

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

7731 SENATE TRANSPORTATION

285

H B

2 3 2



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 & Zona 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:

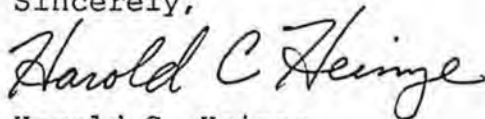
Subject: CSHB 232 (CRA), which relates to sunken and abandoned vessels and cargo.

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  
 JOHN B. SMILDE  
 JAMES J. TAYLOR  
 WILLIAM P. KARDARAS  
 ROBERT J. WILLIAMS  
 WILLIAM P. SULLIVAN, JR.  
 JAMES B. MOQUILLAN  
 JOHN F. SCHEFFEL  
 JAMES B. WOHAFON, JR.  
 JOHN T. KOCHENDORFER  
 LOUIS O. JULIANO  
 JAY LEVINE  
 GEORGE R. DALY  
 JOHN E. CONE, JR.  
 JOHN MACGRATE III  
 FRANCIS A. MONTBACH  
 ROBERT J. PHILLIPS, JR.  
 STEPHEN M. MARCUS  
 WILLIAM R. CONNOR III  
 ROBERT E. HIRSCH  
 THOMAS R. PATTISON  
 MARILYN L. LITTLE  
 JOSEPH E. DONAT  
 PETER I. BROEMAN  
 DONALD T. RAVE, JR.  
 STEPHEN V. RIBLE  
 WILLIAM C. BROWN III  
 ADRIAN MECZ  
 THEODORE S. CUNNINGHAM  
 HELEN M. BENZE  
 CHRIS CHRISTOFIDES  
 PAUL AMBOS

14 WALL STREET  
 NEW YORK N.Y. 10005-2140  
 212-722-4646  
 FAX 212-227-0491  
 212-619-0781

PRIORITY MAIL

December 23, 1991

JOHN J. MARTIN  
 LAURANCE W. LEVINE  
 ROBERT T. GUNDERSEN  
 JAMES J. BURNS  
 COUNSEL  
 SUITE 600  
 1 LIME STREET  
 LONDON EC3M 7DD, ENGLAND  
 TEL: 01-853 9641  
 TELEK: 092323 8244 0  
 FAX: 01-8532852

SUITE 200  
 1918 PENNSYLVANIA AVENUE, N.W.  
 WASHINGTON, D.C. 20006  
 202-823-8200  
 FAX: 202-823-8738

SUITE 827  
 ONE GATEWAY CENTER  
 NEWARK, N.J. 07102-8211  
 201-643-1100  
 FAX: 201-643-1124

TABLES 'KEDGE'

RCA TELEX: 228338 8244UR

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.

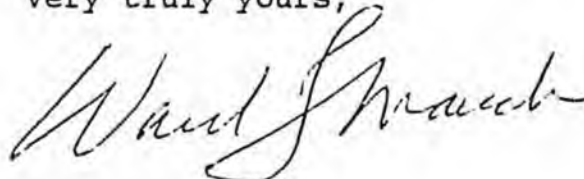
Assessing and pricing future risk, including restoration of the environment and the civil penalty for vessels over 58 feet, will be very difficult. It will almost certainly discourage insurance capacity, and, at best it will substantially increase the cost of available capacity.

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.

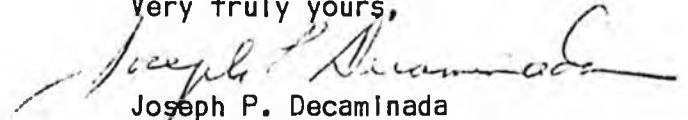
If this bill were enacted in its current form, the immediate result would be to discourage the underwriting of ocean marine insurance in Alaska. Consequently, vessel owners, charterers, and cargo owners would encounter problems in acquiring adequate, affordable marine insurance. The bill would have a 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,

A handwritten signature in cursive script, appearing to read "Joseph P. Decaminada".

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;
- 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,

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.

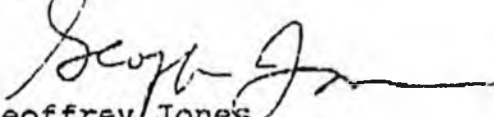
These problems would gravely affect both vessel owners and marine insurers.

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:

1031 W 4th AVENUE SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550  
FAX: (907) 276-3697

1st NATIONAL CENTER  
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

*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.<sup>1</sup> 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

---

<sup>1</sup> 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:

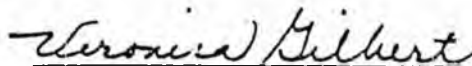
All Alaskan Seafoods Inc.  
An Alaska Corporation  
311 Mill Bay Road  
Kodiak, AK 99615

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.<sup>1</sup> 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

---

<sup>1</sup>The 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.<sup>2</sup>

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."<sup>3</sup>

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

---

<sup>2</sup>The 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.

<sup>3</sup>Florida Statutes 823.11.

<sup>4</sup>A 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. 30.30.050.** Within 20 days after public notice in general circulation for more than five days has been received, the vessel shall be donated to a

**Sec. 30.30.060.** An interest in a vessel as of the date of the purchase or harbor use and any other interest in the vessel. If a registered or licensed vessel, pay to the security which security, if received. (§ 1 ch 131 SLA 1975)

**Sec. 30.30.070.** Auction is a vessel, as defined. The appraisal purchase or public advertisement circulation. of it as junk. (§ 1 ch 131 SLA 1975)

**Sec. 30.30.080.** 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)

sted party  
not required

a) A person  
substantially  
or at a port  
having juris-  
ate property

relict vessel  
obstructs or  
er pollution,  
nger to the

applicable

is guilty of  
an \$500, or  
or by both.

vessels. A  
od of more  
roperty, or  
r occupant  
or a peace  
er. (§ 1 ch

outside of  
ne custom,  
e leave a  
te in such  
or to store  
or private  
e climatic  
le provi-  
time, the  
ssel does  
ed in. AS

in aban-  
he vessel

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

prospective  
the vessel w  
same manne

(c) If no  
vessel, the  
mental ager

Collateral  
vessels: right  
wrecked or der

Article

Section

- 110. Dispositi  
vessel
- 120. When v

Sec. 30.  
repair bus  
a vessel re  
owner's at  
under AS

Sec. 30.  
on the pre  
conditions

(1) the  
towed or b  
to towing  
performed

(2) no  
respect to  
ises;

(3) the  
rized rep:  
with a re  
address o

record in  
any pers  
vessel is

it will be  
of the ve  
person v  
address o

(4) the  
(3) of th

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 c § 11 (197

Revisor's waters and

Sec. 31 doned an

Section 10. Interfer 20. Discha wat

Sec. 3 who mo buoy or river, or United S barge, se removes removes authorit and upo more th month n am § 2:

Reviso 11.65.020

Sec. person. of a ves river of ously a navigat punish: more th \$500. (

Reviso 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); "

**Effect of amendment repealed which defined " "**

§ 30.30.170

## Facilities

ation and pub-

on and Public

ids, seawalls,  
aprons, lifting  
cessary equip-  
rne commerce  
ort and ferry

orrowing, site  
nd designing,  
it does not in-  
facilities once  
making appli-  
974; am E.O.

## Vessels.

ortation and

her artificial  
r capable of  
n the water;

§ 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.

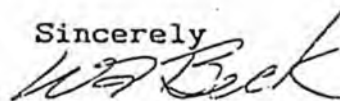
The people of Alaska, the individual municipalities of the state, and/or the state itself, should not have to bear the burden of the cost of restoring an area because of an individual's neglect.

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

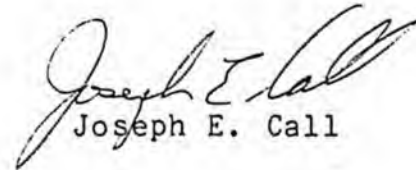
Dear Representative Jacko,

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		TRANSFERRED AT HONOLULU			
		DATE	TIME	DATE	TIME	NAVALE	KAIHERU	HELO	KAUAI
MAHUKAHU	286	June 16	June 15	June 22	June 21	June 25	June 24	June 24	June 25
MAHUKAHU	328	June 31	June 28	June 28	June 28	July 2	June 30	July 10	July 2
MAHUKAHU	400	June 28	June 26	June 26	June 26	July 8	July 7	July 8	July 8
MAHUKAHU	527	July 8	July 8	July 13	July 13	July 18	July 18	July 18	July 18
MAHUKAHU	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
MAHUKAHU	329	June 18	June 18	June 25	June 25
MAHUKAHU	406	June 23	June 23	June 28	June 28
MAHUKAHU	528	June 20	June 20	July 8	July 8
MAHUKAHU	490	July 7	July 7	July 12	July 12
MAHUKAHU	627	July 14	July 14	July 23	July 23

## MARSHALL ISLANDS SERVICE VIA HONOLULU

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

AREA SALES OFFICES:  
 Seattle, WA 98114 3225 E Marginal Way South, Terminal 25 (206) 481-8230  
 Portland, OR 97203-7201 No Marine Drive (503) 275-8702  
 Los Angeles, CA 90731-Birth 208, 1001 New Dosh Bl. (213) 818-8478  
 Oakland, CA 94607-3050 7th St. (415) 271-8777  
 Chicago, IL 60611-400 No Michigan Avenue (312) 222-2470  
 Honolulu, HI 96818-4888 Ward Avenue Rd. (808) 848-1211

CUSTOMER SERVICE (800) 4-MATSON

21



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

VESSEL	TRANS-PACIFIC WESTBOUND - TO ASIA							
	Pacific Bridge	California Herms	California Apollo	California Apollo	California Apollo	Pacific Bridge	California Herms	California Apollo
New York (031)	5/17	5/24	5/21	5/17	5/14	5/21	5/28	5/25
Chicago (031)	5/18	5/25	5/22	5/18	5/15	5/22	5/29	5/26
Seattle (031)	5/17	5/24	5/21	5/17	5/14	5/21	5/28	5/25
Vancouver B.C.	5/24	5/31	5/27	5/24	5/21	5/27	6/3	5/30
Portland	5/26	6/2	5/29	5/26	5/23	5/29	6/5	6/2
Susan	5/12	5/18	5/26	5/23	5/20	5/27	6/3	5/31
Indigo	5/14	5/21	5/28	5/25	5/22	5/29	6/4	6/1
Tokyo	5/8	5/13	5/20	5/17	5/14	5/21	5/28	5/25
Shanghai	5/7	5/14	5/21	5/18	5/15	5/22	5/29	5/26
Nagoya	5/7	5/14	5/21	5/18	5/15	5/22	5/29	5/26
Kobe	5/7	5/14	5/21	5/18	5/15	5/22	5/29	5/26
HONG KONG	5/12	5/18	5/26	5/23	5/20	5/27	6/3	5/31

VESSEL	TRANS-PACIFIC EASTBOUND - TO NORTH AMERICA							
	California Herms	California Apollo	California Apollo	California Apollo	Pacific Bridge	California Herms	California Apollo	California Apollo
Incheon	5/14	5/21	5/28	5/25	5/22	5/29	6/4	6/1
Susan	5/18	5/25	6/1	5/28	5/25	6/1	6/8	6/5
Kobe	5/18	5/25	6/1	5/28	5/25	6/1	6/8	6/5
Nagoya	5/18	5/25	6/1	5/28	5/25	6/1	6/8	6/5
Shanghai	5/18	5/25	6/1	5/28	5/25	6/1	6/8	6/5
Tokyo	5/18	5/25	6/1	5/28	5/25	6/1	6/8	6/5
Seattle	5/20	5/27	6/3	6/6	6/3	6/10	6/17	6/14
Portland	5/22	5/29	6/5	6/8	6/5	6/12	6/19	6/16
Vancouver B.C.	5/21	5/28	6/4	6/7	6/4	6/11	6/18	6/15
Chicago	5/2	5/9	5/16	5/23	5/20	5/27	6/3	6/1
San Francisco	5/7	5/14	5/21	5/28	5/25	6/1	6/8	6/5

# 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 cargo holds 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 vessel 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.

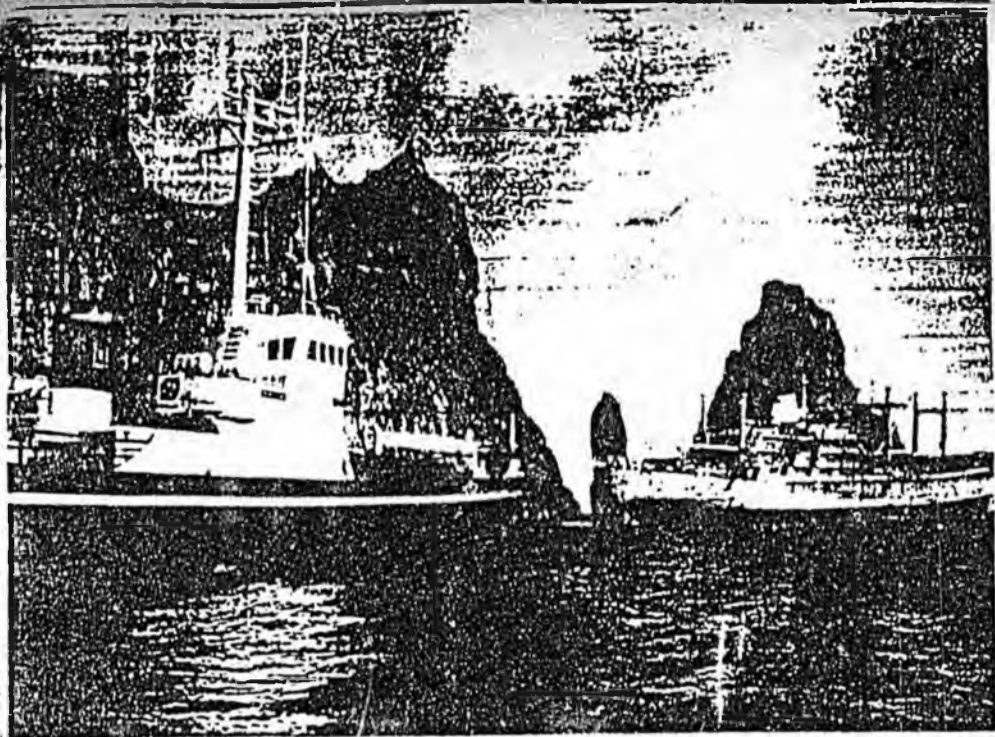
Meat industry executives from Japan, Mexico, Hong Kong, South Korea, Taiwan, Malaysia and Singapore were represented at this event, the only one of its kind in

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

## PRC Hits HK 'Bill Of Rights'

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





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.

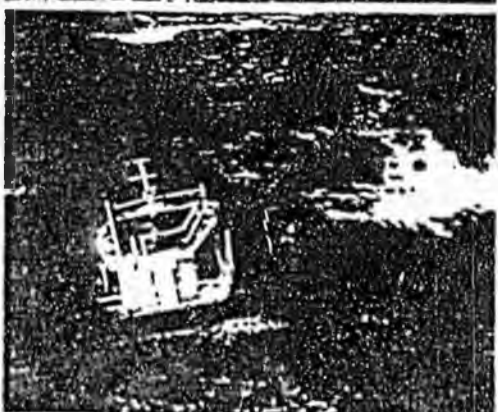
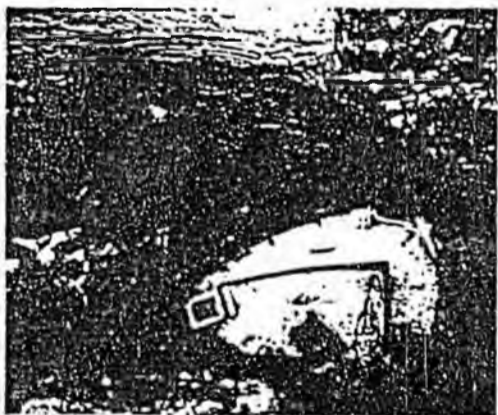
"Salvaging a vessel, especially in Alaska, offers so many different circumstances that it is difficult to pinpoint what should be done all of the time. Each wreck is different and challenges us every time," said Walsh. "Alaskan shipwrecks do share a similar quality however. They have been left sitting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

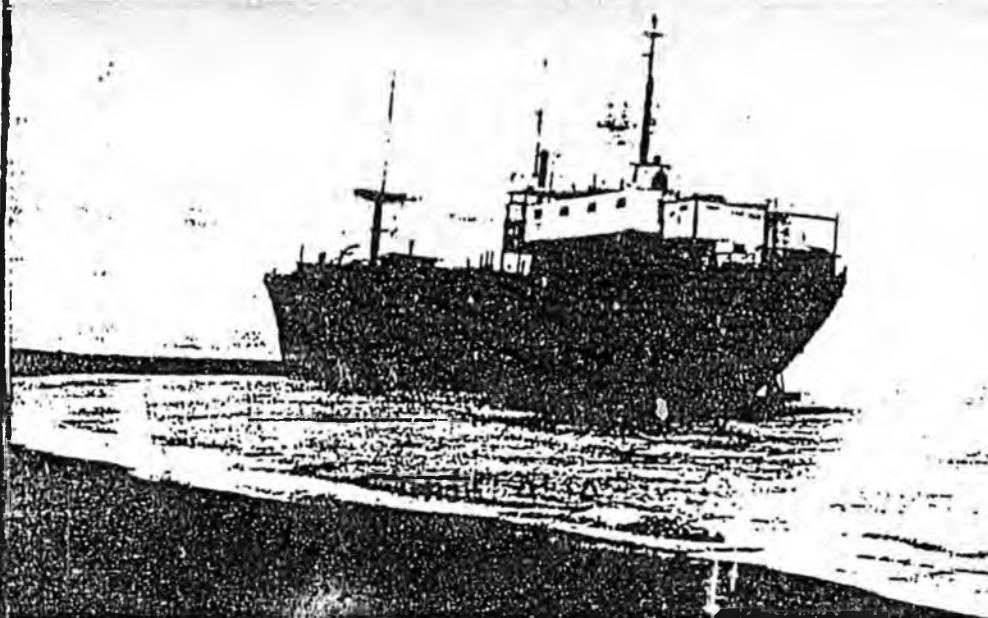


Time is essential in the salvage of ships along the Alaskan coast. In one year the ALASKAN MONARCH, shown shortly after its grounding off St. Paul Island (top photo) went from an intact ship capable of salvage to pieces of scrap scattered along the shore.

—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

**o y d**  
 3640 NW YEON  
 P O B  
 PORTLAND, OR  
 night (503) 227-6194 FAX (503) 227-17

**USA, Inc.**  
 NVOC to JA  
 Portland (503) 28  
 Seattle (206) 241

ng the whole picture  
 r, call (503) 255-2142 in Portland or  
 art  
 west

**DAILY SHIPPING NEWS**

**MAVER**  
 ND OCEAN TOWING  
 e Maritime Industry  
 Since 1880  
 24 hr Dispatch 503.228.88  
 rtland, Oregon

**X MARITIME C**  
 Asslet & Bunkering  
 Towing & Barging  
 Barging  
 sler Barging  
 1, Coastal & Ocean Towing  
 )TLINE: (503) 285-051  
 Ocean Towing Division  
 P O Box 3505  
 Seattle, WA 98124  
 (206) 340-1291

Continuing to Serve t  
 Steamship Industry  
 RITY SERVICES CORP.  
 IAL, INC.  
 151372 WILDWEST  
 ng a Sater World

Flatbeds  
 Vans  
 Containers  
 Full Truckload Service  
**STELL**  
 TRUCK LINES

**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
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

**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**

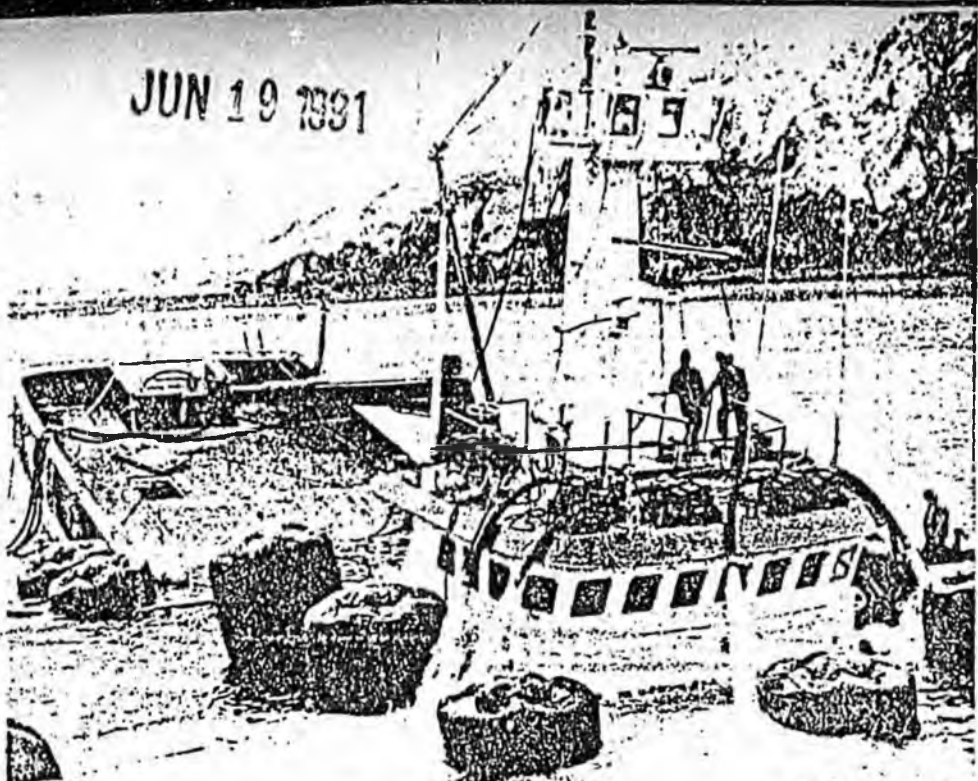
VESSEL (AGENT)	DESTINATION	DATE
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91
Comet (110) CB		6/19/91

**AIRPORT BROKERS CORPORATION**  
 Customs Brokers  
 Foreign Freight Forwarders  
 Ocean & Air Consolidations  
 Tracing & Tracking - 24 Hours a Day  
 Seattle (206) 248-4380  
 Portland (503) 249-0031  
 17728 Ambrose Blvd., Seattle, WA 98148

**PILOT**  
 RIVER • HARBOR • DOCKING  
 Licensed U.S. Coast Guard  
 Master & Pilot Unlimited  
 Oregon State Pilot Unlimited  
 Columbia/Willamette Rivers  
 Shiphandling Simulator &  
 ARPA Simulator Certification  
 24 Years of Experience  
 as a Columbia River Pilot  
 Over 45 Years of Service  
 to the Maritime Industry  
 Capt. Rex B. Pollitt  
 15330 SE Minerva Lane  
 Millwaukie, OR 97267  
 (503) 654-7458

**SUPERVISOR**  
 OBSTACLE COURSE  
 Upon which many employers just  
 And receive how vital the National Guard  
 Reserve is at our armed forces. The  
 30 is they make up over 44% of our  
 national defense  
 So the real time someone who would  
 if you need the US Army Guard and  
 Reserve duty, please give your full support  
 and let the obstacle course begin at  
 annual training

**REG**  
 THE BEST SUPPORT FOR  
 THE BEST SUPPORT FOR



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**

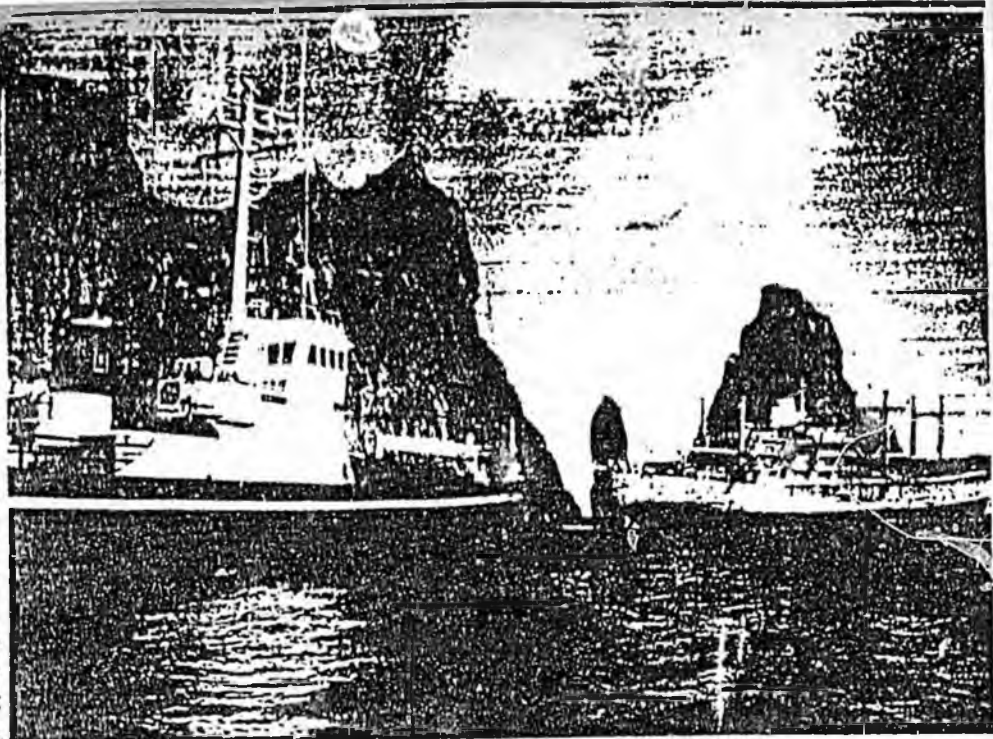
WASHINGTON—In a move that could affect grain shipments on the Columbia and Snake rivers, federal officials tentatively listed two Northwestern salmon types as threatened species on Friday.  
 At a news conference in Seattle, the National Marine Fisheries Service proposed that the Snake River's fall Chinook 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

**FUMIGATION**  
 IMPORT • EXPORT  
 CONTAINERS • COMMODITIES  
 "SERVICE AVAILABLE AT ALL OREGON PORTS"  
 PARAMOUNT PEST CONTROL INC  
 P O Box 13386, Portland, OR 97213  
 1207 NE Portland Hwy., Portland, OR 97218  
 "Fest Control by Professionals"  
 (503) 284-3375 • (800) 452-7243  
 FAX (503) 284-7379

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.

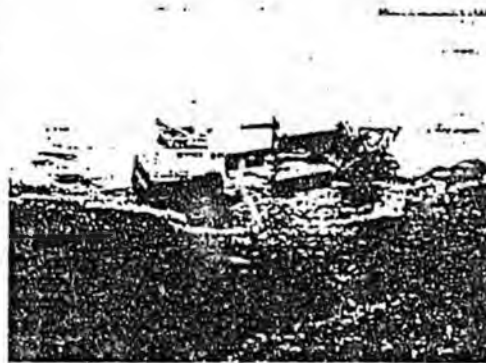
"Water pressure decreases as the vessel rises causing the air bags to expand, raising the vessel quicker and quicker. We have to be really careful in regulating the amount of air in the bags to make sure the vessel doesn't rush to the surface and break through the water all of a sudden," Walsh said.

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

several times in re-floating.

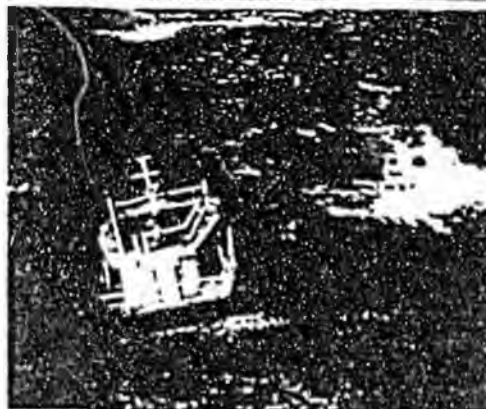
"Salvaging a vessel, especially in Alaska, offers so many different circumstances that it is difficult to pinpoint what should be done all of the time. Each wreck is different and challenges us every time," said Walsh. "Alaskan shipwrecks do share a similar quality however. They have been left sitting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

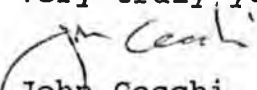
1. Unlimited liability;
2. Direct action against insurers;
3. Uncertainty as to which insurance coverages would be responsible;
4. Retroactive liability;
5. Lack of a statute of limitations.

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.

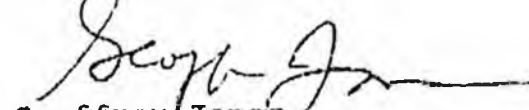
These problems would gravely affect both vessel owners and marine insurers.

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

**BIGHAM ENGLAR JONES & HOUSTON**

ALFRED J. MORGAN, JR.  
JAMES H. SIMONSEN  
JOSEPH A. KILBOURN  
DOUGLAS A. JACOBSEN  
JOHN B. SHIELDS  
JAMES J. TAYLOR  
WILLIAM D. KARDARAS  
ROBERT J. WILLIAMS  
WILLIAM P. SULLIVAN, JR.  
JAMES B. MOQUILLAN  
JOHN P. SCHEFFEL  
JAMES D. MCMANON, JR.  
JOHN T. KOCHENDOORFER  
LOUIS D. JULIANO  
JAY LEVINE  
GEORGE R. DALY  
JOHN E. CONE, JR.  
JOHN MACGRATE III  
FRANCIS A. MONTEACH  
ROBERT J. PHILLIPS, JR.  
STEPHEN M. MARCUSA  
WILLIAM R. CONNOR III  
ROBERT E. HIRSCH  
THOMAS R. FATTISON  
MARILYN L. LITTLE  
JOSEPH E. DONAT  
PETER I. BROEMAN  
DONALD T. RAVE, JR.  
STEPHEN V. RIBLE  
WILLIAM G. BROWN III  
ADRIAN MCKEY  
THEODORE S. CUNNINGHAM  
HELEN M. BENZIE  
CHRIS CHRISTOFIDES  
PAUL AMBOS

14 WALL STREET  
NEW YORK N.Y. 10005-2140  
212-722-4648  
FAX: 212-227-0491  
212-612-0781

**PRIORITY MAIL**

December 23, 1991

JOHN J. MARTIN  
LAURENCE W. LEVINE  
ROBERT T. GUNDERSEN  
JAMES J. DURAND  
COUNSEL

LOYD S  
SUITE 698  
1 LIME STREET  
LONDON EC3M 7DQ, ENGLAND  
TEL: 01803 9641  
TELEX: 888323 BBJM G  
FAX: 01-6828282

SUITE 200  
1818 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D.C. 20008  
802-223-0800  
FAX 802-223-0739

SUITE 527  
ONE GATEWAY CENTER  
NEWARK, N.J. 07102-6311  
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 Druggers 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.

**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;
- 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;

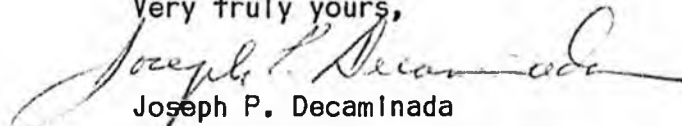
These problems would gravely affect vessel owners, cargo owners and marine insurers.

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,

A handwritten signature in cursive script, appearing to read "Joseph P. Decaminada".

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;
- 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,

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.

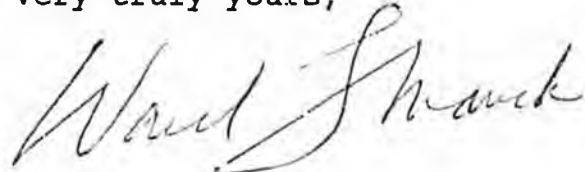
Assessing and pricing future risk, including restoration of the environment and the civil penalty for vessels over 58 feet, will be very difficult. It will almost certainly discourage insurance capacity, and, at best it will substantially increase the cost of available capacity.

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 <sup>should be</sup> 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-

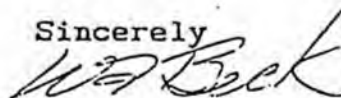
The people of Alaska, the individual municipalities of the state, and/or the state itself, should not have to bear the burden the cost of restoring an area because of an individual's neglect.

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

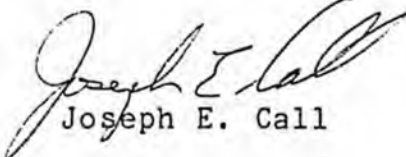
Dear Representative Jacko,

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

THE INFORMATION CONTAINED IN THIS FAX IS CONFIDENTIAL AND/OR PRIVILEGED. THIS FAX IS INTENDED TO BE REVIEWED INITIALLY BY ONLY THE INDIVIDUAL NAMED BELOW. IF THE READER OF THIS TRANSMITTAL PAGE IS NOT THE INTENDED RECIPIENT OR A REPRESENTATIVE OF THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, DISSEMINATION OR COPYING OF THIS FAX OR THE INFORMATION CONTAINED HEREIN IS PROHIBITED. IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE AND RETURN THIS FAX TO THE SENDER AT THE ABOVE ADDRESS. THANK YOU.

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 Tostevin, 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 30<sup>th</sup>  
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, 1992

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 future 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 joint venture and agreed to provide capacity and accepted a 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

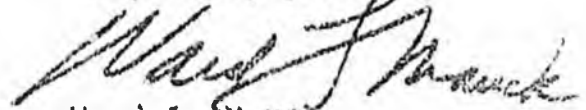
-3-

**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;