



# The NAMS Global eNews

January, 2020

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David Pereira, Vice President  
Richard Falcinelli, Secretary  
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Phil Peterson, eNews Editor  
Jennifer Yovan, Office Manager

## The President's Corner

Happy New Year!

I hope all of you were able to celebrate and enjoy the Holidays in your own chosen way. All our leftovers have been reprocessed into soup or frozen for soup to come. Christmas decorations have headed back into their appointed storage places and we start a new year and a new decade; some with trepidation and some with eager anticipation. After such a busy fall and holiday season it's time to assess and plan for the coming year. As always, there is a lot to accomplish, that part doesn't seem to change. It's time to reflect on the past, reassess the present, and move forward into the 20's. If it's to be a Roaring Decade, we start now.



**Gregon Gant,  
President**

The longer I spend at something, the more I don't know about it. Have you ever felt that way? On a recent assignment when something didn't go as planned, I told my principal that I thought I had seen it all. But not that! We were ready and recovered. Experience is the basis, but continued learning is the key. While you are planning your year, put the NAMS National Conference on your calendar for March 29-31 in New Orleans at the new Higgins Hotel (a part of the WWII Museum and a Hilton property). Early registration fee ends on **February 10, 2020**, please follow the following link within our events website for more information.

<https://www.namsglobal.org/calendar/2020/3/29-58th-annual-national-conference>

As recently reported you elected our current National Vice President, David Perera to be your next National President and Matt Knowles your next Vice President. Congratulations to them both and thank you both for your time and energies to the Association. As Matt moves, up our treasurer's position opens. The board will nominate a new treasurer during our meeting in March at the National Conference at the Higgins Hotel in New Orleans. If you would like to be considered, or have a recommendation, please let me or the office know.

This year is the second year of our biennial continuing education process. To be on schedule you should have completed 12 hours credit during 2019 leaving the remaining 12 hours to be completed in 2020 to fulfill the 24 hours required over the 2-year period (2019-2020). But not to worry, if you're

behind they can all be made up this year. The best way is to make reservations now for the National Conference in New Orleans.

We continue to see inappropriate use of the "NAMS" or "NAMSGlobal" logo or other references to our Association by non-members on their web sites and correspondence. If you run across this, let the National Office know. We will take action to protect the integrity of your NAMS certification. Remember, each time you sign a letter, report, or email and include the "NAMS-CMS" moniker, you are representing the professionalism that is NAMSGlobal!

Learn Something and Share Your Knowledge Everyday.

See you in New Orleans March 29. 2020

Gregon Gant

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## View From the Helm of The NAMSGlobal eNews

Two interesting books, written by a retired NAMS Surveyor, describing nearly 60 years in the Maritime Industry. Both are available by searching for "Bob Ojala" on Amazon Books. Available in Color, B&W, and Kindle versions.

### World Travel & Adventures of a Ship's Marine Surveyor, or How to Get Dirty and Still Be Treated With Respect

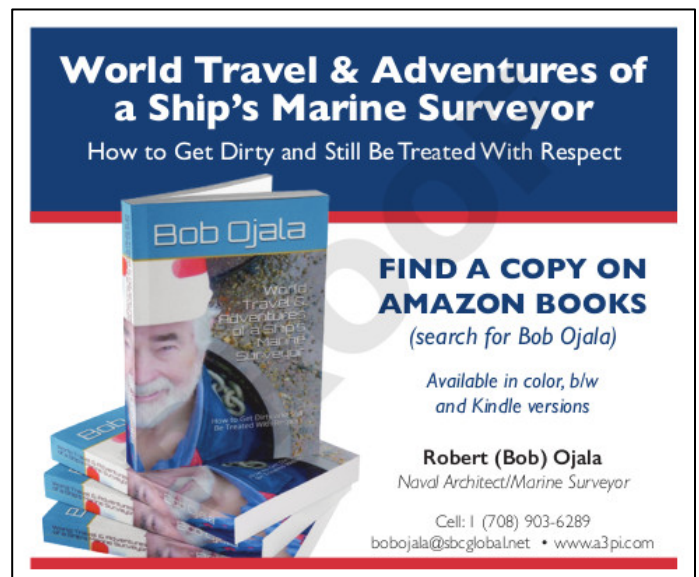
Describes the work Bob performed in 58 countries, from Cruise Ships and Tankers, to Tuna Seiners, Tugs and Barges, in places like Dubai, Singapore, Sicily, Yap, Korea, and so on. Over 350 pictures of exotic destinations.

### Autobiography of a Ship's Marine Surveyor, or Surveyors Are Made, Not Born

Describes Bob's formative years, including Coast Guard, U of M Grad in Naval Architecture, shipyard design engineer, employment with ABS, and "after career" with the Army Corps of Engineers, as well as his immigrant Finnish family, and some details of his Dad's Great Lakes Merchant Mariner career.

Phil Peterson, NAMS-CMS  
Editor, NAMSGlobal eNews

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**World Travel & Adventures of a Ship's Marine Surveyor**  
How to Get Dirty and Still Be Treated With Respect

**Bob Ojala**

**FIND A COPY ON AMAZON BOOKS**  
(search for Bob Ojala)

Available in color, b/w and Kindle versions

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## Applicants/Members Change in Status

| Name                   | Applying For | Region      | Sponsored By         |
|------------------------|--------------|-------------|----------------------|
| William Martin Daniels | CMS          | East Gulf   | Matthew Knoll        |
| Angel Montanez         | CMS          | New England | John Wilson          |
| James Baily            | CMS          | East Gulf   | James Stansbury, III |
| Ivan Garcia            | Apprentice   | West Gulf   | Edward Shearer       |

## Upcoming Educational Opportunities

### \* NAMSGlobal \*

NAMS East Gulf Regional Meeting - Feb 12

Two Tony's Restaurant, New Orleans

The meeting will begin at 1800 hours and the meal is \$40.00 per person.

Topics of discussion will be: Update on the NAMS test questions, update from last board of directors meeting, and what the East Gulf members can do to help Dave put on the New Orleans Conference.

March 29 – 31, 2020, NAMSGlobal 58<sup>TH</sup> Annual National Marine Conference  
Higgins Hotel, New Orleans

1000 Magazine St. New Orleans, LA 70130

Member Fees: Before February 10, 2020 \$545.00. After February 10, 2020 \$595.00

Non-Member Fees: Before February 10, 2020 \$595.00. After February 10, 2020 \$645.00

Group Room Block Space is limited and only available until Friday, February 19, 2020. Ask for the NAMS Room rate \$189.00 plus taxes. Single/Double standard room. Additional charges for upgrades.

Reservation can be made by following this link below or calling 1-855-271-3617.

Booking Link: <http://group.curriocollection.com/NAMSAnnualConference2020>

Spouse/Ladies Day Out Program March 30, 2019, Cost: \$170.00

Click Link for Details: [Spouse/Ladies Day Out Program](#)

Direct conference questions to NAMSGlobal at 281-480-6267

### \* INTERNATIONAL ASSOCIATION OF MARINE INVESTIGATORS \*

Mar. 1-4, 2020, Charleston, SC, IAMI's 30<sup>th</sup> Annual Training Seminar

<https://www.iamimarine.org/event-3330946>

### \* INTERNATIONAL ASSOCIATION OF MARINE SURVEYING \*

Marine Events & Conferences

<https://www.iims.org.uk/events/categories/whats-on/marine-events-conferences/>

**\* LLOYDS'S MARITIME ACADEMY \***

A list of courses here:

<http://www.lloydsmaritimeacademy.com/filter>

**\* AMERICAN INSTITUTE OF MARINE UNDERWRITERS INTRO CLASSES \***

AIMU has a number of distance learning programs, including webinars and e-learning:

<https://aimu.org/edprograms.html>

**\* AMERICAN BOAT AND YACHT COUNCIL \***

ABYC's course listing:

[https://abycinc.org/events/event\\_list.asp?](https://abycinc.org/events/event_list.asp?)

**\* NORTHWEST SCHOOL OF WOODEN BOAT BUILDING \***

Week long class Corrosion at this time:

<https://www.nswb.edu/systemsintensives/>

**\* TOWING VESSEL INSPECTION BUREAU \***

No classes listed at this time.

Go to TheTVIB.org "News & Events" then scroll down to "training" for updates.

<https://www.thetvib.org/category/tvib-training/>

**\* SOCIETY OF ACCREDITED MARINE SURVEYORS \***

Jan. 21 – 24, 2020 Great Lakes Regional Meeting and Educational Seminar

Sandusky, OH

<https://www.marinesurvey.org/wp-content/uploads/2019/12/Great-Lakes-Jan-2020-Regional-Meeting.pdf>

Jan. 25, 2020 Pacific Northwest Sub-Regional Meeting  
Century Link Field Event Center  
Seattle, WA

<https://www.marinesurvey.org/wp-content/uploads/2019/12/Seattle-Meeting.pdf>

Feb. 10 & 11, 2020 Pacific Regional Meeting  
San Diego, CA

<https://www.marinesurvey.org/wp-content/uploads/2019/12/Pacific-Regional-Meeting-Flyer.pdf>

Mar. 11 & 12, 2020 North East Regional Meeting & Educational Seminar  
Atlantic City, NJ

<https://www.marinesurvey.org/wp-content/uploads/2019/12/NORTHEAST-REGIONAL-MEETING-2020.pdf>

Mar. 3-5, 2020 Mid-Atlantic Regional Meeting  
Peninsula Yacht Club, Lake Norman in Cornelius, NC  
Save the date

### **\* INDEPENDENT MARINE CONSULTANTS AND SURVEYORS\***

Courses listing here:

<https://imcs-training.eu/>

### **\* AMERICAN SOCIETY OF APPRAISERS \***

Course listing here:

<https://www.appraisers.org/Education/national-asa-courses/eLearning>

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## **NAMSWorthy Articles of Interest**

### **safety Standards Questioned**

Dive boat Conception was exempt from some US Coast Guard safety rules to help passengers escape in an emergency, according to the Los Angeles Times. Thirty-four people sleeping in stacked bunks below the waterline died in a 2 September 2019 fire aboard the boat. The Times found Conception was one of several hundred passenger vessels built pre-1996 with exemptions from some safety standards. Newer rules require vessels to have an escape hatch 32 inches wide and illuminated exit signs. Conception, built in 1981, had 26-inch escape hatches. Exit signs onboard were not illuminated. (With thanks to Flashlight – December 2019)



## **ABYC and Transport Canada Announce One Set of Marine Safety Standards throughout North America.**

One continent, one standard.

ANNAPOLIS, Md., Transport Canada Marine Safety and Security (TCMSS) has published a policy on the acceptance of ABYC standards as an approved alternative method for small vessel compliance in Canada. The policy is effective as of Oct. 30, 2019.

“Having one set of standards throughout North America is a huge benefit for engineering, manufacturing, and trade for the marine industry,” said Craig Scholten, ABYC Technical VP. “Being able to design, certify, and produce product to one standard will streamline and simplify everyone’s efforts.”

TCMSS will accept the equivalent standards published by ABYC with some Canadian modifications. The policy affects pleasure craft less than 24 meters and other craft of not more than 15 gross tonnage constructed, manufactured or rebuilt in, or imported into Canada.

The details of the acceptance policy are available on Transport Canada’s website: <https://www.tc.gc.ca/eng/marinesafety/acceptance-alternative-construction-requirements-small-vessels.html>.

ABYC remains very active in international compliance support and continues to broaden the harmonizing of ABYC standards around the world.

You can contact Craig Scholten at [cscholten@abycinc.org](mailto:cscholten@abycinc.org) to learn about how ABYC can support your organization in the ever changing world of global product compliance.

Visit [www.abycinc.org/technicaltoolbox](http://www.abycinc.org/technicaltoolbox) to find ABYC’s compliance resources.

Since 1954, the nonprofit American Boat & Yacht Council (ABYC) has developed safety standards for boat design, construction, equipage, repair and maintenance. The essential global source of marine industry technical information, ABYC’s product safety standards, credentialing. (With thanks to Flashlight – December 2019)

## **The Coming Digital Transformation of Ship Repair**

As digital transformation is ripping through the maritime industry, there is one field lagging behind: docking and repairs.

Both yards and owners/managers typically manage docking projects using a mix of Excel, WhatsApp and the back-of-envelopes. One argument for the current state of affairs is that docking is so fast-paced, fluid and full of changes and additions that proper control is practically impossible, particularly with the small teams typically trusted with the task.

I would make the opposite argument, that for the same reasons the industry needs to adopt the most efficient methods and tools available to properly control projects that sometimes run into millions of dollars. This must be done while making the superintendent's life easier, not by adding to his burden.



Traditionally, docking has been considered difficult to control with unpleasant surprises an unavoidable law of nature. In their study “Best practice ship management” DNV GL writes that “Dry dockings are the biggest chunk in a ship manager’s maintenance budget. However, most ship managers report that a 20–30 percent cost overrun to the dry dock budget is rather common than an exception.”

It does not have to be like this. Digital tools are coming to both the yard and the owner’s side of the docking business and they will enable better control in the future. Success or failure will depend largely on how the tools are being used in the greater context of docking management.

### **Scope of work and risk**

The root cause behind every failed docking project is that the owner had not been able to identify the optimal scope of work before assembling the specification. The optimal scope should be aligned with clearly defined objectives for the docking. While it is true that achieving 100 percent certainty before opening up equipment for inspection is difficult, modern methods like vibration measurements are available to identify likely problems early. Such methods complement oil sample analysis and should be used in a systematic way to record trends over time. Surprises below the waterline may be detected by underwater-drone inspections.

On the hull side, ultrasonic thickness measurements (UTM) have to be carried out as required by class. It is still common practice to perform the UTM and the class survey only after arriving at the dockyard. This is too late. The aim should be to assemble a specification that is detailed, precise and complete well ahead of the docking date.

Even with a good specification there will be residual risks of surprises during the docking. Owners should access and manage these risks systematically for each docking and apply risk response strategies and contingency plans accordingly. For major cost items or issues of considerable uncertainty, it may be advisable to use quantitative risk analysis methods like Monte Carlo simulation. That may sound complicated but doesn’t have to be. It allows the owner to set a rational budget allowance rather than a flat percentage without any basis. It is certainly preferable to the widely used practice of padding the budget with nice-to-have jobs that can be cancelled if need be.

The specification should differentiate clearly between fixed and variable price jobs, as they require fundamentally different follow-up. Be aware that yards like to see every job as a variable price job. For fixed price jobs where the risk assessment has identified uncertainty regarding the final scope of work, it is advisable to specify the basic inspection scope plus alternative repair alternatives. Be careful to note that the more dramatic repair alternatives shall not be included in the yard’s quoted

duration as it may lead to an overly conservative schedule. Better to ask the yard to state the price and the impact on the contract period, if any, for each repair alternative. From the owner's point of view, it is much better to settle these issues during the tendering phase and not when we have no choice in the yard.

### **Business model of dockyards**

Ship repair is a highly competitive industry where the business model of most dockyards seems to be based on winning projects through competitive, but sometimes confusing and incomplete bids with the real cost hidden in footnotes. Yards then hope to recover a healthy profit through changes and additional work and through invoicing the owner according to the work done, not according to the contract with variation orders. Docking is possibly the last major, global industry where customers accept such a practice. This model allows for a high degree of flexibility but it does not lend itself to any control of cost or delivery time.

In reality, owners are outsourcing the cost-control to the yard. To the extent cost-control is performed and reported back to management at all, it is carried out by waiting for the yard's cost updates and then cancelling enough jobs to stay within the budget. With the small teams typically employed to manage docking projects, it is understandable that the focus will be on technical issues, not cost or time.

The problem is that this approach fails both to control the cost and to protect the value of the asset. Cancelling necessary work will incur costs down the line and outsourcing the control frequently leads to unpleasant surprises when receiving the final invoice.

While poorly prepared customers may be a goldmine for a yard, they also represent a coordination headache. Additional resources must be assembled, subcontractors, materials and equipment ordered, and so on, all while the clock is ticking and the owner is pushing to bring the vessel back in service as soon as possible. Yards may use ERP and planning systems along messaging apps to coordinate all of this.

What is maybe missing on the yard side today is an information hub tying all the information and parties together. The next logical step would then be to tie the customers into this orbit as well, finally achieving real-time control of progress and cost on both sides of the table. Such a development will surely be met with some resistance as yards see their business model threatened, but it will also open new opportunities for closer strategic partnerships between yards and owners. For the serious players it would be a win-win.

### **Docking contracts**

Owners should recognize that their bargaining power is dramatically weakened as soon as the vessel is dry in a shipyard. Anything not agreed before committing to a yard will tend to be more expensive and take longer time. Realizing this, owners should impose their conditions including a strict project control regime before entering into a docking contract. Bidding for a docking is obviously voluntary for a yard but accepting a balanced standard contract shouldn't be. BIMCO's standard docking contract is a good starting point. Unlike most yard's contracts, it is a fair and balanced document. Used well, a good contract will dramatically improve the superintendent's ability to control quality, cost and time. It should be seen as a practical management tool, not just food for lawyers.

Most owners use some form of variation order scheme to regulate the price of additional work. Time is a more difficult aspect to control and yards are experts at blaming the weather and the customer for



delays. Again, the BIMCO contract, if used well, can be of help. The key is to agree any time implications up front, for each variation order.

Don't accept any extension to the contract period unless the yard is able to demonstrate that the change affects the critical path of the project. A proper schedule indicating the critical path, presented to the owner well ahead of the docking, should be a contract requirement. Using this contract-oriented approach, the superintendent will be able to exert much greater control over the project and avoid having to negotiate over hundreds of thousands of dollars at the end of the docking. Using software able to reflect this approach simplifies the daily management at the yard in general and reporting in particular.

### **Tying it all together**

The contract-oriented approach is widely used in other industries but relies on employing competent project controllers using the methods and tools of that profession. Such resources have generally not been available to the maritime industry. For the first time, modern docking management software with phone-app extensions are available, enabling even small teams from the owners to properly control docking projects. This will be a game-changer. Just buying software and apps will not work, though. Success will require an overall approach geared at managing risks and enhancing control for the owner while simplifying the work of the superintendent.

Digital tools should be seen as essential, but in themselves insufficient, enablers of greater efficiency and control. They must be accompanied by a general shift in perspective from seeing docking as a mainly technical undertaking to a new focus on project management and control. Planning and preparation processes should be standardized and ideally be integral to the systems used. Risk management should be explicit and systematic. Docking contracts must support the project control concept and generally protect the owner's interest.

The maritime industry may draw on lessons from other industries like oil & gas which is generally better at managing project risk. A fit-for-purpose team with the right mix of competencies, using highly efficient digital tools, should be able to hit the sweet spot between cost-efficient execution and solid control.

Adopting this approach, owners should be able to properly control docking projects and ultimately reduce the uncertainty, cost and time of docking.

*Øystein Wikeby is CEO of Cap Marine Consultants and was previously docking director of Meratus Line. He developed the docking management courses of DNV GL and Lloyd's Maritime Academy and is the owner of the Docking group on LinkedIn. (With thanks to The Maritime Executive, via Childs Dunbar)*

### **NTSB – tug hull maintenance insufficient**

The National Transportation Safety Board (NTSB) issued the [report](#) of its investigation of the 9 October 2018 capsizing of the fleet towboat Miss Roslyn at mile 142 on the Lower Mississippi River near Reserve, Louisiana. It was downbound when it began to flood and list to starboard. The three crewmembers abandoned the towboat onto a moored fleet barge and a Good Samaritan vessel. The tug capsized and sank on its starboard side. No injuries were reported. There was a visible oil sheen; containment booms and absorbent pads were placed around the vessel. Damages from flooding

were estimated at \$1,130,000. The probable cause of the capsizing of the tug was the company's lack of effective hull inspection and maintenance program, which resulted in flooding into a steering void through multiple wastage holes in the hull. (11/27/19)

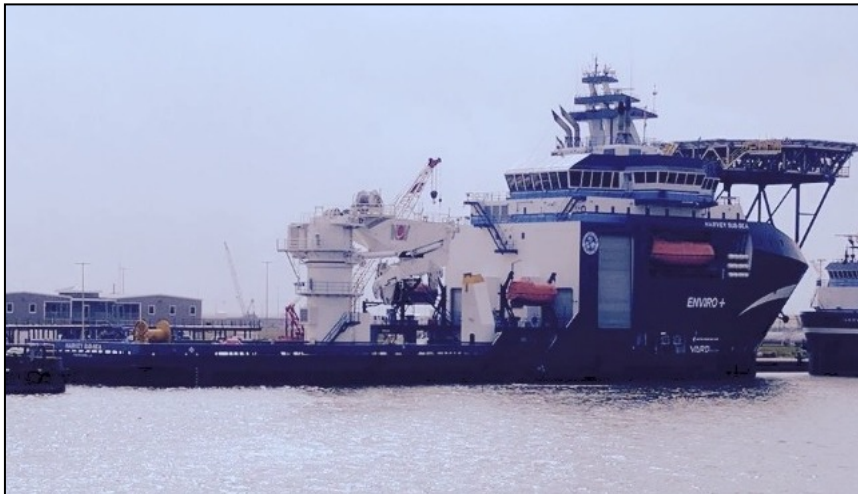
<https://www.nts.gov/investigations/AccidentReports/Reports/MAB1933.pdf>.

(With thanks to Greg Weeter)

## CBP Alters Jones Act Guidance for Offshore Vessels

On Thursday, U.S. Customs and Border Protection revised key elements of its interpretation of how the Jones Act should be enforced in the U.S. offshore sector. It has rescinded or modified a longstanding set of "letter rulings" on how and when foreign-flag ships may be used in offshore applications, including the use of crane ships. The decision has drawn intense criticism from U.S.-flag offshore vessel operators.

The alterations (found on page 84 of this bulletin) center on how the agency interprets the term "vessel equipment," a perennial point of debate for the U.S. offshore oil and gas sector. In a decades-long series of letter rulings, CBP has created a complex framework for determining which objects loaded aboard an offshore construction vessel are cargo - which must be transported by a Jones Act vessel if the voyage is between a U.S. port and a U.S. offshore installation - or "vessel equipment," which can be carried by any ship.



A new Jones Act-qualified subsea construction vessel, 2017 (Harvey Gulf)

Relying upon a previous U.S. Treasury ruling, CBP now intends to interpret "vessel equipment" more broadly, to include "all articles or physical resources serving to equip the vessel, including the implements used in the vessel's operation or activity." This includes any article that "aids" the full range of installation and maintenance work on wells, subsea infrastructure, flow lines and surface facilities. An article that leaves the work site with the ship when the job is

done is more likely to be "vessel equipment" in CBP's view, but even objects that are left behind could

potentially meet the definition. No examples of specific articles were provided, and CBP says that it expects to receive requests for clarification on a case-by-case basis.

The decision also includes more permissive guidelines for the operation of foreign-flag crane ships. Under previous guidance, CBP ruled that a foreign-flag crane ship could pick up a cargo item that had been carried from a U.S. port by a U.S.-flag ship, then rotate on its own central axis, then install the item at a U.S. offshore site - but not move horizontally with the load suspended. Under the new guidance, horizontal movement is allowed, and a foreign-flag crane ship may set the load down upon its own deck if needed in order to complete the lifting evolution safely.

These changes come despite written opposition from dozens of congressional representatives from both parties. The Offshore Marine Services Association (OMSA), which represents America's offshore services operators, described the decision as a step backwards.

"We are disappointed that [CBP] has decided to put America second by creating potential loopholes for foreign vessels and crews to unlawfully operate in American waters and take the jobs of American vessels and workers," said OMSA president and CEO Aaron Smith in a statement Thursday. "We support the more than 50 bipartisan members of Congress who correctly asserted that only the U.S. Congress can amend the Jones Act. We will be closely scrutinizing CBP's implementation of these legally dubious loopholes to ensure that CBP follows the law and requires all foreign-flagged vessels to request and receive letter rulings." (With thanks to Maritime Executive, via Childs Dunbar)

## Tribulations of the Ignorant

The latest Jones Act diatribe is an embarrassing faux pas. They come in all forms, the ignorant and misinformed, who attack the Jones Act because it's perceived to be an easy target. And while it takes courage to enter the political arena, when an inexperienced commentator does so and then stumbles with the basics of her argument, it's much like listening to a violinist screeching through a classic concerto.

In "Defending Jones Act Is Path to Disaster" (<https://bit.ly/2ASUAAi>), Malia Hill, Policy Director for the Grassroot Institute of Hawaii, pens an essay filled with cheap metaphors devoid of relevant facts to support her attacks on the Jones Act. In Hill's very first sentence she says that, "Arguing with Jones Act supporters is like talking to someone who believes in alien abductions." Huh? Did I read that right?

She continues in the same mode with senseless statements like, "It's a classic racket. We're like a shop owner who has been paying for protection so nothing happens to our store. But once a month, someone breaks in and empties a shelf. When we tell Big Tony that we don't see the point in paying for protection any



more, he sends over a bunch of guys to stand menacingly by the register and explain that things 'could get worse.'" Oh, I see. We're like the Mafia now.

And then another doozy: "The Jones Act fleet is shrinking like a naked man in a freezer full of porcupines." Hello? Where did that come from?

When she finally gets around to citing some facts, she offers a 2010 study by a couple of professors from the University of Puerto Rico, the thesis of which was shown to be totally incorrect and misleading. See "Puerto Rico vs. The Jones Act" (<https://bit.ly/2TZ1N93>).

Hill goes after the American Maritime Partnership next with another inane attack, claiming that, "Citing them is like citing a study from the American Pizza Makers Guild on the health benefits of extra cheese and pepperoni." By indulging over and over again in such foolish and childish analogies, Hill totally undermines any credibility her argument may have had.

Her complete ignorance of the U.S. maritime industry is on display when she says the Jones Act fleet, which “is supposed to be an essential part of our national defense...has dropped from 249 vessels in the 1980s to about 96 today.” While technically correct, she mistakenly and misleadingly is referring only to the U.S. Merchant Marine’s deepwater fleet, which is used for the transport of Cargo Preference items like Food Aid and for Military Sealift operations for the Department of Defense. She needs to learn the difference between the Jones Act Fleet and the U.S. Merchant Marine fleet. The Jones Act fleet has more than 40,000 vessels operating on U.S. waterways including Hawaii, Alaska and Puerto Rico in addition to the Great Lakes and our vast inland waterways system. It costs the federal government zero dollars. It supports half-a-million jobs and creates billions of dollars in economic impact. It’s a vital part of our economic infrastructure and, among other environmental benefits, helps relieve congestion on our roadways and highways, thereby reducing both air and noise pollution.

Moreover and perhaps most importantly, the domestic fleet with its trained mariners and vast network of ship and repair yards, terminals and intermodal facilities is available to the U.S. government at a moment’s notice in time of war or national emergencies.

As the representative of a nonprofit organization based in Hawaii, Hill should know better. Like Puerto Rico, Hawaii is heavily dependent on the Jones Act for essential supplies like food, clothing, gasoline, cars – you name it. Are these items more expensive in Hawaii than they are in southern California, where most of these shipments originate? You tell me.

Meanwhile, let’s not bash a law that has served America well for nearly 100 years and continues to do so through good times and bad. Let’s not act like a screeching violinist! – **MarEx**  
**Tony Munoz is Publisher & Editor-in-Chief of The Maritime Executive.** (With thanks to The Maritime Executive, via Childs Dunbar)

## Matson Fires Back at Anti-Jones Act Proposals

Congressman Ed Case (D-Hawaii) has introduced a set of three bills to modify the Jones Act's requirements for the non-contiguous states, including an anti-monopoly requirement.

The first, Case's [proposed](#) Noncontiguous Shipping Competition Act, would remove the Jones Act where there are monopolies or duopolies on routes between the U.S. mainland and America's outlying states and territories.

"Those few U.S. flag cargo lines that remain have [created] virtual monopolies over domestic cargo shipping to and from our most isolated and exposed locales: our island and offshore states, territories and possessions," Case said in a statement. "In Hawaii’s case only two U.S. flag domestic cargo lines . . . operate a virtual duopoly over our lifeline and they



do not act as an effective market check on each other."

Alleging that higher-cost domestic shipping translates into higher prices for consumers in affected markets, Case called for some form of reform that would introduce market competition while sustaining national security. "Essentially, my bills are intended to lay out options for providing relief for our U.S. noncontiguous areas. We can resolve the issue in many ways, but we must change the status quo," he said.

Case has also proposed two alternative bills: the first would exempt all non-contiguous states and territories from the Jones Act altogether, giving Hawaii the same status as the U.S. Virgin Islands and American Samoa. The second would cap shipping rates on non-contiguous U.S. voyages at no more than ten percent above international shipping rates on "comparable routes."

In a response statement issued Friday, U.S. carrier Matson disagreed with Case's perspective.

"Shipping costs are just one of many cost factors that go into local pricing of consumer goods and represent a small fraction of price differences between Hawaii and the mainland," Matson said. "The reason the Jones Act has had such strong bi-partisan support in every Congress and administration in modern times is because it is important to homeland security and national defense, as well as the security of service to remote communities like Hawaii and Alaska . . . The Jones Act also supports more than 650,000 jobs in the U.S., including thousands here in Hawaii." (With thanks to Maritime Executive, via Childs Dunbar)

## **AIMU ISSUES BOOK 2019**

A somewhat later reminder that the information-filled 2019 Issues Book is available on the AIMU website at <https://www.aimu.org/images/issuesbook.pdf>

There is a wealth of information on regulatory issues, sanctions, legal developments and court rulings. Thank you to Joe Grasso and Wiggin & Dana for their research to assemble this resource.

## **CHUBB UNIT WINS RULING OVER DESTROYED BOAT**

A Florida federal district court refused to dismiss litigation filed by a Chubb Ltd. unit against a ship part manufacturer in connection with a vessel's destruction.

In 2014, a fire severely damaged the "E-Mc2," which was owned by Eric Slifka and insured by Chubb Ltd. unit Ace American Insurance Co., according to court papers in *Ace American Insurance Co. v. Florida Bow Thrusters Inc.*

The vessel included a bow thruster, which is an auxiliary propulsion device in the ship's bow that aids in maneuvering, that had been installed by Merritt Island, Florida-based Florida Bow Thrusters, according to Monday's ruling by the U.S. District Court in Orlando. An ACE expert determined the bow thruster was likely the source of the fire.

After related litigation in the matter that was filed in Massachusetts was settled, ACE, which had paid Mr. Slifka for the property damage, filed suit in Florida against Florida Bow Thrusters on negligence, indemnification and contribution claims.

Florida Bow Thrusters filed a motion seeking the case's dismissal, which the court denied in Monday's ruling.

Florida Bow Thrusters maintains that the counts in the litigation are "replete with legal conclusions" and "devoid of the requisite factual allegations," but "does not provide any examples of these legal conclusions or of areas where the required factual allegations are lacking" said the ruling, in analyzing the firm's arguments in favor of dismissal.

"While Ace could have been more meticulous in drafting the Amended Complaint, Florida Bow Thrusters cannot seriously argue that it...was unable to figure out which allegations of fact are intended to support which claims for relief," it said, in denying the company's motion to dismiss the case. (Thanks to Business Insurance, 1/7/2020)



## **GLOBAL SHIPPING FACES TROUBLING NEW SMUGGLING QUESTIONS**

Global shipping companies are wrestling with apparent growing demand in a sector that they don't want and that has law enforcement authorities around the world on high alert.

Ocean carriers saw a series of seizures of large shipments of drugs in the U.S. and Europe in 2019, and officials say they are a sign of the growing use of commercial ships for increasingly large loads of cocaine, heroin and other drugs. Officials say the growing scale of shipping operations, with the biggest container ships doubling in size over the past decade, have made them an attractive target for drug traffickers.

Ship operators are under pressure to deliver vast amounts of cargo on time, and the rule of thumb around the world is that only one in 10 containers gets checked as boxes move quickly through ports and into sprawling, complicated logistics networks.

Containers are also the cheapest way to ship cargo. It can cost up to \$1,500 on average to ship a box from South America to Europe or the U.S.

"It's remarkably cheap, and economies of scale work for both legal and illegal cargo owners," said Andrew Kinsey, a senior marine risk consultant at Allianz Global Corporate & Specialty, the commercial-insurance arm of German insurer Allianz SE. "Giant boxships now make the movement of illegal cargoes more reliable and more difficult to detect."

Seizures of cocaine aboard commercial ships and private vessels world-wide more than tripled over the past three years, to 73.2 metric tons in 2019 from 22.4 metric tons in 2017, according to Resilience360, which monitors risk and disruptions across supply chains and is owned by German logistics company Deutsche Post DHL.

For ocean carriers and their shipping customers, the moves by drug smugglers to piggyback on their operations raises new concerns for international supply chains. The drive to stem the drug flows is raising costs and slowing shipments while highlighting the tough security questions that are arising as operators pursue greater size and speed.



The issue drew attention last June when U.S. Customs and Border Protection agents made their biggest-ever cocaine seizure. Agents hauling in 20 tons of the drug found aboard the MSC Gayane, a 1,031-foot-long container ship that had started its trip in Chile and was heading into a stopover in Philadelphia before a planned sailing across the Atlantic Ocean for calls in Rotterdam and Antwerp. The ship was operated by Switzerland-based Mediterranean Shipping Co., the world's second-biggest liner company. The seizure proved costly to MSC, taking a big boxship out of operation for several weeks during the investigation while customer cargoes were delayed.

The probe also found deeper concerns in the trade. Authorities said their investigation showed several crew members were involved in getting the cocaine on board, and they used the ship's crane to bring in sacks of cocaine from smaller vessels off the Peruvian coast.

Shipping and law-enforcement officials say they believe about a third of cocaine cargoes from South America are moved around the world on commercial ships. That reflects a shift in the way drugs have long been distributed. (Thanks to The Wall Street Journal, 1/6/2020)

## **COMPANY HIRED TO EXTRACT CARGO SHIP MONTHS AFTER IT CAPSIZED**

A Texas-based salvage company will cut up and remove a 656-foot (200-meter) shipwreck from St. Simons Sound off the coast of Georgia.

The Coast Guard's Unified Command has hired T&T Salvage LLC of Galveston to remove the Golden Ray cargo ship, The Brunswick News reported. The ship, roughly the size of a 70-story office building, has sat overturned in the sound for four months.

T&T Salvage was chosen Tuesday from among six bidders, including DonJon-SMIT, the maritime

emergency contractor that originally responded when the ship capsized on Sept. 8 while heading out to sea with a cargo of 4,200 vehicles.

The ship's pilot and 23 crew members were all safely rescued, including four men trapped for 36 hours before they could be extracted through a hole drilled into the hull.



"We'd like to thank the initial response contractor, DonJon-SMIT, for their hard work and commitment throughout this project," said Chris Graff of Gallagher Marine Systems, which represents the Golden Ray and its insurers. "This is one of the most complicated marine casualty responses in U.S. history. DonJon-SMIT's commitment to safety, along with hundreds of other responders, resulted in no injuries despite all the emergent hazards they faced."

T&T Salvage was chosen for its extensive experience in the field of maritime demolition, Graff said. The ship's owners determined T&T Salvage was best qualified for the job, said Unified Command spokesman and Coast Guardsman Nate Littlejohn.

"T&T Salvage is known worldwide in the maritime industry and submitted a very thorough salvage plan that was evaluated as being the safest and most efficient," Littlejohn said. "After carefully considering multiple bid proposals and reviewing risk projections associated with each, the owners of the Golden Ray decided to use a different resource provider for this unique situation." Meanwhile, Unified Command is still trying to determine the best type of barrier to build around the ship before demolition begins, a measure intended to prevent and mitigate pollution and environmental damage. Once that is decided, Unified Command said it will release a timeline for the ship's removal and other details about the process.

"This is a big step forward in this response, but there is still a significant amount of work to be done," said Coast Guard Cmdr. Matt Baer. (Thanks to the Associated Press, 1/8/2030)

## JUDGE RULES MARITIME LAW FROM 1851 DOESN'T PROTECT DUCK BOAT OWNERS

In a blow to the owners of Ride the Ducks, a federal judge has ruled that an 1851 law which would have capped damages for all claims to zero dollars does not apply in the Branson Duck Boat tragedy. Judge Douglas Harpool ruled that Ride the Ducks International did not have standing as a prior owner of the vessel for the law to apply, as the law states the Shipowners Limitation of Liability Act applies to an "owner" of the vessel. The vessel was sold to Ripley Entertainment in December 2017. The judge further ruled that Table Rock Lake does not meet the standard of a "navigable waterway" under the law. The judge cited a ruling by the Eighth Circuit that says Lake of the Ozarks it not a navigable waterway because navigability is not possible presently and that voids any claims of admiralty, such as under the 1851 law.

The judge noted that while two sides of the lake touch two different states, the "Court believes the test for contemporary navigability requires more than recreational boating and tourist activity" which is the overwhelming amount of activity on Table Rock Lake.





The Court went on to say in ruling against the motion that “Neither people nor goods are shipped across the lake as part of interstate commerce. No tug boats, barges or ferries operate on the lake and it would not be economically feasible for any to do so.”

Ripley Entertainment has settled all but one of the lawsuits brought against it as a result of the sinking of Stretch Duck 07 on July 19, 2018, resulting in the death of 17 of the 31 souls on board.

Three employees of Ripley’s are facing federal charges connected to the incident as prosecutors claim they ignored weather warnings and knew it was unsafe for the boat to be in the water. (Thanks to Ozarks Independent, 12/3/2019)

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