the sponsors of this bill and those who voted for this ~~house~~ bill realize the full impact and added costs it will have on every citizen in Alaska.

Not only could it make Liability Insurance on vessels prohibitive in cost, it would increase the cost of every pound of freight entering or leaving Alaska Ports. I also could make hull liability insurance not available.

I have talked to several insurers who have said if this bill passes they will refuse to write liability insurance for Alaska vessels.

With prices dropping in both salmon and white fish the fishing industry does not need the added problems this bill would cause.

Sincerely

Harold Jones

Harold Jones

PROPOSED REGULATIONS

(Words underlined indicated language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

AS 30.30 is amended by adding a new section to read:

AS 30.30.026:

All vessels operating in Alaska 15 days or more shall [MUST] provide [PROOF OF] financial responsibility for removal of sunken or abandoned vessels, cargo and restoration of environmental damages in the amounts described in AS 30.30.031.

This section does not apply to:

(1) Vessels by route of shipping that will be in Alaska less than 15 days enroute to a destination other than Alaska; has insurance coverage in place with language described in AS 30.30.027.

(2) Vessels defined in AS 30.30.026(1) of this section if the delay enroute is caused by weather or other safety conditions.

(3) Vessels that have coverage as described in AS 30.30.027, for removal of vessel in accordance with the state coverage.

AS 30.30.027:

[AMOUNT OF FINANCIAL RESPONSIBILITY.] Each vessel must be covered by an approved form of financial responsibility. A vessel owner shall maintain financial responsibility in the amount required by AS 30.30.031 for the period the vessel is in Alaska.

Approved form of financial responsibility includes, but not limited to:

(A) **Surety/Insurance.** (1) Financial responsibility with insurance for the applicable amount required in full or in part. The owner shall provide [PROOF OF] insurance issued by an insurer who is either authorized to sell insurance in Alaska under a certificate of authority issued by the Director of the Division of Insurance of the Department of Commerce and Economic Development, or who is an unauthorized insurer listed by the Division of Insurance as meeting the minimum trust or capital and surplus requirements of AS 21.34.040(c).

AS 30.30.027:

(B) **Guaranty.** (1) An owner may demonstrate financial responsibility with a contract of guaranty, in full or in part, for the applicable amount required by AS 30.30.031.

(2) The issuer of the guaranty contract shall meet the requirements of AS 30.30.027(A)(1).

(C) Letters of Credit. An owner may demonstrate financial responsibility with a letter of credit, in favor of the State of Alaska, for the applicable amount required by AS 30.30.031 in full or in part. The letter of credit must

(1) be irrevocable for a period of not less than one year on the part of the issuer; the letter will be automatically extended for one year unless the owner is notified in writing at least 90 days before expiration that the letter will not be renewed; if a vessel is used for less than one year, the letter of credit must cover the period that the vessel is in state waters plus 30 days after the termination or cancellation date;

(2) be irrevocable until satisfaction of a judgment or of a claim against the applicant under AS 30.30.031 subject to the limit of credit;

(3) be a standby letter of credit, to respond specifically to a claim under AS 30.30.031, subject to the limit of credit;

(4) not be used as collateral nor be drawn upon by the applicant, except to respond to a claim under AS 30.30.031 for as long as the letter of credit is used by the applicant as proof of financial responsibility under this section;

(5) be issued by a financial institution that has authority to issue letters of credit, and that is regulated and examined by state and federal banking agencies; and

(6) state an effective date and an expiration date, and must be effective on or before the approval date of proof of financial responsibility.

(7) The issuing bank shall pay upon the presentation by the State of Alaska of a draft or other document as specified in the letter of credit, and shall not make determinations of fact or law which might be at issue between the applicant and the state.

(D) **Other Proof of Financial Responsibility.** An owner may demonstrate financial responsibility for the applicable amount required by AS 30.30.031, in full or in part, with a contract of indemnity or with insurance issued by a group of insureds who have agreed to cover the risk of the group's members provided:

(1) a statement of indemnification issued by the P&I club or insurance syndicate contains [AN ENDORSEMENT THAT MEETS THE REQUIREMENTS OF AS 30.30.028 AND THE] indemnification coverage is in full or in part of amounts required by AS 30.30.031.

[(2) THE P&I CLUB OR INSURANCE SYNDICATE HAS THE FINANCIAL SOLVENCY AND A FAVORABLE HISTORY OF CLAIM HANDLING TO MEET THE OBLIGATIONS CONTAINED IN THE CONTRACT OF INDEMNITY; AND

(3) THE P&I CLUB OR INSURANCE SYNDICATE APPOINTS AN AGENT FOR SERVICE OF PROCESS IN THE STATE.]

AS 30.30 is amended by adding new section to read:

AS 30.30.028:

Financial Responsibility, Removal of Vessels, Cargo and Environmental Restoration Disclosures. A policy that does not contain language or coverage for removal of [IF] vessels described in AS 30.30.031 shall incorporate this language.

"Any other provision of this policy notwithstanding:

(1) this policy insures against liability the insured may incur under Alaska Statute 30.30.031 or any provision cited in it as a result of sunken, abandoned vessel, cargo within or affecting land or waters within the territorial jurisdiction of the State of Alaska; however, the insurer's liability does not exceed the limits of coverage set out in Section (Article or Clause) _____ of this policy, subject to any deductible as specifically set out in Section (Article or Clause) _____ of this policy (binder, certificate);

(2) termination or cancellation of this policy, insofar as it relates to the insured's liability arising from sunken, abandoned cargo, vessel within or affecting land or waters within the territorial jurisdiction of the State of Alaska, shall not become effective until 60 days after notice in writing has been

posted, prepaid and certified, by the insurer to the insured; however, this policy shall apply to all claims occurring before the termination or cancellation date."

(3) An insurer, surety, letter of credit, financial guaranty, P&I club shall respond to damages described at AS 30.30.031 but only with respect to the stated limit of liability contained in and submitted as proof of financial responsibility under this section.

AS 30.30.031(b)(2):

Removal of vessel or cargo:

50 gross registered tons or less: \$ actual of cost of removal
up to \$500,000

51 gross registered tons or more: \$ actual cost of removal up
to \$1,000,000

AS 30.30.031(b)(3):

Coverage equal to 1.5 times the amount stated in AS 30.30.031(b)(2) for the restoration of state or municipal land or water damaged as a consequence of the sinking or abandonment.

AS 30.30.031(b)(2)(3) and (d):

A person who is granted permission under this section to leave a vessel or cargo of a vessel in place is liable for damages incurred by a person, the state or a municipality for the amount stated in AS 30.30.031(b)(2) and AS 30.30.031(b)(3) arising from the presence of the vessel or the cargo of a vessel on or within land or water in the state. Nothing in this section prevents the person, the state, or municipality for recovering damages over and above the stated amounts in superior courts for negligence or breach of contract.

AS 30.30.031(b)(2)(3) and (f):

If a person who fails to remove a vessel or cargo of a vessel under (a) of this section or within the time agreed to under (b) of this section, the department or municipality may remove, or cause to be removed, the vessel or cargo from the land or water of the state or the municipality and restore, or cause to be restored, state or municipal land or water damaged as a consequence of the sinking or abandonment. The department or the municipality may recover the amounts stated in AS 30.30.031(b)(2)(3) as the costs incurred by the department or municipality to remove a vessel or cargo of a vessel and restore state or municipal land or water under this subsection.

AS 30.30.031(b)(2)(3) and (g): Repeal.

AS 30.30.031(b)(2)(3) and (h): Repeal.

AS 30.30.031(b)(2)(3) and (g): Readopt.

The department, municipality, or state may bring an action in the superior court for negligence in violation of AS 30.031(b)(2)(3)(f) for damages over and above the stated amounts in AS 30.30.031(b)(2)(3).

AS 30.30.031(b)(2)(3) and (i):

The department or municipality may assign its rights to recover costs of removing a sunken or abandoned vessel or cargo of a vessel and of restoring state or municipal land or water under this section to a third party that agrees to complete the removal or restoration within a period fixed by the department or municipality and that does complete removal or restoration within the time fixed. The amount of assignment is limited to the amounts stated in AS 30.30.031(b)(2)(3).

AS 30.30.031(b)(2)(3) and (k):

For the purposes of this chapter, the department of municipality or state may commence action within two years of discovery of the abandoned vessel as defined in AS 30.30.025.

Kim
Kimberly A Winslow
P.O. Box 15073
Fritz Creek, AK 99603

Senator Curt Menard
State Capitol
Juneau, AK 99801-1182

February 1, 1992

Dear Mr. Menard:

I just received a letter informing me of a bill (H232) which would require boat owners to pay for removal of grounded or sunken vessels from all Alaskan waters. I see this as a threat to my family in several ways. First of all, it will raise our already high insurance rates and we still may not be covered for the entire expense. As the wife of a fisherman, I also think of the possibility of losing my husband in such an unfortunate circumstance as the sinking of our vessel. This would be tragic, but would be even more devastating if I were held responsible for taking care of getting the vessel removed, as well as restoring the environment. This could leave me penniless. I have three children to provide for also. I know many women who I am sure feel the same way I do.

I am choosing to write to you because I feel that you will respond positively to my request that you do your best to put a **stop** to this ridiculous bill (H232).

Thank you for your time and concern in this matter.

Sincerely,

Kim Winslow

Kim Winslow

MAGONE DIVING AND SALVAGE, INC.

A Subsidiary of Magone Marine Service, Inc.

P.O. BOX 442 DUTCH HARBOR, ALASKA 99692

(907) 581-1400 FAX (907) 581-1495



John

TO: Senator Curt Menard
State Capitol
Juneau, AK. 99801-1182

RE House bill 232

Dear Senator Menard ,

Along with others in the maritime industry I have concerns about bill (232) and the issue of wreck removal in general however my perspective may be some what different than those of most in the industry and therefore possibly of some interest to those considering this legislation.

First let me introduce myself and my business. I moved my ship repair business from northern California to Dutch Harbor in February of 1978. Because of the opportunity and potential Dutch Harbor had to offer and the grace of God , our business " Magone Marine Service Inc " and " Magone Diving and Salvage Inc." A solely owned subsidiary have grown to the combined strength of 42 employees with gross revenues over 6 million per year for the last 2 years.

We are not yet big business but in Alaska's fledgling maritime support infrastucture we are at least a significant player.

Since setting up in Dutch Harbor we have handled most of the successful salvage and or wreck removal projects undertaken in the Aleutians. We have completed successful Salvage or wreck removal operations as far north as Togiak, in Bristol Bay, Sand Point in the Shumagins to the east and on Atka Island in the Aleutians to the west.

In the last few years for reasons of salvage value , or as hazards to navigation we have removed from Alaska's shallow costal waters or beaches quite a number of vessels. some of the more note worthy being the : 260' Shin yang Ho, 103' Skagit Egale ; 90' Pegasus , 123' Sunset Bay . The " Swallow " , a japanese reefer ship of 307' we pulled from the rocks of Ulakta Head , just outside of "Dutch Harbor". The Swallow had been written off as a constructive total loss by her hull & machinery underwriters but the Protection and Indemnity underwriters responded to the public out cry as to her potential abandonment and contracted us to have the vessel removed.

So like other companies in the salvage business we have been keenly interested in the outcome of what wreck removal legislation we knew was coming down the pike.

Unlike some of our competitors however who mobilize up from California , Oregon and Washington ; we are an Alaskan corporation and therefore are also concerned with laws that effect the ecological and business environment of our state.

Let me say that I personally felt insulted that the owners of the Swallow could just abandon their wrecked tramper on the beach a mere 1/2 mile from my house.

However in the interest of protecting our beautiful state and maintain the quality of life for our children that all of us have come to love. Let us be wise in the methods we use to legislate these protective measures.

There are some legitimate concerns over the ensurability of vessels operating in our waters. Terms like unlimited liability are not acceptable to Marine underwriters ,and for good reason, they need to identify their risk if they are to price a policy .

We all need insurance if we are to operate at all. I suggest there are very knowledgeable Maritime attorneys who could help rewrite portions of this legislation to address the major concerns of abandonment but stay within the framework of existing Maritime insurance standards.

I feel that if this law was enacted retroactively it would cause an immediate severe if not crippling burden on owners and insurers who acted in good faith to leave a vessel at the time when that was how it was done up here for so many years. As a salvor I know that if you remove a casualty as soon as possible from its strand its always much cheaper . Once they've sat there for a year or so they are structurally so deteriorated that wreck removal becomes unbelievably expensive. My last point is this ; if Alaska state laws are much different than federal laws then we have the cart in front of the horse.

The greatest risk to our shores is not our own little fishing boats but rather the large commercial traffic passing through our waters.

I believe the problems of wreck removal should be dovetailed with better federal legislation or we are merely penalizing our own fleet and our domestic underwriters while the main problem remains unaddressed.

As a taxpayer it makes me mad to see the United States Coast Guard hiring companies to clean up after foreign vessels spill their bunkers but need be insured for only a portion of the normally expected cost of clean up or wreck removal.

Thank you for hearing my thoughts on this issue I commend your efforts to improve and protect this wonderful state. Let me know if I can be of any service.

cc Senator
Fred Zharoff

Sincerely,

A handwritten signature in cursive script, appearing to read "Don Magone", with a long horizontal flourish extending to the right.

President
Magone Marine Services Inc.
Magone Diving & Slavage INC.

December 28, 1989
P.O. Box 220521
Anchorage AK 99522

Oil Spill Commission
707 A Street
Anchorage, AK 99501

Dear Staff,

It is my understanding that the Commission is wrapping up the oil spill contingency recommendation to be submitted to the state. Unfortunately, I was out of town when you had your public input meetings in Anchorage. I have seven years of experience of salvaging boats in Alaska while working for a local diving company and feel I have a realistic insight to the procedure that is usually followed once there is boating accident. It is because of this experience and the amount of waste and destruction to the shorelines and wildlife I have witnessed that makes me concerned with the smaller boat accidents as well as the large tankers (in 1989 alone, NOAA listed at least twenty boat/barge accidents, most of which involve oil spills).

If a boat, regardless of the size, "gues up on the rocks" the Coast Guard, insurance representative, owner representative, and a marine surveyor along with the divers are called to the scene. The marine surveyor assembles a damage report, cost of repair, and a decision is made whether the boat is salvageable or not. If the boat can be fixed within the insured amount, all is fine. The boat is then repaired or floated to a repair dock, and minimal damage to the coastline is done. If the cost of the repair will exceed the insured amount, and Coast Guard is satisfied that there is not an OIL pollution problem, everyone throws up their hands and goes home. The owner collects from the insurance company who leaves the boat to rust where it is because there are no laws protecting our beaches from this kind of pollution. If boat owners are going to fish and perform other work in Alaska's waters, then they should be responsible for cleaning up after themselves. A law should be passed requiring that a shoreline, after a boating accident, be in the same condition when cleanup or salvage is complete than before the accident. That means no oil ^{should be} left to kill wildlife or disperse, no rotting crab traps, boat parts, or hull pieces. And, a boat should not be blown up in place unless all the pieces can be recovered and removed. Ironically, when the insurance company declares the boat a total loss, they will demolish the boat in place, not trying to salvage any equipment, to reduce the cost of their loss, another waste that could reduce costs.

-2-

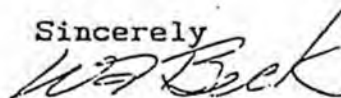
The people of Alaska, the individual municipalities of the state, and/or the state itself, should not have to bear the burden^A the cost of restoring an area because of an individual's neglect.

We need to put a stop to a practice that is becoming all too common. It should not be a case of "Out of Sight, Out of Mind". A boat should not be allowed to sit and rust on the shoreline, just because it wasn't in front of your house. They are a form pollution; and, the state should give fair warning to all boat owners, insurance underwriters and companies that we are going to protect these shores and preserve them, and the owners will be held liable for their neglect.

Alaska needs to have a set policy, procedures to follow once there is a boating accident so everyone will know who to call, who is responsible, who is liable, and who is in charge. I have been on too many jobs where the oil has drifted away, time/money is wasted, or a salvageable boat is lost because no one knew who was calling the shots. No one wanted to take charge. Now is the time to create these laws to reflect this attitude. Once again this concept of making people responsible for their own actions, and creating set procedures should be part of your oil spill contingency recommendation to the state.

If you would like more information please feel free to call me. Thank you.

Sincerely



William T. Beck
(907)-248-1967

cc: Govenor Steve Cowper
cc: Representative Cliff Davidson
cc: Senator Bettye Fahrenkamp
cc: Senator Patrick Rodey
cc: Frank Murkowski
cc: Senator Ted Stevens
cc: Congressman Don Young

14 September 1990

SEP 24 1990

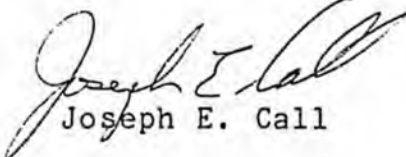
Dear Representative Jacko,

I am writing to request information for my wife and I to use in our consideration of relocating to Alaska. We would appreciate information on the area you represent to help us with our decision of location. Several considerations that we are examining are employment, housing and education. Specifically, we would like to request addresses of employers in your area, types of employment and salary ranges. This information would be extremely beneficial in our search.

My wife and I are both college graduates and have several years of varied experience. I have served over six years with the Army and am currently a Captain in the Infantry. I have a Bachelor's degree in History and have considered teaching as a possible area of employment. My wife has a Master's degree in Counseling and Human Development and is currently employed in the chemical dependency area. We would both like to consider a variety of employment opportunities.

We look forward to your response with information that we can use in our relocation to your wonderful state of Alaska. Please address any information you feel may be beneficial to: Joseph and Tammy Call, 2609 Phyllis Drive, Copperas Cove, Texas, 76522. Thank you.,

Sincerely,


Joseph E. Call



Glacier Charter Service

P.O. Box 1832 • Valdez, AK 99686 • (907) 835-5141
P.O. Box 70333 • Seattle, WA 98107 • (206) 789-2204

1/19/92

Senate Committee on Transportation
State Capitol
Juneau, AK 99801-1182

John

Dear Sirs:

We of Glacier Charter Service, operating in Prince William Sound out of Valdez Alaska would be put out of business if insurance was not available to us or was financially out of our reach. We have been notified by our insurance company that if Alaska House Bill 232 were made law, insurance would be extremely expensive if available at all to ships and boats operating in Alaska. The law as it is now is adequate and is in line with the Federal Wreck Removal Statute.

My sincere desire is that you strongly oppose this bill.

Thank You,

Captain Frederick R. Rodolf

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

January 28, 1992

The Honorable George Jacko, Jr.
Alaska House of Representatives
Room 415, Capitol
Box V
Juneau, AK 99811

Dear Representative Jacko:

This letter responds to your inquiry of January 22, 1992 concerning H.B. 232, "An Act relating to sunken and abandoned vessels and cargo." You ask that we address concerns raised by marine insurers concerning certain aspects of this legislation. Our response is as follows:

"Unlimited Liability" of Insurers: The bill does not impose liabilities on insurers that are not already set forth in their policies of insurance. An insurer is only liable for coverage limits provided for in its contract of insurance.

Under current practice, a vessel owner obtains different levels of coverage for a particular risk. Different underwriters or insurers will in turn insure different layers (or coverage amounts) under the policy. For example, one insurer or company will provide wreck removal coverage for the first \$250,000 and another for the next \$500,000 and so forth until one insurer provides an umbrella amount for all liabilities over and above the previous amount. Nothing in H.B. 232 would change this practice or impose liabilities not set forth in the insurer's policy with its insured.

Direct Actions Against Insurers: This provision would allow the state or a municipality to proceed directly against an insurer "to the extent that the contract of insurance between [the owner] and the insurer provides coverage of the costs of removal, restoration, or civil penalties for failure remove a . . . vessel or restore [public lands]." Section 6, AS 30.30.031(h). As discussed above, the provision does not impose liabilities not set forth in the policy of insurance. These direct action provisions are standard practices in Louisiana and have been adopted as part of oil spill financial responsibility legislation in numerous states and in the federal Oil Pollution Act of 1990. The direct action provision provides an important remedy should a "one-ship" corporation decide to declare bankruptcy or otherwise evade its public responsibilities under the Act.

"Uncertainty As to Which Insurance Coverages Would be Responsible": The legislation is very clear about the liabilities it is addressing: 1) removal of abandoned vessels and 2) restoration of public lands as a result of the sinking or abandonment. Insurers will be able, as is presently the case, to structure their policies to cover only certain aspects of these areas be they cargo liabilities, pollution liabilities or wreck removal liabilities.

Retroactive Liability: The bill does not impose retroactive liabilities in the legal sense. The bill does apply to vessels abandoned as of its effective date. However, under existing statutes it is

The Honorable George Jacko, Jr.

January 28, 1992
Page 2

already illegal to abandon a vessel on public lands. This legislation simply strengthens the current law and provides needed remedies to bring polluters into compliance with existing requirements.

"Lack" of a Statute of Limitations: While the bill itself does not create its own unique statute of limitation, pre-existing statutes of limitation contained in AS 09.10 apply to the legislation. As a result, contrary to the assertions of concerned marine underwriters, the liabilities contained in the Act are subject to the appropriate statute of limitation.

We trust that this response will be of assistance. We also understand that the Department of Natural Resources is working with the Department of Commerce, Division of Insurance in an effort to further respond to some of these concerns raised by the marine insurance industry.

If we can be of further assistance, please let us know.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL



By: Breck C. Tostevin
Assistant Attorney General

BCT:bkn

cc: The Honorable Mike Navarre
The Honorable Curt Menard
Chair, Senate Transportation Committee
Deborah Behr
Ron Swanson

STATE OF ALASKA
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

Oil Spill Litigation Section
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501
907/269-5100

call 465-4942
to
get fax

Our Fax Number: (907) 278-7022

FAX TRANSMITTAL LETTER

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PLEASE DELIVER THE FOLLOWING PAGES TO:

Rep. George Jacko, Jr.
Attention Bryce Edgmon
Alaska House of Representatives

FAX NO: 465 2997

Total Number of Pages including cover letter: 3

DATE: 1/28/92 TIME: 12:25 p.m.

FROM: Breck Tastevin, Assistant Attorney General - Anchorage

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL:
bonita nipper or Nina Rebeschke at (907) 269-5274.

MAGONE MARINE SERVICE, INC
P. O. BOX 442 - DUTCH HARBOR, AK 99692
PHONE (907) 581-1400
FAX (907) 581-1495

DATE: 1/29/92

TO: Sen. Curt Menard FAX 465 3756

PAGE 1 OF 4 INCLUDING THIS PAGE

COMPANY: State Senate Committee on transportation

FROM: Dan Magone

RE: House bill 232

Senator Menard

I understand that H 232 is coming before the
Committee on transportation tomorrow the 30th
therefore please review my letter to see if it
has sufficient bearing to mention in this hearing.

These issues are important to many of
who reside as well as do business in Alaska's
Maritime environment.

Thank you for this consideration.

Sincerely

Dan Magone

907-486-3910
Box 991



Kodiak, Alaska
99615

February 11, 1992

Senator Kurt Menard
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Menard,

I understand from Senator Zharoff that House Bill 112 sponsored by Representative Jacko is in a work committee chaired by you.

I would like to take this opportunity to urge you to do every thing in your power to kill this bill.

I am enclosing two bulletins from American Insurance of Marine Underwriters that outline some of the problems I don't agree with their goal as stated in paragraph 1 last sentence. You as a dentist surely understand the escalating cost of insurance. We don't need any additional bills or costs.

I am told that Rep. Jacko put the House version of the bill through the urging of the Privilonians because of their problems with a few wrecks on their coast. Instead of punishing the entire fishing industry and destroying alot of Alaskan fishermen why don't they capitalize on the wrecks. Turn them as a tourist attraction. Many people are fascinated with shipwrecks and hearing stories about them.

One additional comment. Mr. Jacko may think he protected the salmon fishermen with the 58' exemption. This is wrong. Almost all of the tenders and supply/trawler vessels will be impacted.

Sincerely,

Alvin R. Burch
Executive Director

Harvesting Alaskan Shrimp and Whitefish



AMERICAN INSTITUTE OF MARINE UNDERWRITERS

May 13, 1999

Honorable George Jacko, Jr.
 of Representatives
 Capitol
 Anchorage, Alaska 99811

Representative Jacko:

The American Institute of Marine Underwriters (AIMU) is an association representing 100 marine insurers which underwrite over 90% of the ocean marine insurance written in the United States. A bill which we understand you hope to introduce to the Alaska legislature regarding abandoned vessels in Alaskan waters has been referred to AIMU. The bill is entitled "An Act Relating to Sunken and Abandoned Vessels and Cargo."

We believe that as drafted the bill will not accomplish its intended purpose. It would discourage availability of marine insurance rather than assure the availability of coverage. In order that insurance coverage for a liability be available from a marine insurance company, the liability must be defined and limited to a fixed limit. Insurance companies are not permitted to underwrite unlimited liabilities. It would be against public policy and state insurance laws to subject the assets of regulated companies to direct action for unlimited liability. The extra costs associated with underwriting a liability of business must be predictable and quantifiable. These underwriting requirements must be considered if your goal is to assure the availability of insurance to cover wreck removal from beaches.

If the bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. There are several specific problems with the bill from a marine underwriter's point of view. They are:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverage would be responsible;

AIMU

- 4) retroactive liability;
- 5) lack of a statute of limitations.

If the bill were to become law as drafted, it is likely that ocean marine coverages would become unavailable in Alaska. Underwriters would be concerned that policies never issued to cover costs encompassed by the bill might not be able to respond.

An underwriter relies heavily upon prior experience when assessing and pricing risk. A retroactive liability would cause a rapid deterioration in an already unprofitable class of business. Insurance regulators should be particularly concerned with the impact of such legislation on a carrier's solvency.

The owner and the underwriter, who participated in a special venture and agreed to provide capacity and accepted a special risk in the past, and who were guilty of no wrongdoing relating to the laws existing at the time, will be victimized by the retroactive provision.

Assessing and pricing future risk, including restoration of environment and the civil penalty for vessels over 55 feet, will be very difficult. It will almost certainly discourage insurance capacity, and, at best it will substantially increase the cost of available capacity.

The direct action provision against insurers is particularly onerous and would subject marine insurers to liabilities never contemplated when policies were written. There is no need to provide for direct action against insurers. The effect of this provision is particularly self-defeating.

Generally, those who insure liability for fishing vessels cover wreck removal where required by law. Currently, Federal law requires removal if the wreck hinders navigation. If responsibility for wreck removal were imposed by Alaskan law on fishing vessels owners in Alaskan waters and if the law were amended giving recognition to the issues we have raised, the underwriters of fish boats anticipate that coverage would become available.

The costs of the coverage would depend on the amount of liability and the length of time the liability would continue to exist. The liability should be clearly defined as wreck removal. The addition of concepts such as "restoration" to the

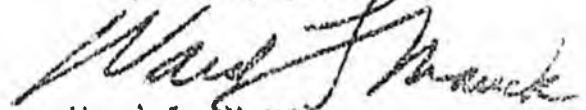
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AIMU

ment could prove to be unquantifiable and, therefore, difficult or impossible to underwrite.

The legislation as proposed would be particularly onerous to the domestic marine insurance industry since foreign marine underwriters would not be subject to the jurisdiction of the United States and, therefore, would not be required to respond. The admitted, foreign underwriter would thereby gain a competitive advantage over the admitted, local carrier. We urge you to reconsider the drafting of the proposed legislation. We would be pleased to cooperate with you in our

Very truly yours,



Ward L. Mauer
President



BULLETIN

Alaskan Legislation on Wrecked Vessels

The American Institute of Marine Underwriters (AIMU) is concerned about pending legislation which could seriously affect vessel owners operating in Alaskan waters and their insurers.

The proposed legislation would subject vessel owners and their insurers to substantial liability for removal costs, environmental restoration costs and penalties for removal of wrecked vessels. This would be true even though navigation is not required, in contrast to the Federal Wreck Removal Statute. The legislation could be applied retroactively, so that if a vessel, which sank 10 or 20 years ago, washes up on shore, the owner and underwriter could suddenly be subject to unlimited liability for removal and restoration costs. Both the vessel owner and the underwriters, who committed no wrong doing at the time of the sinking, would be victimized by the retroactivity provision.

Alaska H 232 was introduced by Representative [redacted] and passed the Alaska House in the Spring. It will be considered by the Alaska Senate in the legislative session scheduled to commence in January of 1992. ~~AIMU understands that Senator [redacted] will be sponsoring the bill in the Senate.~~

If the bill were enacted in its current form, the immediate effect would be to discourage the underwriting of marine insurance in Alaska. There are several specific problems with the bill from a marine underwriter's point of view. They are:

- 1) unlimited liability;
- 2) direct action against insurers;
- 3) uncertainty as to which insurance coverage would be responsible;

-2-

- 4) retroactive liability;
- 5) lack of a statute of limitations.

If the bill were to become law as drafted, it is likely that general ocean marine coverages would become unavailable in Alaska. Underwriters would be concerned that policies never intended to cover costs encompassed by the bill might now be required to respond.

Admiralty attorneys who have reviewed the proposed legislation have expressed alarm. Instead of clarifying responsibility for wrecked vessels, H 232 would throw existing law and wreck removal into complete disarray.

H 232 is not just a problem for underwriters. Vessel owners, charterers and cargo owners would also be subject to liability. Failure to remove in thirty days could also result in conviction for a misdemeanor. Owners of certain vessels would be subject to an additional penalty of double the removal and restoration costs.

Under H 232, a municipality could insist on the expenditure of enormous sums to remove vessels or cargoes, even though there is no threat to navigation and no real danger of pollution.

H 232, if enacted, would pose serious problems for vessel owners, charterers, cargo owners and marine underwriters. Availability of marine insurance in Alaska would be seriously affected. AIMU hopes that all affected parties can work together to avoid such a crisis. Please contact AIMU counsel Marilyn [Name], at (212) 732-4646.

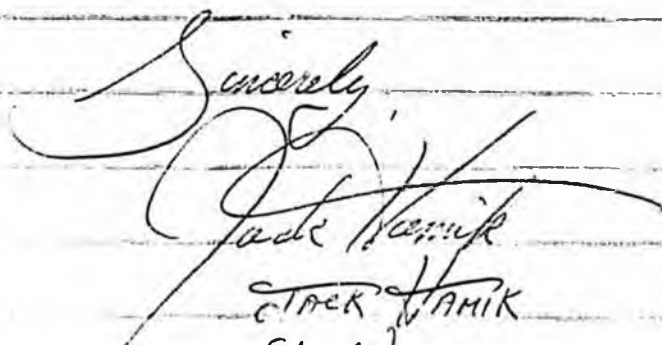
RECEIVED FEB 6 1992

TO: FRED ZARHOFF

RE: H 232 - REMOVAL OF WRECKS FROM ALASKAN WATERS

Dear Sir,

Please do not saddle our fishermen
with more liability than we know what to
do with. Remain consistent with Federal law
and remove impediments to navigation, but
please - defeat H. 232.

Sincerely,

JACK KENIK
c/o WILKESONG
4002 KACHENAK WAY
HOMER, ALASKA 99603

**KODIAK LONGLINE
VESSEL OWNERS' ASSOCIATION**



326 CENTER AVENUE, P.O. BOX 135
KODIAK, ALASKA 99615
(907) 486-3781 FAX (907) 486-2470

HALIBUT • SABLEFISH • PACIFIC COD • CRAB

February 12, 1992

Senator Curt Menard, Chairman
SENATE TRANSPORTATION COMMITTEE
Alaska State Legislature
Juneau, Alaska

Sent by Fax: 465-3756

Dear Senator Menard,

I am writing in regards to HB 232 which is before your committee on February 13th.

We would like you to know that we are deeply concerned about the ramifications if this bill becomes a law. We have heard from insurance companies that coverage will not be available for vessels in the event of a sinking, or that coverage may be severely restricted.

This issue has been discussed among fishery groups and I can say that in almost every case, there is opposition to the bill. My members held a meeting this past week and wanted me to let you know that they do not support the bill. If the bill is passed, they believe that their commercial fishing ventures will be limited, if not eliminated due to the inability to acquire insurance.

Sincerely,

A handwritten signature in cursive script that reads "Linda Kozak". The signature is written in dark ink and is positioned above the printed name and title.

Linda Kozak
Director

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Excerpt from Insurance Issues Report
February 14, 1992
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HB-232. Sunken or Abandoned Vessels

The Senate Transportation Committee held a work session on HB-232 on February 13. Sen Curt Menard, committee chair, was the only member present.

HB-232, sponsored by Rep. George Jacko, requires the removal of sunken or abandoned vessels and cargo unless the agency having jurisdiction gives permission to do otherwise. Abandoned vessel is defined in the bill as a vessel that is unattended; sunk, aground, or in immediate danger of sinking or grounding; and one that obstructs navigation or endangers life, personal or real property, or natural resources of the state; or one that has been moored or otherwise left unattended in or on water of the state or a municipality of the state for more than 30 days without permission. The bill would apply to all vessels and cargo of vessels, other than those designated as historical monuments or sites, that have been sunk or abandoned.

Sen. Menard said his office and the sponsor have been inundated with opinions about this bill and it was his desire to air those opinions in a more informal setting. He said he would like to find some "middle ground" with this bill and if so move it forward. He said he concurs there is a problem with abandoned vessels, but doesn't know if there is an answer to this problem that is economically feasible in Alaska.

Marilyn Lytle, a representative for the American Institute of Marine Underwriters, said her trade association represents about 110 domestic marine insurers that write over 90 percent of the marine insurance in the US. She prefaced her comments by saying she is not aware of any wrecks that have not been removed in Alaska where P&I coverage was provided by domestic insurers. Lytle said this bill would have several impacts on domestic insurers, vessel owners, and maritime commerce in Alaska. She pointed out three specific problems she sees with this legislation.

1. Lytle believes this bill is retroactive to cover all existing wrecks and requires them to be removed within 30 days. She said no premium has been collected for this retroactive exposure. Lytle said she understands there is one wreck in Alaska that may cost as much as \$20 million to remove. She added she has been told this bill is not intended to be retroactive, but she has consulted many maritime attorneys that do not agree with that opinion.

Breck Tostevin, an Assistant Attorney General, said the way the bill is now drafted, it applies to grounding as of the effective date of the bill. He said any groundings that occurred before the effective date of the law would need

permission to stay on state or municipal property. Tostevin said that wreck removal is required under existing state law and no new liability would be added by this bill except new penalties for failure to remove a wreck. He added it is not really retroactive liability in a legal sense.

Lytle does not agree that current state law requires wreck removal and added the state doesn't have the resources to either remove or salvage wrecks within 30 days. Tostevin said the law would allow the state or municipality to grant an extension to the 30 day removal period, but it must be sought within the first 30 days. Tostevin said the state's Derelict Vessel Act states it is illegal to abandon a wrecked vessel, and environmental statutes make it illegal to abandon hazardous materials. Additionally, there is common law based on trespass and public nuisance theories that make it illegal to leave a vessel on another's land. Tostevin said there may be municipal requirements as well.

Lytle said that domestic insurance contracts cover wreck removal under federal statutes, which require removal only when it is a hazard to navigation. She said the contracts do not consider removal when a vessel does not interfere with navigation. She added that there is a proviso in the Derelict Vessel Act which states that nothing in the Act will conflict with federal law. She said federal law allows a vessel owner to abandon a wreck, as long as it is not done negligently. It then becomes the obligation of the Corps of Engineers. Lytle added that there are several municipal cases that have held that the federal statute is preeminent. She urged the committee to address this issue before moving forward with the bill.

Tostevin said that the federal act was amended in 1986. Regardless of fault, he said a wreck that is a hazard to navigation must be removed. He added that the law doesn't say anything about abandonment. Tostevin said he does not believe that this law would be preempted by the federal statute.

A US Coast Guard representative, named Rand, said he agrees with Tostevin that present state law does not conflict with the federal law.

Lytle asked the committee to look at the public policy behind the federal Limitation Liability Act in regard to vessels. She said it was created to protect those in marine vessel commerce against catastrophic losses. Tostevin said this law was passed in 1851 and doesn't extend to wreck removal or trespass actions.

2. Lytle said her second problem with the bill relates to the direct action provisions against underwriters. She said that a P&I insurance contract is one of indemnity; it is not a liability policy. Lytle said that underwriters are unwilling to subject the assets of their company to direct action and multiple suits. She added that only one amount is available under a contract and if this language becomes law she believes most domestic underwriters will withdraw from Alaska. Lytle believes direct action is in the bill because of the difficulty the state is having in gaining jurisdiction over P&I clubs. She said she doesn't

think this will solve their problem, but added it will make insurance harder to obtain.

Tostevin asked that if P&I insurance underwriters are already hiring lawyers to defend their insured in court for coverage under their policy, why is direct action more onerous? Lytle said direct action exposes an insurer to multiple suits because the contractual liabilities are beyond the policy. She said it is against the public policy of any state in the US to subject an insurance company's assets to unlimited liability. She said just because someone may say the liability is limited to contractual terms doesn't mean that it will be interpreted that way by the courts who may be looking for a deep pocket.

Ray Gillespie, representing Crowley Marine, Delta Western, and Petro Marine, said that based on the experience of his clients with marine pollution insurance, direct action is a problem: in most cases it is totally unavailable. If this bill passes, Gillespie said his clients have been informed that insurance for marine and diesel fuel carriers may dry up in Alaska.

Tostevin said that the Alaska Legislature first instituted direct action for marine insurance in 1981, in a law requiring proof of financial responsibility to cleanup oil spills. At that time, the insurers said they would not write policies of this sort. He added that after the law was passed and for the next ten years, such policies were available. Tostevin believes if this law passes the same thing will probably happen again. Lytle said that no one in Alaska is in compliance with that law now because the insurance is not available.

Gillespie said for a period of time direct action was available. Since the Exxon Valdez oil spill, however, it has not been available and Gillespie said one of his client's is operating under a conditional permit from DEC that may be illegal. He said legislation may be necessary to address this issue.

3. Lytle said as drafted, there is no limit to liability in this bill. She said an underwriter must be able to rely on a set limit of liability to price a policy and underwrite it. She added unlimited liability presents a solvency problem for insurers. She said if there is no limit to liability it affects the vessel owners as well. She said if this law passes, it is possible there will be coverage available, but it will be expensive. Additionally, she doubts whether the limits available would cover the actual removal cost of a wreck, placing the vessel owner in a position of significant uninsured exposure.

Tostevin does not believe this bill allows direct action beyond policy limits. He said the intent is to only allow direct action within coverage limits. He asked why it is difficult to calculate the cost for this type of insurance when insurance companies now calculate losses under the federal navigation requirements. Lytle said there is over 100 years experience with the federal law so insurers know the exposure, and marine insurance is experience rated.

Ken Sykes, Division of Insurance, said if this bill passes there could be two court actions. First, the insurer could sue the insured saying he didn't live up to

the terms of the agreement by abandoning his vessel without proper notification and therefore the insurer is not responsible. At the same time the insured could sue the insurer for policy coverage. Sykes added that there is actuarial data, but it is not available for Alaska.

Lytle said it is confusing which underwriter Tostevin is talking about. She said that wreck removal is a liability under a P&I policy. There are some instances where a hull underwriter will pay for salvage she added, but only if the value after salvage exceeds the cost of salvage. She said the "hull problem is exacerbated" under this bill and it is confusing which underwriter should respond. She added that under this bill a hull insurer could be liable for wreck removal as well as a P&I insurer.

Menard asked Lytle when a hull underwriter pays off and when P&I coverage applies. She said that wreck removal is a liability covered under P&I coverage, but only as required by law. She said the federal statute is contemplated in the coverage, requiring removal only when it is a hazard to navigation. She said that coverage under P&I could be expanded to cover the Alaska wreck removal liability, but it would cost substantially more and would subject the vessel owner to greater exposure. She said if the expense for wreck removal is as high as she has been told, she doubts that coverage would pay the full cost of removal. Lytle said premiums must support losses in the insurance business. She said the more payments made for wreck removal, the higher the cost of insurance.

Lytle said there could also be an insurance availability problem for fishing vessels since it is such a hazardous class of business. She said companies that are marginally involved in writing insurance for these vessels now, may withdraw from the market if this legislation becomes law.

Lytle proposed three other approaches the committee could consider:

- ** increasing penalties and requiring preventative measures;
- ** establishing a fund to cover catastrophic costs of removal;
- ** reviewing whether the federal government has preempted this area.

Lytle said she sees this third issue as a significant problem and advised the committee that if it is not addressed now, the bill may be back in several years when insurers refuse to pay claims because they argue that the federal law preempts this state law. She added that Florida has a fund to cover catastrophic removal costs that is managed by their Dept. of Natural Resources. She said there is a proviso in the Florida law, however, that states it may not conflict with federal law. Lytle said that the Corps of Engineers has changed its regulations in the Gulf of Mexico recently due to problems with pipelines. She said the committee may contact the Corps to see if changes are forthcoming in regard to wrecked or abandoned vessels.

Dean Paddock of the Bristol Bay Driftnetters Association, comprised of boat owners of vessels less than 32 feet, said fishermen are on the ropes now and can't stand any increases in their costs. Paddock said he has been assured by

his insurance people that if this bill passes, insurance costs will rise. He said that P&I is not always the largest item in a policy, but any increase will be difficult for the small boat owner. Paddock said he is not sure the "problem is big enough for this draconian response." He believes there are probably adequate provisions in the federal statute to address the really pressing problems.

Tostevin said this legislation is not targeted at the small vessels, that the problem is usually with the larger vessels. Current state litigation is with foreign vessels over 90 feet in length. He said it is difficult to tell how insurance costs will rise, since they may already be rising due to difficulties within the fishing industry. Tostevin said there is a definite problems with wrecked and abandoned vessels in the Aleutian and Pribilof Islands, particularly on St. Paul. He said he understands there are problems in Southeast Alaska as well.

Sen. Menard said it is his job to look at both sides of the issue and try to come up with an acceptable compromise. He said there may be no responsible way to handle this bill and the committee may have to look at other possible solutions.

Bryce Edgmon, aide to Rep. Jacko, said the sponsor still supports the bill as it is now. He said that their constituency is made of up fishermen, however, and it is not their intent to cause them any distress.

Tostevin asked Lytle if the bill would be acceptable if the limits defining the aspect of direct action were clarified. Lytle said that would not be sufficient, that direct action is unacceptable. She said even if direct action were removed, the retroactive provisions would still be a problem. Sen. Menard asked what would she think if the retroactivity was removed. Lytle said that would be a start.

In response to a comment by Lytle that the retroactive provisions may be illegal, Tostevin said that in a civil context, retroactive laws are not unconstitutional. He added that this bill only clarifies existing state law and the only new liability is the increased penalties which are prospective.

Lytle said she disagrees that the current law requires wreck removal and said "it isn't that simple." Tostevin replied that legal issues are never simple. He added that there will be a lot of litigation under the state law by the end of this year and it should result in some answers, at least on the federal preemption issue. Tostevin said that US District Court Judge Andrew Kleinfeld issued a preliminary analysis stating that Alaska's wreck removal statute is not subject to limitation by the federal act. He added that no final answer has been issued in the case.

Lytle said she believes the effort to pass this bill is being fueled by the four wrecks on St. Paul Island, and the AG's frustration dealing with P&I clubs. She

said they can be difficult to deal with, but doesn't think it is right to base public policy on this litigation.

Rich Davis, a member of a seafood processors coop in Sitka, said this bill will prove to be a hardship on fishermen. He said in the past if a vessel was taking on water the skipper would run it on shore for sanctuary. He said if he knew he might be in debt for years to the state or a municipality for removal of his wrecked vessel, he would head out to the ocean and "pull the plug." He said the bill is not workable.

Staff to Sen. Menard asked if there are now limits on wreck removal liability. Tostevin said no, the only limits are those within the P&I coverage.

Sen. Menard adjourned the session and did not announce when the bill might be brought up again.

QUESTIONS FOR MARINE UNDERWRITERS

Direct action allows the state or a municipality to sue an insurance company directly in Alaska court for wreck removal (for costs up to the limits of the insurance policy), rather than first suing a sometimes small, sometimes foreign vessel owner who would then obtain payment from the insurance company.

The Alaska Legislature first instituted direct action for marine insurance in 1981 in a law requiring proof of financial responsibility to cleanup oil spills. At that time, the insurers said they would not write policies of this sort. However, after the law was passed -- and for some ten years -- policies of this sort became available. Won't this also happen if we adopt this bill with a direct action requirement?

- ① Why is direct action, the ability to sue an insurance company directly, so onerous? Isn't the insurance company already hiring lawyers to defend their insured in court and won't they under the present system of liability for wreck removal be paying the cost of any verdict against their insured up to the limits of their policy?

Isn't direct action already the law of Louisiana? Doesn't the oil insurance requirements of the Federal Clean Water Act, the Trans-Alaska Pipeline Act and the Outer Continental Shelf Lands Act and the Civil Liability Convention of 69 Countries (which excludes the United States) include direct actions? *

- ② What do Marine Underwriters mean when they say HB 232 subjects them to "unlimited liability?" Is it the fear that insurers would be held liable for damages in excess of their insurance policy limits through the direct action provisions?

If it was clear that insurers are not liable for amounts other than what they contracted for in their insurance policies -- their policy limits -- would the industry still oppose this legislation?

Would the marine insurance industry oppose this legislation if it lacked a direct action requirement?

- ③ Insurers have claimed that the risk of paying for wreck removal is impossible to calculate. How are the costs of wreck removal any harder under Alaska law to calculate for an insurer than the current "hazard to navigation" wreck removal requirements of federal law?

Why is it impossible for an insurance company to calculate the risk concerning wreck removal but possible to calculate the risk for such wide-ranging and expensive risks as floods, earthquakes, legal and medical malpractice, or domestic aviation accidents?

- ④ Given the fact that wreck removal statutes already are part of federal law and state law in numerous coastal states such as California and Hawaii why hasn't marine insurance become

unavailable in those states or in the U.S. in general?

- ⑤ What do insurers mean when they say this bill imposes retroactive liability when state law presently imposes wreck removal liability on a vessel owner under the Derelict Vessel Act, the state's environmental laws, as well as under the state's common law?

Doesn't this bill simply clarify existing law and impose addition incentives in the form of specific penalties for failure to timely remove problem vessels?

- ⑥ Isn't it true that P&I insurance now contains a standard clause covering all wreck removal "compulsory by law" subject to the insurance policy's coverage limits?

- ⑦ Isn't it true that cargo policies now include a general "debris removal" clause that cover cargo removal should cargo be declared a loss as a result of a covered casualty?

- ⑧ Isn't it true that pollution underwriters already provide coverage for damages as the result of releases of oil or other hazardous substances from a vessel subject to the policies specific coverage limits?

- ⑨ Under current law and under this bill, vessel owners are liable for wreck removal costs; insurers are only liable to the limits of the policy they issue. Are vessel owners claiming their liabilities are unlimited and that the amount they should pay for wreck removal be capped? Is this a form of "tort reform"? What makes vessel owners liabilities unique such that they should be capped as opposed to shore-base operations who face similar liabilities in other situations?

Statement of the
American Institute of Marine Underwriters
before the
Transportation Committee of the Alaska Senate
on H.B. 232
by Marilyn Lytle

February 13, 1992

The American Institute of Marine Underwriters, AIMU, is a trade association of 110 marine insurance companies who write over 90% of the marine insurance written in the United States. AIMU represents the domestic marine insurance market. We understand that H.B. 232 was drafted to address a problem that has developed with respect to certain wrecked vessels on Alaskan shores which are primarily insured in foreign markets. We are unaware of any problems with respect to vessels insured in the American market. Nevertheless, H.B. 232 would severely impact the domestic ocean marine insurance industry and the commercial fishing boats, tugs, barges and other vessels owned by Alaskans which are insured in the domestic marine insurance market. We would like to outline the insurance problems which we believe would be created by enactment of H.B. 232:

1. The bill is retroactive in its application. All existing wrecks in Alaskan waters regardless of location must be removed within 30 days of enactment. This would be a monumental task. The resources to accomplish this do not exist. This new requirement imposes an additional liability on the vessel owner which was not previously insured under domestic contracts. The protection and indemnity (P & I) policies provided by American insurance companies contemplate coverage of wreck removal when it is compulsory under federal law. Federal law requires removal when the wreck interferes with navigation. This new liability is therefore not covered under pre-existing contracts. This additional Alaskan liability was not contemplated and premium was not collected to

cover this additional exposure. But H.B. 232 would attempt to recover such costs from pre-existing policies.

2. Alaska H.B. 232 provides for direct action against any insurer who may cover wreck removal. Marine P & I policies are contracts of indemnity. The policy indemnifies the assured only when the assured becomes liable to pay for a loss and actually does pay. Such policies do not contemplate direct action and the only loss payee is the vessel owner.

Furthermore, domestic insurance companies will not and cannot subject their assets to direct action for unlimited liability. Insurance companies which are regulated by the various states are not permitted by public policy to insure unlimited liability. Other policy holders and shareholders would be put at risk. A solvency problem could easily develop which no insurance regulator would permit. Most states put a limit on the amount of exposure which any company may assume on any particular risk.

Direct action provisions are also unacceptable to insurers because of very large potential extra-contractual liabilities which may be imposed by courts seeking "deep pockets." The possibility of having to defend a company's assets against multiple suits in diverse and distant locations, without the protection of the contract to limit expenditures, along with possible imposition of extra-contractual liabilities make it irresponsible for an insurance company to submit itself to direct action. If H.B. 232 is enacted as drafted, we anticipate that most domestic marine

insurers will be forced to withdraw from the Alaskan market because of the direct action provision.

3. The bill itself contains no limitation of liability either for underwriters or vessel owners. In addition to the solvency problem discussed above, an underwriter must have a limitation on his future contractual liabilities in order for him to predict future exposures and to adequately price the product. An insurance company cannot insure unlimited liability.

H.B. 232 also imposes unlimited liability on the vessel owner which presents additional insurance problems. Assuming that the bill were amended to do away with the direct action, unlimited liability, and retroactivity problems imposed on the insurance companies, the vessel owners in Alaska would still face an availability and affordability problem with respect to insurance of these additional liabilities. We anticipate this would be a problem particularly for fishing vessel owners. It is conceivable that cover would evolve to insure these new liabilities to the state of Alaska if the insurance problems were eliminated. However, it is likely that cover would only be available at lower limits, particularly initially. This could leave the vessel owner with substantial uninsured exposures. For example, a vessel owner's liability for wreck removal under the Alaska statute would be unlimited. Perhaps the limit on his P & I policy which might include this liability could be \$300,000.00. Even if excess cover were available, it would not be for unlimited costs. Removal of

wrecks from shorelines can be very expensive because of surf and tidal action and other forces. We understand that the removal of one of the wrecks on St. Paul's Island may cost as much as \$20,000,000.00.

Since the removal of wrecks on the shorelines can be more expensive than traditional wreck removal as required under the Federal Statute and because of additional exposures, we anticipate that premium for this additional cover would involve increased costs for the vessel owner. The class of business must support the losses experienced by that class of business. Because of this new exposure (removal of wrecks when not required by federal law) there will be additional losses to be paid. It is likely that these removal costs will be high and these costs will be passed on to the insureds, the vessel owners. It can be expected, therefore, that fishing vessel owners as a group and other Alaskan vessel owners will experience increased insurance costs as a result of the enactment of H.B. 232.

4. H.B. 232 will seriously disadvantage the domestic marine insurance market and its assureds. It is ironic that the foreign insurers who are the target of H.B. 232 will not be affected by the bill. Apparently, an Assistant Attorney General is having some difficulty in forcing foreign underwriters (called P & I Clubs) to remove four wrecks on St. Paul's Island. H.B. 232 appears to be designed to overcome whatever difficulties the State Attorney General is experiencing in those court cases. The P & I Clubs will

not be affected by the bill since they operate offshore and there will be no domestic jurisdiction to impose direct action. Furthermore, the law in England, which is the law applicable to P & I Clubs, prohibits direct action against the clubs. Enactment of H.B. 232 will do nothing to resolve whatever frustrations the Assistant Attorney General may be experiencing in his litigation. It will, however, cause a crisis of catastrophic proportions for Alaska vessel operators and their domestic marine insurers. There are thousands of fishing vessel owners who have placed their domestic P & I cover with American marine insurance companies who will be affected by H.B. 232.

5. As drafted, H.B. 232 could be interpreted to permit direct action against underwriters other than P & I insurers. For instance, hull insurers pay for salvage of a wreck when the value of the recovered vessel exceeds the cost of salvage. This is a cost saving measure intended to reduce the cost of hull insurance overall. Hull insurance is not generally intended to pay for liabilities of the vessel owner to third parties, such as federal or state governments which require wreck removal. The hull policy is a contract between the vessel owner and the insurer under which the vessel owner gets paid for loss of or damage to his vessel. Liability for wreck removal is covered by the P & I policy, not the hull cover. If the state could attach the proceeds of a hull policy, then vessel owners who lose their boats would not be able to purchase a new vessel and start over again. This would

discourage vessel owners from seeking refuge in ports and harbors and should raise serious safety concerns.

It is not appropriate for AIMU to comment on how the State of Alaska should balance the needs of vessel owners versus environmental concerns involving abandoned vessels in state waters. Our purpose is merely to point out the many serious insurance problems in the current drafting of H.B. 232.

We are aware that the Committee is considering other approaches as solutions to the problem, including increased penalties and safety standards. AIMU takes no position with respect to any particular approach. However, the Committee may wish to explore the possibility of the Corps of Engineers taking on responsibility for removal of certain wrecks particularly when they are foreign owned. A review of potential conflicts between Alaskan law and federal law regarding wreck removal by an impartial party may also be helpful. It is also possible to establish a fund in Alaska to cover wreck removal in Alaskan waters when not required by Federal law. The cost of removal could be recoverable from the vessel owner where appropriate. A cap could be placed on the vessel owner's liability so that the fund would handle catastrophic removal costs. The Committee may wish to review the State of Florida's approach to the problem.

Thank you for this opportunity to present the views of the American ocean marine insurance industry. We would be pleased to provide any further assistance to the Committee in its deliberation on H.B. 232.