

Ad-hoc Alaska Abandoned & Derelict Vessel Task Force

Meeting Summary

February 6, 2014

Anchorage, AK

Attached: List of attendees and invited parties, including emails & phone. **Please let Rachel know if there is anything that needs to be corrected on that list.**

ACTION ITEMS appear in red text

Priorities/Needs for the Task Force to Address

In no particular order, participants spoke to these issues as top priorities or interests for their involvement in the Task Force:

- Understanding the scope of legacy ADV and prioritizing response
- Increased coordination between agencies/stakeholders (this was echoed by many)
- Better understanding of jurisdictional authorities and capacity
- Potential historical significance of ADV
- Establishing a process & templates to work with
- Developing legislative support
- Funding
- State program with an identified lead agency
- Disposal plan for ADV
- Vessels of concern and prevention of ADV
- Learning from other states
- Tracking ADV/developing a database
- Clear permitting process for removing ADV

Roles & Responsibilities

ACTION: Please review these summaries to fill in gaps that may exist/make corrections, and Rachel will create a table for easier reference in time for the March/April teleconference.

ACTION: Need communication between harbors and the state agencies to notify denial of access.

Alaska Department of Environmental Conservation Spill Prevention and Response (ADEC SPAR)

Definition of Abandoned. State definition – AS 30.30

Jurisdictional authority/Response triggers/ADV Interest. Under AS 18.75, ADEC will respond when there is imminent threat to the environment, health/public safety. Some leeway with the definition of pollution vs. imminent threat. They can work through Unified Command to push this further, however once there isn't a sheen it can be difficult for ADEC to continue engagement.

Enforcement/Prevention. Generally very response focused/more reactive than pro-active on enforcement & prevention.

Funding. Can go for cost recovery from RPs. Access to Pollution Fund (?)

Other Comments.

Alaska Department of Natural Resources

Definition of Abandoned. State definition – AS 30.30

Jurisdictional authority/Response triggers/ADV Interest. Primarily through trespass situations (11.46.330)/common law. HB131 gave DNR (and other agencies) authority for vessel seizure. Office of History and Archaeology may have interest if a vessel meets certain criteria (National Register of Historic Places, > 50 years old, potential with state ownership under Abandoned Shipwrecks Act).

Enforcement/Prevention. No fines associated with trespass, they pretty much send out letters. No enforcement capacity within the department. Storage permits are issued for commercial vessels, requiring insurance and sometimes bonding. Do not have a set location (very general). Difficulty with interpreting “traditional storage”, and owner intention vs. possible reality of abandonment. Can require a marine inspection as a condition of repossession.

Funding. No funding or cost recovery mechanism in place.

Other Comments. Problems with repeat offenders and inland legacy vessels.

Alaska Department of Fish & Game

Definition of Abandoned. State definition – AS 30.30

Jurisdictional authority/Response triggers/ADV Interest. Concerned primarily with vessels that may impact fish habitat or special areas.

Enforcement/Prevention. Can issue special area permits (jointly managed with ADNR) and storage permits in Critical Habitat Areas.

Funding. None dedicated to ADV.

Other Comments. None.

Alaska Department of Transportation

Definition of Abandoned. State definition – AS 30.30

Jurisdictional authority/Response triggers/ADV Interest. Pre-HB131 was the primary agency with authority over ADV. Still have a handful of harbors around the state that are owned by the state and run through the DOT office.

Enforcement/Prevention. None.

Funding. None dedicated to ADV.

Other Comments. None.

Alaska Harbors/Municipalities

Definition of Abandoned. Varies from place to place. Default to state definition, but some municipalities have more strict/clear definitions.

Jurisdictional authority/Response triggers/ADV Interest. Potential loss of income, public safety threat, pollution concerns. Municipal codes vary widely.

Enforcement/Prevention. Harbors can track and monitor well within their boundaries to identify

problems/vessels of concern. Homer has an underway policy (2 times/year, no barges in), requires insurance/bonding, can refuse access (unless a vessel is seeking harbor as a Place of Refuge, in which case the USCG signs the moorage agreement), and has contracts signed by vessel owners/operators. Local police can assist with enforcement.

Funding. No direct funding, but sufficient staffing can allow for monitoring & tracking of ADV.

Other Comments. The Association of Harbormasters and Port Administrators (AAHPA) passed a resolution supporting the ADV Task Force, and is a strong association that allows for communication & coordination among at least 25 of the larger harbors in the state.

United States Coast Guard

Definition of Abandoned. 45 days (CFR reference?)

Jurisdictional authority/Response triggers/ADV Interest. Pollution must be a substantial and imminent threat/public health & safety. Federal Water Pollution Control Act/OPA 90/CERCLA. Dumping on abandoned vessels is also a trigger for USCG response. Navigational issues/channel blocking – shared authority with US Army Corps of Engineers (no funding in that agency), limited to defined navigational waters which are very limited in Alaska.

Enforcement/Prevention. Mostly response, similar to ADEC.

Funding. Cost recovery possible once the National Pollution Fund Center is opened for a case.

Other Comments. District 17 Waterways (Dave Serio) should be wrapped into these conversations. Good communication with state agencies/Unified Command for emergency response situations. Not as clear for dealing with existing/legacy ADV.

Environmental Protection Agency

Definition of Abandoned. 45 days. (CFR reference?)

Jurisdictional authority/Response triggers/ADV Interest. Similar to USCG, authority to deal with ADV extends to addressing imminent pollution threats in the inland zone (1000' above the high tide line)

Enforcement/Prevention. None

Funding. Similar to USCG, able to go for cost recovery and access to the Pollution Response Fund.

Other Comments. EPA permits scuttling (Chris Meade, Juneau). Also of potential interest is the Potential Places of Refuge & the impacts on harbors for vessels seeking refuge.

Tracking & Inventory of ADV in Alaska/Database

Jade gave an overview of her efforts to-date. She has taken spreadsheets provided by ADNR and created a basic MS Access database (number of vessels = 231). Many do not have any geographic coordinates, and this includes recovered vessels.

Databases currently in use:

- ADEC: Spill response database – generally recovered vessels
- ADNR: lists currently compiled by ADEC, Land Administration System (LAS) to track trespass cases.
- NOAA: database of sunken vessels. ShoreZone & tsunami debris imagery with keywords. Worth checking for ADV.

- USCG: internal database of enforcement actions and pollution cases. This includes all cases and would be very labor intensive to pull out ADV-related only.

Rachel gave an overview of the Florida ADV Program database. The group discussed the purpose of a single ADV database for Alaska, logistics, concerns and ideas.

Highlights of needs/wants for an AK ADV Database:

- Jurisdictional authority overlay/buffers
- Mapping capacity
- Enough information to be useful to all agencies, not so much to be cumbersome and trigger legal/confidentiality concerns
- Make clear the audience of the database – who is entering information, who can retrieve information. See point above.
- Not re-creating work for people, esp. when current databases require entry as well.
- Ability to include photos/attachments
- Hyperlink or note case numbers for relevant case files (i.e. DNR LAS)
- Duplicate prevention/quality control ability for multiple user entry
- Ability to use to build a story of ADV in AK to gain public and legislative support

ACTION: ADNR would like to consider hosting this. Rachel will talk with Steve Weems (IT at DNR) to understand what questions they need answered to come up with feedback of their capacity (time/cost/etc). She will bring this to the next meeting (March teleconference) to get consensus on how to proceed.

Enforcement/Prevention

Current prevention/VOC notification procedures include:

- USCG/EPA can issue a notice of interest if there is a potential pollution threat. If substantial and imminent, can issue an admin order.
- ADEC has no mechanism if there is not complaint, however can take pictures for future reference if there is a concern. With a complaint, they can send a letter.
- ADNR, if a vessel isn't moved in 14 consecutive days they can send a letter to either move the vessel or get a permit. No real enforcement ability.
- Harbors have different systems in place, but more are moving towards a system of identifying and acting on vessels of concern to keep them out the harbors.

Vessels of Concern – Joint Agency Reporting Form

Rachel brought to the group the VOC reporting form developed and used by the state and federal partners on the Columbia River dealing with ADV. The group discussed the form and the accompanying matrix and generally agreed it would be a good thing to adapt for AK and put into use.

The group discussed where these should be sent/stored since there is no state program. ADNR offered to house the physical forms until more staffing/funding available to process them into an ADV database. Potential for these collected forms to help provide a case/story for further state engagement and investment in dealing with ADV.

Suggestions for changes to the WA/OR Form:

- Make it clear that if there is an environmental hazard/threat it should be reported immediately. Suggested to have the form list the NRC number, as they will then contact all of the appropriate response agencies.
- Highlight safety concerns/disclaimer to not encourage boarding vessels without proper training/safety/authority
- It's okay to have unknowns/blanks. Fill out as much as possible. Lat/Long is very important
- Include land ownership/jurisdiction if known (can be figured out later if location is provided)
- Include vessels in harbors/municipalities
- Include a place for the public to record their name on the reporting form
- Add hull markings/ID #'s to Vessel information
- Change Registration Number to ID# (could include ADF&G, etc)
- Highlight Lat/Long to ensure its provided
- Delete sections: 'Evidence of other illegal activity" and "Current or planned actions to cleanup/remove by Fed/state/local government:"
- Add a Comments section
- Add a Photos section to indicate if Photos were taken
- For the Matrix:
 - o Great tool. Consider defining (possibly through regulation) the various categories a score can fall into
 - o Change the Categories. 'Public Safety' wasn't considered very relevant.
 - o Make sure the 'Immediate Response' shading is accurate
 - o The group should take a look at this and provide specific feedback on the language for the categories and the rankings narrative.

ACTION: Rachel will draft a revised VOC reporting form for comment in time for the March/April teleconference. She will compile feedback and send out a draft for the May meeting.

ACTION: Rachel will send out the language for the VOC matrix for comment and revision by the group in time for the March/April teleconference. She will compile feedback and send out a draft for the May meeting.

Future Task Force

Questions arose as to the overall purpose of the ADV Task Force, and its underlying structure. The group discussed the pros and cons of requesting a Governor-appointed Task Force. There were questions as to authority and scope possible to state and federal partner participation. Most agreed they weren't ready, or possibly even able to, work on legislative changes. Developing a basic ADV Manual (similar to the WA Guidelines) would possibly be a helpful tool and framework for future work. All agreed that they would take information from this meeting back to their agencies to better understand their roles and interests moving forward. The question was raised of public/other stakeholder participation. More thought needs to be given to how this Task Force will proceed and what are its ultimate objectives.

Cook Inletkeeper, as facilitator of the Task Force to-date, has pro-bono help available from Birch Horton Bittner & Cherot to provide feedback on statute and other legal questions that may arise. BHBC works with numerous municipalities on ADV and maritime law, and have three individuals available to assist as requested. This is not considered legal advice, but more like consulting to provide feedback.

ACTION: Rachel will poll availability for a late-March/early-April teleconference and a May full-day meeting in Anchorage.

ACTION: Task Force members will work with their supervisors to understand their roles and interests moving forward. Suggestions for Task Force structure and roles of partners will be brought by each entity to the spring teleconference to help plan for the May meeting.

Miscellaneous

'Parking lot' thoughts captured during the meeting:

Different user groups to consider include commercial vessels, recreational vessels, vessel owners from Alaska vs. Outside, corporate owners

Definitions that could use clarification or more attention: "left unattended", "storage", "unattended vessels", "vessels of concern", "derelict"

Enforcement thoughts/ideas: restrictions on state/federal contracts, ensure cost recovery by all individual agencies (statewide done with procurement/DOT, AS36), vessel transfer liability/secondary liability (WA example), communication to understand who's regulations have the most teeth in different situations, prevention through outreach on vessels of concern.

Funding possible through PFD? This would only address individual AK vessel owners.

Disposal thoughts/issues: steel/wood/fiberglass differences, scuttling, SE burning (air quality/permitting questions), salvagers and degree of experience or licensing (possibly maintain a list), role of insurance representatives when dealing with ADV.

DOT has model municipal law dealing with ADV that is outdated and could be updated.

ACTION: Mike L. with DOT will look at the potential of updating this and report back