

**HB**

**131**

<TARGET><BILL>HB 131</BILL><SUBJECT>HB  
131</SUBJECT><COMM>HCRA28</COMM></TARGET>



## C&RA HB 131

Rep. Seaton will present the bill with the potential for some staff assistance, either from Louie Flora or Doug Duncan.

### **Others presenting in the audience:**

Michael Lukshin, Project Engineer, Statewide Ports and Harbors Engineer, Alaska DOT&PF ✓ support

Carl Uchytel, City and Borough of Juneau Port Director and representative of Alaska Association of Harbormasters and Port Administrators ✓

### **On-line:**

Wyn Menefee, Operations Manager for the DNR Division of Mining Land and Water support ✓

Steve Corporon, Ketchikan Port and Harbors Director ✓ support

Bryan Hawkins, City of Homer Harbormaster ✓ support

Joy Baker – Harbormaster, Port of Nome ✓ support

# Alaska State Legislature

State Capitol Room 102  
Juneau, Alaska 99801-1182  
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## REPRESENTATIVE PAUL SEATON HOUSE DISTRICT 30

### Memorandum

**From:** Representative Paul Seaton  
**To:** House Community & Regional Affairs Committee Co-Chair Gabrielle LeDoux  
House Community & Regional Affairs Committee Co-Chair Benjamin Nageak  
**Date:** February 28, 2013  
**RE:** HB 131 Abandoned and Derelict Vessels hearing request

---

I respectfully request a hearing on HB 131 in the House Community & Regional Affairs Committee at your earliest possible convenience.

HB 131 broadens the legal framework for dealing with abandoned and derelict vessels. Under HB 131 municipalities and other state agencies are added to the list of entities that may deal with a derelict vessel. A requirement is also placed in statute whereby if a vessel is denied entrance to a harbor based on its condition, all hazardous materials and bulk petroleum products must be removed from the vessel if it is to be stored in state waters for more than 14 days. HB 131 will allow state agencies and municipalities to deal with derelict and abandoned vessels in a more efficient manner, and assist in safeguarding our waters from pollution.

Attached to this request please find the following documents:

- HB 131
- HB 131 Sponsor Statement
- HB 131 Sectional Analysis
- HB 131 supporting documents:
  - DNR Abandoned and Derelict (A/D) vessel presentation

- **Additional DNR Information on A/D vessels**
- **Alaska news articles on A/D vessels**
- **Seattle Times Article on A/D vessels**
- **Support Resolution from the Alaska Association of Harbormasters and Port Administrators on A/D vessel statute change**
- **Washington State Derelict Vessel Program Information**
- **United States Coast Guard information on A/D vessels**

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## REPRESENTATIVE PAUL SEATON HOUSE DISTRICT 30

### Sponsor Statement

#### HB 131

HB 131 assists state agencies and municipalities with the problem of derelict and abandoned vessels in Alaska. Derelict vessels can be a very costly problem for the state. Sunken derelict vessels present environmental and navigation hazards requiring removal, the cost of which often falls on state agencies and municipalities. Abandoned vessels in harbors create a large problem for municipalities and take up valuable moorage space. HB 131 would provide state agencies and municipalities with authority in statute to address abandoned and derelict vessels.

During the past 20 years, the state has transferred ownership of most of the state-owned harbors to local municipalities. Municipal harbormasters often find themselves without sufficient legal authority to deal with abandoned and derelict vessels left in these harbor facilities. Some local municipal governments do not have the legal and financial resources to create or change codes to protect themselves from the liabilities and hazards of abandoned and derelict vessels. HB 131 provides clear authorization for municipalities to respond to abandoned and derelict vessels.

Current derelict vessel statute at AS 30.30 puts the primary duty to handle derelict vessels on the Department of Transportation and Public Facilities (DOT&PF). DOT&PF has not historically been funded to establish a derelict vessel program. The Department of Natural Resources (DNR) has responsibility for clean-up activities when an abandoned vessel is on state submerged land or state tideland. Often DNR relies on state criminal trespass statutes in their efforts to remove abandoned and derelict vessels from state submerged land. For DNR to perform

work under the Abandoned and Derelict Vessel statute, they must receive a delegation of authority from DOT&PF which can create time delays in performing necessary clean-up activities. HB 131 broadens the abandoned and derelict vessel statute from DOT&PF to “a state agency”. This provides agencies such as DNR and the Department of Environmental Conservation with a greater ability to quickly respond to individual derelict vessel situations.

HB 131 also creates a requirement that if a vessel has been denied entrance to a harbor due to its derelict status, the vessel may not be stored in state waters for more than two weeks unless all of the petroleum products and hazardous materials have been removed. The two-week timeline is consistent with the current DNR requirement that an anchored vessel receive authorization to be stored in state waters for more than two weeks.

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## REPRESENTATIVE PAUL SEATON HOUSE DISTRICT 30

### HB 131 Sectional Analysis

#### Section 1. AS 30.30.010(a)

A person may not store a derelict vessel, or abandon a vessel in:

- The waters of the state
- A state or municipal port
- Private property without consent

#### Sec. 2. AS 30.30.010(b)

A hazardous derelict vessel may be removed from state waters by:

- A state agency
- A municipality
- A peace officer

#### Sec. 3. AS 30.30.010(e)

If a vessel is denied entrance to a harbor, all of the following materials must be removed before it is stored in state waters for more than 14 consecutive days:

- Hazardous materials
- Petroleum products

#### Sec. 4. AS 30.30.020

A vessel left unattended for more than 30 consecutive days on state or private property without consent may be removed and disposed of by:

- A state agency
- A municipality

- A peace officer

**Sec. 5. AS 30.30.030**

Outside of organized municipalities, a vessel may be left unattended for more than 30 consecutive days if it is considered an accepted local practice.

**Sec. 6. AS 30.30.040**

Upon taking a vessel into custody, the municipality, or state agency must attempt to notify the owners on record of their custody 20 days prior to repossession of the vessel.

**Sec. 7. AS 30.30.060**

A person or interested party may take possession of the boat before the public auction date if they pay all the fees associated with the vessel.

If they are not the registered owner, they must post adequate security.

**Sec. 8. AS 30.30.070**

A public auction for a repossessed vessel is not needed if it is appraised at less than \$100. Upon determination that the value of the vessel is less than \$100 and following advertisement in a newspaper of general circulation the state agency or municipality may sell the vessel by negotiation, dispose of it, or donate it to a government agency.

**Sec. 9. AS 30.30.080**

A bill of sale is required for any transfers under this legislation.

**Sec. 10. AS 30.30.090**

A vessel is considered derelict if it is left unattended for 24 consecutive hours under the following conditions:

- Is sunk, sinking, or posing a threat, or has been moored or left in the waters of the state illegally with no current registration and the owner cannot be determined.

**Sec. 11. AS 30.30.100(a)**

When a municipality, state agency, or peace officer takes possession of a derelict, they must:

- Publish notice of intended disposition
- Post notice of intended disposition
- Serve the registered owners, if known, and financiers with the notice

**Sec. 12. AS 30.30.120**

A vessel at a repair business is considered abandoned if the following conditions have been met:

- The vessel has been towed and requested repairs have been preformed
- No authorization for further service is given
- The state agency or municipality and the owner are notified
- The vessel is not claimed 30 days after the notice

**Sec. 13. AS 30.30.170**

Definitions:

- Municipality – as currently defined
- State Agency – executive branch department or agency
- Vessel – water transportation device that is not a float plane
- Waters of the state – navigable waters within three mile limit

**Sec. 14. AS 30.30.160**

Repeal of specific DOT&PF regulation authority to implement the abandoned and derelict vessel statute as the bill broadens the authority for abandoned and derelict vessels to include the other state agencies.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: HB 131  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB131-DEC-PERP-03-06-13  
Title: ABANDONED AND DERELICT VESSELS  
Sponsor: SEATON  
Requester: House Community & Regional Affairs Committee

Department: Department of Environmental Conservation  
Appropriation: Spill Prevention and Response  
Allocation: Prevention and Emergency Response  
OMB Component Number: 2064

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

|                               | FY2014                  | Included in               | Out-Year Cost Estimates |            |            |            |            |
|-------------------------------|-------------------------|---------------------------|-------------------------|------------|------------|------------|------------|
|                               | Appropriation Requested | Governor's FY2014 Request | FY 2015                 | FY 2016    | FY 2017    | FY 2018    | FY 2019    |
| <b>OPERATING EXPENDITURES</b> | <b>FY 2014</b>          | <b>FY 2014</b>            |                         |            |            |            |            |
| Personal Services             |                         |                           |                         |            |            |            |            |
| Travel                        |                         |                           |                         |            |            |            |            |
| Services                      |                         |                           |                         |            |            |            |            |
| Commodities                   |                         |                           |                         |            |            |            |            |
| Capital Outlay                |                         |                           |                         |            |            |            |            |
| Grants & Benefits             |                         |                           |                         |            |            |            |            |
| Miscellaneous                 |                         |                           |                         |            |            |            |            |
| <b>Total Operating</b>        | <b>0.0</b>              | <b>0.0</b>                | <b>0.0</b>              | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Fund Source (Operating Only)**

|              |            |            |            |            |            |            |            |
|--------------|------------|------------|------------|------------|------------|------------|------------|
| None         |            |            |            |            |            |            |            |
| <b>Total</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Positions**

|           |  |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |

|                           |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|
| <b>Change in Revenues</b> |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

|              |  |        |                     |
|--------------|--|--------|---------------------|
| Prepared By: | Larry Dietrick, Director                 | Phone: | (907)465-5250       |
| Division     | Spill Prevention and Response            | Date:  | 03/06/2013 02:54 PM |
| Approved By: | Lynn Kent, Deputy Commissioner           | Date:  | 03/08/13            |
|              | Department of Environmental Conservation |        |                     |

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. HB 131

**Analysis**

**Analysis/Assumptions:**

HB 131 has no fiscal impact to the Department of Environmental Conservation (DEC). However, if this bill passes, DEC will be empowered to assist in the removal of derelict or abandoned vessels from public water in any instance when a vessel obstructs or threatens to obstruct navigation, contributes to air or water pollution, or in any way constitutes a danger or potential danger to the environment. DEC anticipates that funds to remove a derelict or abandoned vessels would be made through a Capital Improvement Project (CIP) request.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: HB 131  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB131-DNR-MLW-3-8-13  
Title: ABANDONED AND DERELICT VESSELS  
Sponsor: SEATON  
Requester: House Community & Regional Affairs

Department: Department of Natural Resources  
Appropriation: Land & Water Resources  
Allocation: Mining, Land & Water  
OMB Component Number: 3002

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

|                               | FY2014                  | Included in               | Out-Year Cost Estimates |            |            |            |            |
|-------------------------------|-------------------------|---------------------------|-------------------------|------------|------------|------------|------------|
|                               | Appropriation Requested | Governor's FY2014 Request | FY 2015                 | FY 2016    | FY 2017    | FY 2018    | FY 2019    |
| <b>OPERATING EXPENDITURES</b> | <b>FY 2014</b>          | <b>FY 2014</b>            |                         |            |            |            |            |
| Personal Services             |                         |                           |                         |            |            |            |            |
| Travel                        |                         |                           |                         |            |            |            |            |
| Services                      |                         |                           |                         |            |            |            |            |
| Commodities                   |                         |                           |                         |            |            |            |            |
| Capital Outlay                |                         |                           |                         |            |            |            |            |
| Grants & Benefits             |                         |                           |                         |            |            |            |            |
| Miscellaneous                 |                         |                           |                         |            |            |            |            |
| <b>Total Operating</b>        | <b>0.0</b>              | <b>0.0</b>                | <b>0.0</b>              | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Fund Source (Operating Only)**

|              |            |            |            |            |            |            |            |
|--------------|------------|------------|------------|------------|------------|------------|------------|
| None         |            |            |            |            |            |            |            |
| <b>Total</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Positions**

|           |  |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |

|                           |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|
| <b>Change in Revenues</b> |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version:**

|                 |
|-----------------|
| Initial Version |
|-----------------|

|  |                                  |
|--|----------------------------------|
| Prepared By: <u>Brent Goodrum, Director</u>          | Phone: <u>(907)269-8501</u>      |
| Division: <u>Division of Mining, Land and Water</u>  | Date: <u>03/08/2013 12:00 PM</u> |
| Approved By: <u>Daniel S. Sullivan, Commissioner</u> | Date: <u>03/08/13</u>            |
| <u>Department of Natural Resources</u>               |                                  |

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. HB131

**Analysis**

The bill grants the responsibilities and authorities under AS 30.30.010 - .170 regarding abandoned and derelict vessels equally to all state agencies in the executive branch and to municipalities (as defined under AS 29.71.800) rather than to just the state Department of Transportation and Public Facilities (DOTPF). This provides additional statutory tools for the Department of Natural Resources (DNR) to use to deal with abandoned and derelict vessels. The bill does not require the department to take any action to clean up abandoned and derelict vessels or utilize this authority.

The department does not anticipate any additional costs related to this legislation as it simply grants the department the same discretionary authority to deal with abandoned and derelict vessels as DOTPF currently has under AS 30.30.010 - 170.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: HB 131  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB131-DOT-HPD-3-5-13  
Title: ABANDONED AND DERELICT VESSELS  
Sponsor: SEATON  
Requester: Community & Regional Affairs Committee

Department: Department of Transportation and Public Facilities  
Appropriation: Design, Engineering and Construction  
Allocation: Harbor Program Development  
OMB Component Number: 2978

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

|                               | FY2014                  | Included in               | Out-Year Cost Estimates |            |            |            |            |
|-------------------------------|-------------------------|---------------------------|-------------------------|------------|------------|------------|------------|
|                               | Appropriation Requested | Governor's FY2014 Request | FY 2015                 | FY 2016    | FY 2017    | FY 2018    | FY 2019    |
| <b>OPERATING EXPENDITURES</b> | <b>FY 2014</b>          | <b>FY 2014</b>            |                         |            |            |            |            |
| Personal Services             |                         |                           |                         |            |            |            |            |
| Travel                        |                         |                           |                         |            |            |            |            |
| Services                      |                         |                           |                         |            |            |            |            |
| Commodities                   |                         |                           |                         |            |            |            |            |
| Capital Outlay                |                         |                           |                         |            |            |            |            |
| Grants & Benefits             |                         |                           |                         |            |            |            |            |
| Miscellaneous                 |                         |                           |                         |            |            |            |            |
| <b>Total Operating</b>        | <b>0.0</b>              | <b>0.0</b>                | <b>0.0</b>              | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Fund Source (Operating Only)**

|              |            |            |            |            |            |            |            |
|--------------|------------|------------|------------|------------|------------|------------|------------|
| None         |            |            |            |            |            |            |            |
| <b>Total</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Positions**

|           |  |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |

|                           |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|
| <b>Change in Revenues</b> |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

This is the initial version of the bill.

|              |                                  |        |                     |
|--------------|----------------------------------|--------|---------------------|
| Prepared By: | Connie McKenzie                  | Phone: | (907)465-4772       |
| Division:    | Office of the Commissioner       | Date:  | 03/05/2013 03:30 PM |
| Approved By: | Mary Siroky                      | Date:  | 03/05/13            |
|              | Administrative Services Director |        |                     |

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. HB131

**Analysis**

The intent of this bill is to broaden the authority to deal with abandoned and derelict vessels from the jurisdiction of the Department of Transportation & Public Facilities to state agencies and municipalities.

# Derelict Vessels

On State Lands





# Where do we find them

- State Submerged Lands
- State Tidelands
- State Shorelands (inland freshwater)
- On General State Lands
- In Critical Habitat Areas
- In Parks





# Manifested in various forms

- Shipwrecks
- Abandoned vessels
- Derelict vessels
- Old floathomes
- Private vessels
- Work vessels
- Ships to dinghies





# DNR Authorities

- Anchoring for less than 14 days is generally allowed – 11 AAC 96.020
- Longer than 14 days anchorage in one location requires an approval through some authorization from DMLW
- Lack of enforcement authority to fine an individual that doesn't follow the law
- No direct authority under the land law to seize or take control of a derelict vessel
- DMLW permits activities to clean up shipwrecks and vessels

# DOT/PF Authorities

- AS 30.30 addresses both Abandoned and Derelict Vessels
- For DNR/DMLW to use this authority, the authority has to be delegated to DNR from DOT/PF

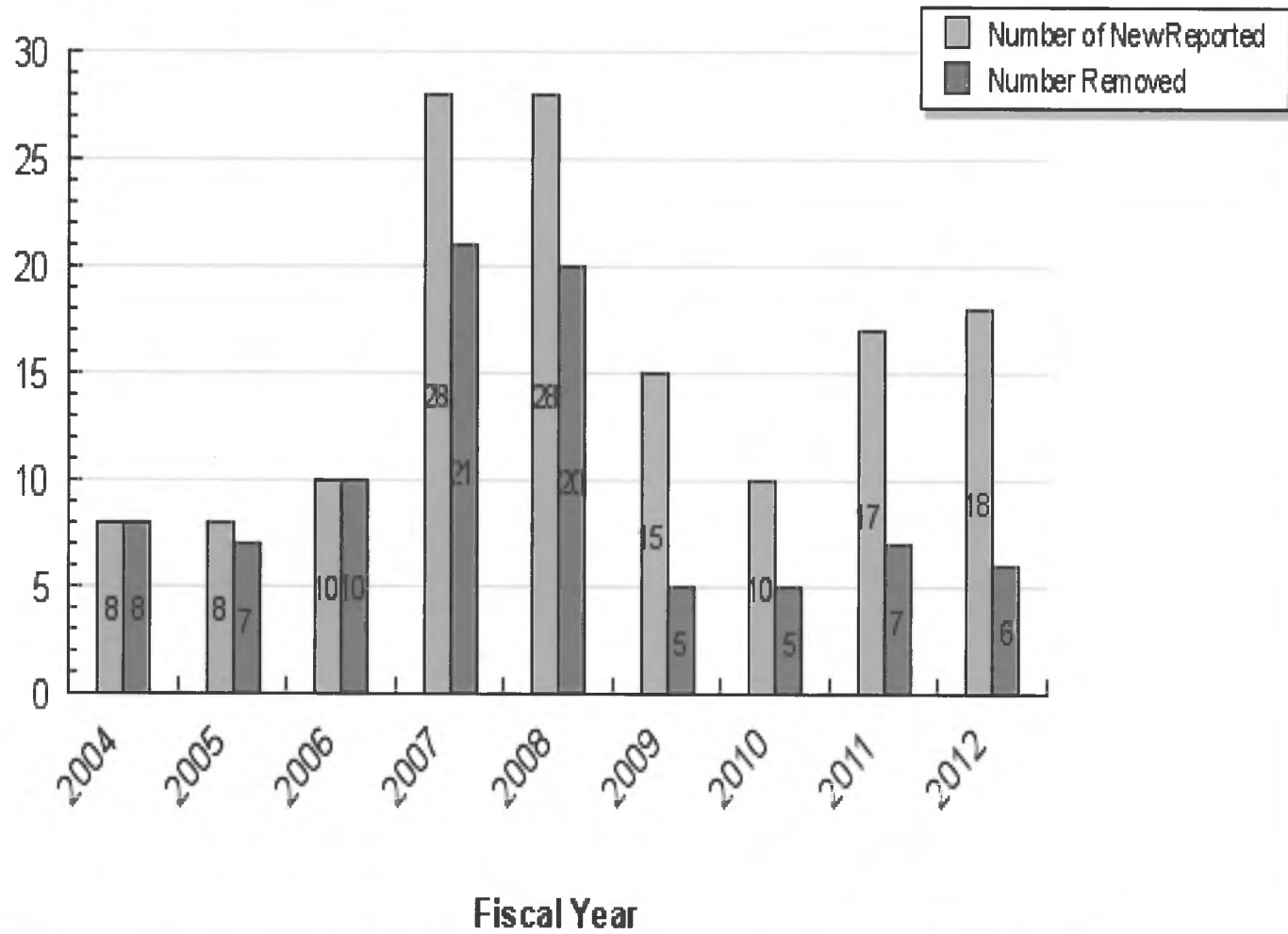




# Large Issue in State

- Many abandoned and derelict vessels
- Sometimes vessels are scuttled without DMLW permit – sometimes to later wash ashore
- Cheaper to leave it on state land than remove and dispose of vessels – owners don't always have money to remove even if identified
- Contaminates can adversely affect environment
- Impacts navigation
- Expensive for the state to remove

## Shipwrecks and Abandoned Vessels Removed





1/2 mile Creek



# What does it cost

- Just removed two vessels from Jakolof Bay
  - \$250,000 to raise, remove hydrocarbons, stabilize, tow to Homer and have vessels placed in dry storage.
  - Does not include disposal if not auctioned off
- Seattle report of 140 foot vessel that sank last May cost state and federal government \$5.4 million to clean and dispose of vessel. Another recent sinking will cost over \$1 million to clean
- Washington has a derelict vessel removal account funded by a \$3 boat registration fee

# Abandoned and Derelict Vessel Removal

*Understanding the process  
can ensure success.*

by LCDR CHARLES BRIGHT

*U.S. Coast Guard Office of Marine Transportation Systems*

Abandoned and derelict vessels can be seen in most ports and communities as one drives across rivers or while out boating and fishing on the waterways. These vessels are unsightly, threaten safe navigation, and can pose environmental hazards.

#### **The Problem**

Vessels are abandoned or become derelict for many reasons. Some owners simply don't take care of their boats

and let them fall into disrepair. Other vessels are stolen or taken for "joyrides" and then set adrift or discarded. Hurricanes or tornadoes can damage vessels and even move them from anchorage.

The recent economic downturn has also played a role. A 2009 New York Times article documented that a growing number of people are abandoning their boats because they can't afford the payments.<sup>1</sup>



**A derelict vessel is dismantled on a bank of the Snohomish River in Everett, Wash. U.S. Coast Guard photo by Chief Petty Officer Paul Roszkowski.**



**Coast Guard Chief Petty Officer Ian A. Woods, left, Sector New York, and Petty Officer 3rd Class Huynh A. Nguyen, Sector Mobile, oversee hazardous materials remediation and vessel recovery in Bayou La Batre, Ala. U.S. Coast Guard photo by PA2 Lisa Hennings.**

Unfortunately, these vessels can number in the hundreds in some locations, such as states with large boating publics like Florida, Georgia, and Washington. In some of these locations, vessels have been abandoned for such a long time that no one can remember how they got there or who the owners are.

#### **Who Has the Lead?**

If the owner cannot be found or is unable to remove the vessel, many times removal will fall to the federal or state government. Along with state environmental and enforcement agencies, four federal agencies play a role in abandoned and derelict vessel removal:

- the National Oceanic and Atmospheric Administration,
- the U.S. Army Corps of Engineers,
- the U.S. Coast Guard,
- the Federal Emergency Management Agency.

Even with the multitude of authorities, limited funding and resources can pose a problem.

#### **Best Practices**

To address this, in September 2009 the National Oceanic and Atmospheric Administration hosted the first Federal Abandoned and Derelict Vessel Workshop, where the four federal agencies presented their processes for dealing with vessels to the state agencies. In addition, several state program managers presented best practices for dealing with the numerous vessels within their states.<sup>2</sup>

For example, the Washington State Department of Natural Resources funds vessel removal primarily through an additional fee on state vessel registration. This fund provides up to 90 percent of the removal and disposal costs. The department also carefully prioritizes derelict vessels to determine which present the greatest threat to navigation, safety, and the environment.<sup>3</sup>

The Florida Fish and Wildlife Conservation Commission may remove vessels that are considered derelict under state regulations.<sup>4</sup> The vessel owner is contacted and a notice is posted on the vessel identifying it as a

derelict vessel. The owner has five days to remove the vessel. If the owner doesn't take any action, he or she can be charged with a first-degree misdemeanor and may also be charged for the cost of removing the vessel.

#### **Coordinating Efforts**

Understanding all the authorities and jurisdictions is just the beginning when it comes to dealing with the problem of abandoned and derelict vessels. With the multitude of state and local programs and federal authorities, coordinating this process can be a

#### **For more INFORMATION:**

For additional information on abandoned and derelict vessels or questions regarding a specific vessel or situation, contact the local Coast Guard sector via [www.Homeport.mil](http://www.Homeport.mil), the local Army Corps District Office at [www.USACE.army.mil](http://www.USACE.army.mil), or the NOAA Marine Debris Program at <http://marinedebris.noaa.gov/>.

daunting task. Federal and state agencies and local or private groups should come together prior to any incident to establish working relationships.

Knowing where one agency's authority and funding stops and another begins facilitates this process. For example, the Coast Guard may use its

funks to remove oil or hazardous material from the vessel. From there, the Army Corps or a state agency may take over to remove the vessel from the water. Once removed, the vessel has to be salvaged for its remains or

### **Which Agency Does What?**

#### **The National Oceanic and Atmospheric Administration**

NOAA responds to abandoned and derelict vessels through the National Marine Sanctuaries Act when a vessel is within or threatens resources within a sanctuary.

NOAA additionally supports activities in the marine environment by funding grant opportunities such as those focused on vessel removal and providing technical assistance through the Marine Debris Research, Prevention, and Reduction Act of 2006, which applies to all waters.

NOAA's personnel may provide scientific and technical assistance to a federal on-scene coordinator, when requested.

#### **The United States Army Corps of Engineers**

USACE is involved with abandoned and derelict vessels when a vessel sinks in or impacts a navigable channel. It may conduct a channel survey to determine whether the vessel constitutes an obstruction to navigation.

The location of the vessel with respect to the navigation channel will determine whether further USACE involvement in removal is warranted, per internal guidelines and available funding.

#### **The United States Coast Guard**

The USCG is involved with abandoned and derelict vessels by its designation as the federal on-scene coordinator

to oversee federal response efforts for the containment, removal, and disposal of oil or hazardous substance releases into the marine environment.

The vessel may be removed as part of the abatement process or could be transferred to another agency for final disposal.

The Coast Guard also has authority to remove abandoned barges of greater than 100 gross tons under the Abandoned Barge Act. Under this act, the Coast Guard can remove the vessel if the cost of removal does not exceed its value.

Prior to removal, the Coast Guard may also mark vessels if they present a hazard to navigation.

#### **The Federal Emergency Management Agency**

FEMA is involved with abandoned and derelict vessels via the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), which gives FEMA the responsibility of coordinating the federal government's response to disasters.

FEMA may assign another federal agency to remove eligible vessels when the state and local governments certify that they lack the capability to perform or contract for the work.

Additionally, FEMA may reimburse applicants for the cost of vessel removal and disposal through grant assistance.





**A vessel is moved to Sparrows Point in Baltimore. U.S. Coast Guard photo.**

moved to a proper disposal site such as a landfill. This process may again be handled by a state agency or by a private contractor.

Planning the process from beginning to end is key to avoiding roadblocks and other unwanted situations. No one wants a vessel removed only to find out there is no place to put it. It may also be that one agency (a state historical preservation office, for example) asserts itself in the operational review and approval process because the vessel might be considered a historical landmark. These types of situations do happen and can best be avoided through a fully coordinated plan.

***About the author:***

*LCDR Charles Bright has served in the Coast Guard since 1991. He is a prior enlisted marine science technician and has served on a patrol boat, on an aids to navigation team, and in various marine safety positions including inspections, investigations, and waterways management. A recent graduate of the Coast Guard Transportation Management graduate program from George Mason University, he also holds a master's degree in environmental management from the University of Maryland University College.*

**Endnotes:**

- <sup>1</sup> David Streitfeld, "Boats Too Costly to Keep Are Littering Coastlines," *New York Times*, March 31, 2009.
- <sup>2</sup> N. Parry and K. McElwee (eds.), 2010. Proceedings of the Workshop on State-level Responses to Abandoned and Derelict Vessels. September 15-17, 2009. NOAA Technical Memorandum NOS-OR&R-37.
- <sup>3</sup> Washington State Department of Natural Resources, Derelict Vessel Removal Program, [http://www.dnr.wa.gov/RecreationEducation/Topics/DerelictVessels/Pages/aqr\\_derelict\\_vessel\\_removal\\_program.aspx](http://www.dnr.wa.gov/RecreationEducation/Topics/DerelictVessels/Pages/aqr_derelict_vessel_removal_program.aspx).
- <sup>4</sup> Florida Fish and Wildlife Conservation Commission (FWC), "FAQs: Derelict Vessels," [http://myfwc.com/Newsroom/Resources/News\\_Resources\\_DerelictVessel.htm](http://myfwc.com/Newsroom/Resources/News_Resources_DerelictVessel.htm).



## **Derelict Vessels and Shipwrecks on DNR managed lands**

Most recently DNR took responsibility for, and possession of two derelict vessels that sunk in Jakolof Bay near Homer. These two vessels had been denied access to local harbors due to the poor condition of the vessels. The owner anchored both of them in Jakolof Bay in September or October of 2012 where eventually due to the condition of the vessels and snow load they sank in approximately 60 feet of water.



These vessels were eventually refloated in a joint effort by the US Coast Guard, ADEC and ADNR and transported to Homer in mid January. The cost to all agencies was approximately \$250,000 to raise, remove the hydrocarbons, stabilize, tow back to Homer, and have the vessels placed in dry storage. On board these boats was a small amount of hydrocarbons (fuel and oil) as well as propane tanks, flares, fire extinguishers, deep cycle batteries and equipment such as a welder and generator.

DNR had to receive authority from DOT/PF in order to take control of the derelict vessels under AS 30.30.090 and further dispose of the vessels under AS 30.30.100



DNR responds to approximately 15 shipwrecks per year. Unfortunately most marine vessels do not sink in easily accessible locations in shallow water. The vast majorities sink in deep water and are difficult if not impossible to locate or drift ashore and are eventually pushed into the beach or coastline leading to much more difficult, dangerous and expensive responses/removals.





In some cases vessels or barges are left, abandoned on state owned shore lands along rivers or lakes. The following examples are located near Bethel.





**Aquatic Resources District Offices**

DNR manages 2.4 million acres of state-owned Aquatic Lands statewide—lands under the marine and fresh waters, and beaches. These mostly submerged lands offer aquatic habitat, navigation, commerce and public use and access. DNR's aquatics districts provide on-the-ground management.

[www.dnr.wa.gov](http://www.dnr.wa.gov)

**Orca Straits District Aquatic Resources**  
919 N. Township St.  
Sedro Woolley, WA 98284  
**(360) 856-3500**



**Rivers District Aquatic Resources**  
P.O. Box 280  
601 Bond Rd.  
Castle Rock, WA 98611  
**(360) 577-2025**

**Shoreline District Aquatic Resources**  
950 Farman Ave.  
Enumclaw, WA 98022  
**(360) 825-1631**

**Emergency Contacts**

Sinking vessels; oil spills; spills of other hazardous materials—24-hour emergency response numbers in Washington State:

**Department of Emergency Management (State)** (800) 258-5990

**Marine Emergencies Coast Guard Marine Safety Office**  
(206) 217-6232 *Seattle*  
(503) 240-9320 *Portland*

**Department of Ecology (State)** (360) 407-6300  
24-hour Spill Response Hotline

**Derelict Vessel Removal Program (State)** (360) 902-1574 or  
Email: [dvrp@wadnr.gov](mailto:dvrp@wadnr.gov)



Removing derelict and abandoned vessels that threaten the health or safety of people and wildlife



WASHINGTON STATE'S  
**Derelict Vessel Removal Program**

In addition to vigorous use of commercial navigation through much of the state, the people of Washington have embraced recreation that involves sailboats and powerboats. However, an increasing number of recreational and commercial vessels are found abandoned or in such disrepair that they are in danger of sinking. In response to this growing problem, the 2002 State Legislature authorized many public agencies to remove and dispose of abandoned and derelict vessels.

As steward of the state's 2.4 million acres of aquatic lands, the state Department of Natural Resources (DNR) manages the Derelict Vessel Removal Program (DVRP). DNR removes and disposes of derelict vessels, offers expertise to help other agencies with removal efforts, and reimburses them most of the vessel removal and disposal costs.

COVER PHOTO COURTESY OF BLACKWATER MARINE. TOP PHOTO BY MICHAEL RECHNER

**What Damage Can a Derelict or Abandoned Vessel Cause?**

Derelict and abandoned vessels are more than an eyesore. They can be real threats. Pollution associated with vessels poses a risk to people and the environment. Contamination is mainly caused by fuel spills (gas or diesel), which occur when a vessel sinks or breaks up.

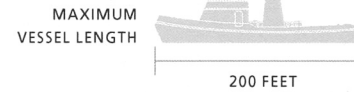
Drifting, beached, broken-up or sunken vessels can threaten human safety, be a navigational hazard and have an impact on aquatic habitats.

▲ The 'Holiday' was the first vessel removed under the program. Posing a significant threat to navigation, it was removed from lower Budd Inlet by DNR in 2003.

Pollution associated with derelict and abandoned vessels poses a risk to people and the environment.



Drifting, beached, broken-up or sunken vessels can threaten human safety and navigation, and have an impact on aquatic habitats.



Unmarked exposed portions of sunken boats can be navigation hazards, and if a collision occurs with sunken vessels just below the surface, serious injury can also occur.

### What Is the DNR's Derelict Vessel Removal Program?

The Derelict Vessel Removal Program has three main responsibilities associated with removing vessels up to 200 feet long.

- 1 Remove and dispose of derelict or abandoned vessels found in Washington State's waters. DNR removes vessels on a priority basis with those in danger of sinking or posing a threat to human health or safety highest on the list.
- 2 Manage Program Operations
  - ▶ Reimburse authorized public entities up to 90 percent of the cost of vessel removal and disposal. The remaining 10 percent can be in in-kind services such as personnel time and equipment use provided by the public entity.
  - ▶ Manage the Derelict Vessel Removal Account
  - ▶ Provide guidance and assistance to authorized public entities and the public.
- 3 Maintain the Derelict Vessel Inventory Database that holds information on all of the vessels reported since the program began in 2002.

Derelict vessels may contain large quantities of oil or other toxic substances. If leaked they can injure or kill marine mammals, waterfowl and other aquatic life; and contaminate aquatic lands, nearby shorelines, and water quality.

Vessels that settle on the bottom can disrupt the aquatic environment, scouring or crushing sensitive habitats like eelgrass or kelp beds.

### What Can Authorized Agencies Do?

Authorized public entities take steps to address the derelict or abandoned vessel problem on aquatic lands in their jurisdiction:

- ▶ Send the reporting form to the Derelict Vessel Removal Program to establish the vessel status and receive priority ranking.
- ▶ Send pre-custody letters to owners of the vessel.
- ▶ Follow Derelict Vessels Act notice requirements and take temporary possession and custody of vessel.
- ▶ Remove and dispose of vessel, or contract with a private company or individual to do so.
- ▶ Seek from the vessel owner reimbursement of costs associated with removal and disposal.
- ▶ Apply to the DVRP for up to 90 percent of the associated removal and disposal costs.

If an authorized agency is unable or unwilling to undertake removal, it may ask DNR to take the lead.

Anti-fouling paints and other toxic coatings slough off the vessel and mix with sediments in the area. They can contaminate the organisms that feed larger fish and wildlife, and enter the food web that feeds people, too.

PHOTO COURTESY OF GLOBAL DIVING & SALVAGE INC.



Derelict vessels are removed from the water using the most environmentally sound methods available. Sunken vessels are raised using a combination of lift bags and high pressure pumping, and pollutants are removed and disposed of.

### What Are the Derelict Vessel Removal Priorities?

In order to protect the health of people, marine and fresh water ecosystems and wildlife, priority is given to removing derelict vessels that are in danger of breaking up or sinking. The program addresses vessels of 200 feet or less. Priority is assigned to the vessel based on criteria that classify the degree of threat for sinking, hazards upon public health, safety and the environment, or the threat to navigation.

### Where Does Program Funding Come From?

About \$400,000 is raised each year in the state, from a \$2.00 surcharge on the annual vessel registration fee and \$5.00 surcharge on the foreign vessel identification document.

The state's Derelict Vessel Laws are in Revised Code of Washington (RCW) 79.100.

Program information, guidelines, reporting, and application forms are on DNR's webpage:

[www.dnr.wa.gov](http://www.dnr.wa.gov).

Also linked are the Derelict Vessel Inventory, and the program funding account balance.

### Who Is Authorized to Remove Vessels?

Derelict vessels may be removed by Washington DNR or other public agencies:

- ▶ Port Districts
- ▶ City, town or county with ownership, management or other jurisdiction over aquatic lands
- ▶ Metropolitan Park Districts
- ▶ State Parks and Recreation Commission
- ▶ State Department of Fish and Wildlife

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## **Harbor officials meet on derelict vessel issue**

Published: October 22, 2011



Spanky Paine, a tug built in 1894 that participated in the Spanish American and both world wars, has sat at the Homer Port and Harbor for nearly a decade abandoned by its owner. It was recently deeded to Peninsula Scrap and Salvage to recycle its usable metals on the world market.

NAOMI KLOUDA / Homer Tribune

HOMER: Abandoned boats create monetary and environmental ills.

By NAOMI KLOUDA — Homer Tribune

HOMER -- A 120-foot landing craft called the Sound Developer sank in Cordova's harbor three winters ago, leaving it broken in parts and leaking whatever hazardous fuels were aboard.

The craft was abandoned by its owner, who is nowhere to be found. A consortium of agencies trying to deal with the problem, and \$5 million later, the landing craft and its pieces remain on the harbor floor. Its wheelhouse is partially above water, creating a navigation hazard, with a promised removal coming soon.

This was one of the cautionary tales highlighted by Municipal Attorney Holly Wells at a recent gathering of state harbor officials. The Alaska Association of Harbormasters and Port Administrators chose Homer for its annual conference. The session on what to do about derelict boats engaged the group into overtime.

Expect the problem of derelict vessels abandoned in harbors to worsen in the next decade. An aging fleet of fishing and transportation vessels is approaching the end of its useful life, Wells told the gathering.

"In 10 years, you will be overwhelmed," Wells said.

She suggested solutions that ranged from new laws to protect harbors to good networking among harbor officials.

The economic heyday of commercial fisheries brought many vessels north. Old state ferries, tugs used for hauling freight, World War II transports transformed into floating processors - many are still out there. Downsized fisheries left many of them obsolete, and Alaska's harbors became their last stop.

Homer Harbor Master Bryan Hawkins calls it "the hot potato problem" when one of those ships is evicted from one harbor only to go rest in another.

"The hot potato plan sucks when you get stuck with a derelict. We managed to get four of our derelicts broken down, two changed owners and one is still in the harbor," Hawkins said. "The problem is that most left to other places in the state. I'm not proud of that. I don't like it; it's not a solution."

With the help of a phone tree, harbor officials can alert one another when a derelict is limping in their direction. Wells recommended the harbor officials immediately establish a communication tree.

There are legal pitfalls that can be avoided, Wells advised them. Armed with strong city tariffs and codes spelling out a list of safety requirements, cities can prevent problem boats from becoming an economic and environmental nightmare like the Sound Developer. Hawkins, who believes that Homer is "an overachiever in the derelict vessel problem," set out to find solutions. Hawkins and Deputy Harbor Master Matt Clarke wrote letters and spoke with the U.S. Coast Guard, the Environmental Protection Agency and the Alaska Department of Environmental Conservation.

If old tugs like the Spanky Paine or the Honcho, now being salvaged for scrap metal, were to sink in the harbor, whatever waste oil and other pollutants that remained aboard would also sink.

"I was embarrassed to ask, is there a federal or state plan to help with these boats? ... But, no, in the end I found we're on our own," Hawkins said. "We will continue to push for, number one, them to recognize the problem, and number two, find a workable solution before the costs to the public reach the millions like they have in the case of the Sound Developer."

Hawkins began taking legal steps, working with Wells, to rid the harbor of boats that represent "clear and present danger."

Wells, in searching case histories, discovered an ancient role of federal protection stretching back to the 18th and 19th centuries. While collecting on debt, placing liens or evicting owners, harbors must avoid actions that could be deemed unconstitutional. Harbors also can't reasonably exclude a ship or boat seeking refuge, outlined as the owner's legal rights under admiralty law.

But cities can create legal means to protect their waters.

"The law requires a city to act 'rationally' in regard to vessels. That means having it spelled out in tariffs and code ahead of time. Here is an itemized list of things you cannot do; here are the requirements you must meet in order to remain in the harbor," Wells said.

Homer passed a law that requires each boat in the harbor to be moved on its own power twice per year at least 60 days apart. This helps to identify boats too broken down to move or those abandoned by their owners. So far this has been a valuable tool, Hawkins said.

A harbor official from Ketchikan asked Wells what can be done if an ailing ship is escorted into the harbor by the U.S. Coast Guard.

"You have control. If the ship is falling apart at the seams, you can talk about the 'clear and present danger' it presents. The Coast Guard can be your ally," Wells answered. "This threat can help you immediately get that vessel out of the harbor."

Unpaid moorage fees from abandoned boats mount into the thousands of dollars, representing a double loss to cities since they can't rent the space to a working boat.

Hawkins found that by working with owners, offering to forgive half the moorage fees on the condition of getting the boat out of the harbor, he can achieve the desired results.

In the cases of the Spanky Paine and the Honcho, Homer handed over both tugs to Peninsula Scrap and Salvage, receiving no monetary compensation.

"But the way we look at it, we get back 180 feet of moorage space, and we've mitigated an irritation and prevented a future disaster," Hawkins said.

Of the 14 ailing vessels that formerly inhabited the Homer harbor, all the large derelicts are gone. Now there are a few smaller, 40-foot class vessels on the radar.

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## **Derelict ship causes ammonia scare**

**The Associated Press | Posted: Wednesday, January 2, 2013 3:36 pm**

KODIAK, Alaska - A derelict fish processing ship caused an ammonia scare in Kodiak when two crewmembers living onboard the vessel reported a leak.

Kodiak firefighters were joined by Coast Guard firefighters on Monday in responding to reports of a leak on the 169-foot Pacific Producer, according to the Kodiak Daily Mirror (<http://is.gd/ZqpKgN>). Kodiak City Pier 2 was cordoned off for five hours.

Anhydrous ammonia is commonly used as a refrigerant aboard fishing vessels and in fish processing plants. It can cause severe lung damage if inhaled. High concentrations can be fatal.

Firefighters boarded the ship and shut all the valves connected to the ship's ammonia system.

Subsequent tests found no ammonia circulating in the air.

A storm rolling through Kodiak both helped and hampered firefighters' efforts. Winds gusting up to 52 mph whisked away the ammonia leak so quickly that firefighters were able to walk next to the boat without protective gear, and no evacuations were required.

The wind also prevented firefighters from getting an accurate reading on the size of the ammonia leak.

"We never got a reading because it was always going away from us, which was a good thing," Kodiak deputy fire chief Jim Mullican.

The Pacific Producer has been tied up at Pier 2 for more than two months after its owner, captain and chief engineer all walked away from the boat. Kevin Briggs, the sole remaining engineer aboard the Pacific Producer, said he came aboard 3 months ago to help process fish, but the ship hasn't seen a single fish and he's ready to go home.

"It's just been a nightmare, basically," he said.

Last month, the Pacific Producer's owner left Kodiak to find operating capital, and he hasn't returned since.

"We've just been waiting for him to come up with what he calls 'investment money,'" Briggs said.

Deputy Kodiak harbormaster Lon White said the city wants the ship gone.

"We've asked the owner to remove it from city facilities and they have not done so, either been unable or refused to. Regardless, it's still at our facility," he said.

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## **Diesel spill from derelict ship in Kodiak harbor reported**

**The Associated Press | Posted: Sunday, January 6, 2013 5:21 pm**

ANCHORAGE, Alaska - The Coast Guard says an estimated 150 gallons of diesel fuel from a fish processing vessel spilled into the Kodiak harbor.

KTUU (<http://is.gd/LJDWHd>) says the Coast Guard and other agencies responded to the leak Saturday from the vessel Pacific Producer.

Petty Officer Guy Hughey says the fuel leaked inside of the ship before some of it was pumped into the harbor.

Hughey says about 500 gallons of diesel discharged into the vessel's bilge, triggering the bilge pump.

The fire department also tested the atmosphere for ammonia used in the ship's refrigeration system.

Authorities say there was no ammonia threat to the Pacific Producer's crew.

## Refloating derelict boat

Posted: Wednesday, November 26, 2008

Harbor employees Pete Frank, left, and Doug Liermann work Tuesday to refloat a derelict fishing boat after it sank in Aurora Harbor earlier this fall. The boat was towed to a beach near the Yacht Club at high tide so it could be drained and refloated on a future tide. Port Director John Stone said the boat would be transported to a location where a private contractor could crush it and take it to the city landfill. Stone said the boat's owner would be charged for the work.



# The Seattle Times

Winner of Nine Pulitzer Prizes

## Local News

Originally published September 8, 2012 at 3:56 PM | Page modified September 8, 2012 at 8:16 PM

### Derelict vessels cause boatloads of trouble in state

Despite a program whose sole mission is to deal with derelict vessels, Washington state just can't keep up with the tide of these potential environmental catastrophes.

By Maureen O'Hagan

Seattle Times staff reporter



Hundreds of derelict or abandoned boats, both large and small, are slowly rotting on Washington's waterways.

And despite a program whose sole mission is to deal with these potential environmental catastrophes, the state just can't keep up with the tide.

In March, 226 vessels were on Washington's "derelict or abandoned" list. By June, the state or other agencies had helped move, shore up, or dispose of 23 of them — which sounds pretty good, until you realize that, in the meantime, 18 more vessels were added to the list. Some boats are removed, only to wind up back on the list a second or third time.

Melissa Ferris, who runs the Derelict Vessel Removal Program, can rattle off stories. There are the boats that appear out of nowhere in state waters, dumped by their

owners. Those that break anchor and float away, battering the docks or creating a hazard to navigation. Those that the owner swears are seaworthy, right up to the day they sink. They may contain oil, asbestos and other hazards.

Despite all that, the state just lets most of them sit — one leak away from trouble. Private-property rights make it cumbersome to intervene. Environmental regulations make it expensive. Even government policies that seem perfectly reasonable have turned out to contribute to the problem.

But the main reason derelict vessels are so vexing is this: The economics just don't pencil out. The entire budget for Ferris' agency is \$750,000, yet it can cost far more than that to dispose of a single large vessel.

Most of them don't make news. They're smaller vessels, and amount to little more than eyesores. But sometimes, boats on Ferris' list turn into multimillion-dollar problems.

Like the Deep Sea.

In May, the 140-foot former fishing boat sank in Whidbey Island's Penn Cove, spilling oil within swimming distance of some of the state's prime shellfish beds. It cost the government nearly \$5.4 million to clean up the mess and dispose of it.

But the Deep Sea was a problem vessel long before that. Like many boats on the list, it was passed from owner to owner, until at some point, it was worthless. The vessel was abandoned by its owner at the Port of Seattle; the Port sold it to a guy with no real means to deal with it. The Port did this even though it feared the boat would show up on "the evening news with our name attached," one email obtained under the state's open-records act said.

And that wasn't anywhere near the state's worst derelict-vessel disaster. The 430-foot Davy Crockett cost \$20 million to clean up last year after the owner began to dismantle it, illegally, on the Columbia River.

In the end, it's the public who winds up footing the bill.

### "Common problem"

Every boat has a story. Mostly, the story involves a good working life, and a long, slow death.

Washington, with its boating culture, is hit particularly hard.

"Most public ports have a lot of abandoned boats," said Ferris. "It's a common problem."

It's also one with an inescapable calculus: A boat can cost a lot of money when things are good. It can also cost a lot to get rid of.

First of all, rotten wood is worthless. Big metal boats are worse. They're often sprayed with asbestos. They can be full of lead paint and other hazards, too. Because of stringent environmental regulations, there are just a handful of places in the state where you can legally dismantle them. "It's going to cost you more to get rid of than it's worth," Ferris said.

The 186-foot Northern Retriever, for example, was rotting in Grays Harbor for years, with holes in its hull and no means of propulsion. It wound up costing the state \$835,000 to dismantle and dispose of. Its 1,000 tons of metal sold at scrap for \$78,000.

If you're a maritime business owner who needs to retire a boat, the calculus presents a real dilemma.

"You'd have to have a pretty strong company to commit to spending (hundreds of thousands) to get rid of a vessel that's becoming obsolete," Ferris said.

So what do you do? Some owners strip off parts that can be turned into cash. Then they'll sell their misfit vessel for a pittance, often to someone who thinks he can make a fortune.

Which brings us to the Deep Sea.

### Fees pile up

Built in 1947, it was a pioneer in the Alaskan crabbing industry. It changed owners over the years, eventually winding up in the hands of Factotum Fisheries. In 2005, Factotum moored the boat at the Port's Fishermen's Terminal, paying \$1,500 per month. But at some point, the owner just stopped paying. By July 2010, the outstanding bill was \$31,000.

Factotum's owner told the Port he was sick with cancer and didn't have the money. At this point, the Deep Sea was not only technologically outdated — it was a liability.

"We were kind of left holding the bag," Port spokesman Peter McGraw said.

The Port wanted its \$31,000. It wanted a paying customer in that slip. But most of all, it wanted the boat gone.

"The port has become increasingly concerned that the vessel, which is essentially an uninsured derelict, constitutes a pollution and liability hazard," a lawyer for the Port wrote in May 2011.

Port officials figured dismantling the Deep Sea could cost \$500,000. So they decided to unload it.

The Port's Michael DeSota urged caution.

"The background and financial stability should be checked thoroughly on any prospective buyer to assure this doesn't wind up in the evening news," he wrote in an email.

Twice, the Port tried to sell it at maritime auctions. No one was willing to pay even a buck.

"Anybody legitimate is going to walk through it and go 'no thanks,' " Ferris said.

Then Port officials tried Craigslist.

A Maple Valley man named Rory Westmoreland stepped forward. McGraw said that since Westmoreland was a scrap dealer, he seemed like a good fit.

"We are not in the business of handing over a large vessel like this to just anyone who comes off the street," he said.

If Port officials had checked, they would have found Westmoreland had a long history of run-ins with neighbors, code inspectors, the Environmental Protection Agency, police and others.

Eventually, the Deep Sea was sold to Westmoreland for \$2,500.

It was no longer the Port's headache.

### **Floating junkyard**

When Ferris got word the boat was anchored in Penn Cove, she was not happy. She also didn't jump right in and try to seize it, even though that's what people were clamoring for.

Another boat, the Cactus, was too fresh in her mind.

The Cactus' best years were spent in the Coast Guard, working as a buoy tender. But in the 1970s, the vessel was past her prime, so the Coast Guard did what the taxpayer might expect: sold it.

At some point, the Cactus wound up in the hands of David Thomsen. He told the state he bought her for \$35,000 and planned to turn her into a floating sawmill.

He also said that he was the "comptroller of the currency"; that he was "part owner of a \$300 trillion gold mine"; that he "invented the silicon chip"; and that he owns Microsoft and Vulcan, according to Ferris' file on the case.

"If people can't live in society, boats are kind of a last bastion," Ferris said. "We do get a number of people with mental-health issues."

By the mid-2000s, the Cactus appeared to be little more than a floating junkyard moored in the Foss Waterway.

The law allows a boat one month in the public waterway before it has to move. In September 2003, Thomsen received his 30-day notice. On day 29, Ferris said, Thomsen used the tides, the wind and a 20-foot fishing boat to tow it to Maury Island. Authorities were hesitant to give him another 30-day notice.

"We could end up chasing this vessel around Puget Sound," one official wrote in an email. "Would that create greater danger?"

The vessel sat there for years. By 2008, it was filled with buckets of paint and epoxy; rusted steel plates, rubber hoses, PVC pipe, leaking pails of seam filler, old newspapers, mattresses, boxes of tiles and who knows what else. There was also fuel and asbestos insulation.

Meanwhile, the boat had been pillaged. Ten-foot pieces of metal had been cut out of the deck. Brass valves were removed.

"The only thing that was keeping the boat from sinking was these corks that had been hammered in," Ferris said.

At one point, it broke anchor and went swinging into the aquatic reserve. Another time, according to Ferris, Thomsen called 911 because it was sinking. He got it under control, but King County decided to step in. In 2008, under Thomsen's protest, the Cactus was towed away for dismantling.

Years later, the boat is still sitting at a Ballard shipyard because there wasn't enough money left in Ferris' budget to scrap it. Between moorage fees, cleaning off the junk, pumping out the holds and other emergency measures, it's cost the state more than \$348,000 so far. Each month is another \$3,000 in moorage.

"We've been baby-sitting this stupid boat for four years basically," Ferris said.

This fall, Ferris said, she'll finally be able to finish the job, thanks to a lump sum from the Legislature.

But the Cactus had taught her a valuable lesson: When you seize a boat, it becomes *your* boat. And your problem.

### Fire dooms Deep Sea

Around 1 in the morning one Saturday in May, smoke was pouring from the Deep Sea. By Sunday, it had sunk. The cause is under investigation.

"I've never had any of the vessels on our list spontaneously combust," Ferris said. The state has taken a lot of heat for not swooping in and going after Westmoreland or getting the Deep Sea out of Penn Cove.

But the way Ferris sees it, she didn't have a lot of options. It's the same with the other big boats on the list. Most of the owners can't address the problem, even if she threatens them with fines or even criminal charges.

She definitely doesn't want to wind up with another Cactus. Nor does she want another Deep Sea.

It's not entirely clear what can be done. Five years ago, Ferris' agency wrote a long report outlining the issues and asked for new legislation. Aside from strengthening a little-used criminal misdemeanor statute, almost none of it passed.

After the Davy Crockett disaster, Washington and Oregon joined to create a Derelict Vessel Task Force to push for new state and federal laws. What kind? It's unclear.

At this point, they're just looking for viable ideas.

*News researcher Gene Balk*

*contributed to this report.*

*Maureen O'Hagan: 206-464-2562 or mohagan@seattletimes.com*

# **Alaska Association of Harbormasters and Port Administrators**



## **RESOLUTION NO. 2012-02**

### **A RESOLUTION OF THE ALASKA ASSOCIATION OF HARBORMASTERS AND PORT ADMINISTRATORS REQUESTING STRONGER MUNICIPAL POWERS IN REGARDS TO ABANDONED AND DERELICT VESSELS.**

**Whereas**, the Alaska Association of Harbormasters and Port Administrators recognizes the majority of the public boat harbors in Alaska where constructed by the State during the 1960s and 1970s; and

**Whereas**, the State established statutes and regulations for its purposes that dealt with abandoned and derelict vessels at these state harbor facilities; and

**Whereas**, the specific State statute is called the Abandoned and Derelict Vessel Act (AS 30.30); and

**Whereas**, the State of Alaska during the past 20 years has transferred ownership of most of these State owned harbors to local municipalities; and

**Whereas**, the municipalities took over this important responsibility because these harbor facilities represent critical transportation links and are the transportation hubs for waterfront commerce and economic development in Alaskan coastal communities; and

**Whereas**, these municipal owned harbor facilities are ports of refuge and areas for protection for ocean-going vessels and fishermen throughout the State of Alaska, especially in coastal Alaskan communities; and

**Whereas**, consequently, local municipal harbormasters found themselves without sufficient legal protection due to some abandoned and derelict vessels left in these harbor facilities; and

**Whereas**, the cost of cleanup or disposal of an abandoned and derelict vessel can easily exceed \$1 million, creating a major financial burden that their local municipal governments could not afford; and

**Whereas**, local municipal governments, where they had the legal and financial resources, created codes to protect themselves from the liabilities and hazards of abandoned and derelict vessels; and

**Whereas**, some local municipal governments do not have the legal and financial resources to create or change codes to protect themselves from the liabilities and hazards of abandoned and derelict vessels; and

**Whereas**, the unincorporated areas of the State also need protection from the liabilities and hazards due to abandoned and derelict vessels; and

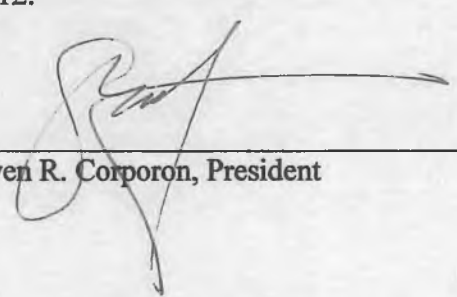
**Whereas**, the Department of Transportation and Public Facilities' mission is to build, maintain and promote transportation of all modes; and

**Whereas**, the Department of Transportation & Public Facilities is not funded to perform environmental cleanup work of marine vessels; and

**Whereas**, other state agencies or peace officers might find it in the public's best interest to impound an abandoned or derelict vessel, especially in the unincorporated areas of the State, to prevent or cleanup the environmental mess left behind from an abandoned or derelict vessel; and

**Now therefore be it resolved** that the Membership of the Alaska Association of Harbormasters and Port Administrators urges that AS 30.30 be modified as detailed in the attached draft to allow any municipality or state agency to have the full protections afforded in the Abandoned and Derelict Vessel Act.

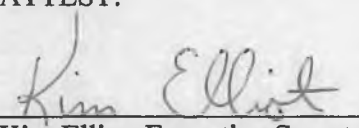
Passed and approved by a duly constituted quorum of the Alaska Association of Harbormasters and Port Administrators on this 24th day of October, 2012.



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Steven R. Corporon, President

ATTEST:



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Kim Elliot, Executive Secretary

**From:** Bryan Hawkins [mailto:BHawkins@ci.homer.ak.us]  
**Sent:** Monday, March 04, 2013 2:31 PM  
**To:** Rachel Lord; Louie Flora  
**Cc:** Katie Koester  
**Subject:** RE: FW: HB 131 sponsor statement and cost information

Good morning Louie,

In it's simplest form what we do here is sell safe harbor to vessel owners. We collect a fee for the for service, those fees pay our operations costs and are used to build up a reserve of money to be used for replacing and maintaining the harbor infrastructure. Most derelict boats are also behind in their moorage so not only do you have an inactive boat taking up space, insult to injury, your not even getting paid for your trouble.

There is the real threat of having it sink in the harbor to be sure but the other problem is the lose of revenue earning ability by the harbor due to the space being used by a non paying client. One of the bigger picture issues has to do with the justification for building a harbor in the first place. Economic benefits locally, regionally (borough and State) and nationally. Remember the Federal Government only builds harbors that have a positive benefit to the economy from a commercial standpoint. A couple of years ago we completed the East harbor expansion feasibility study with the Corps and the State. One of the findings that came out of the study was that the Corps recognized the large number of derelict or inactive boats in the Homer harbor. They pointed this out in the study and recommended that we "get them out of the harbor and you would have a lot more room" Like we hadn't thought of that right. Sometimes the truth hurts. We've made great progress in moving them out of the harbor one way or the other and I had the satisfaction of being able to tell the Corps the junk was replaced with paying customers and by the way we're still overfull.

Speaking from experience I can tell you that every derelict boat case is a little bit different. In Homer we had a back log of large derelicts, no fault to anyone they just kind of grow on you. They come in as a working vessel and then they change hands a couple of times and the next thing you know you've got a problem. I'll tell you the story of one of our high profile cases but I'll change the name slightly. You know the boat, the ----- Harvester, was a harbor queen here in Homer for almost 20 years but towards the end it changed hands 3 times and each time the new owner had an even worse plan then the one before. By the time the boat left the harbor there was a balance owed in moorage to the harbor of \$90,000. I also know that they were in the hole to the Borough for property taxes to the tune of \$15,000. There was a considerable amount of attorney fees involved with this case as well as staff time. In the end in order to make the old girl go away the harbor forgave the back moorage, wrote a letter to the Borough asking them to do the same with the back taxes and the new owner was able to tow it away with a clear Title. Funny thing he

thinks he got the deal of the century. The flip side of this story is the benefits. Three weeks after the ----- Harvester departed the Helenka B moved their operation in and the Enterprise gained a major account in moorage, landing fees at the barge ramp, and wharfage. In the past few years Homer has been able to remove 14 large derelicts from the harbor and the municipally owned beaches.

It's difficult to capture the actual costs but here are a few of the headings that I can think of.

Lost moorage

lost ability to market to paying customers who have viable operations and who want to locate in your town

Lost growth opportunity in terms of justification

Lost staff time, operations and admin, dealing with a non revenue generating vessel

Higher operations costs due to attorney fees

Congestion in the harbor and unnecessary inconvenience to the other harbor users

One of the reasons we haven't had a major loss like has occurred in other harbors on the coast (knock on wood) is that we have a 24 hour watch and the graveyard shift has caught a lot of boats on their way down over the years, protecting us from that O ---- moment first thing in the morning, so add that cost to the equation as well. Also if we have a abandoned boat in the harbor, staff watch, pump it, or do whatever it takes to make sure the dang thing doesn't sink while we work out a plan for removal. This helps keep me motivated because as you might imagine, the harbor officers don't let me forget.

Sorry for the novel, but I don't think there is an easy or short way to tell this story.

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