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COAST GUARD

Abandoned Vessels Are
Polluting the Waterways

Statement of
John H. Anderson, Jr., Associate Director
Transportation Issues,
Resources, Community, and
Economic Development Division



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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to testify on the problem of vessels abandoned in the nation's waterways. Abandoned ships, barges, and other types of vessels in coastal and inland waterways have not only fouled the marine environment with pollutants such as diesel fuel but in several cases have become illegal dumps for hazardous materials, such as herbicides banned for use by the Environmental Protection Agency (EPA). The Subcommittee is now considering legislation to address these problems. As part of its efforts, the Subcommittee requested that we determine (1) the number of vessels that have been abandoned nationwide, (2) the extent of environmental problems caused by abandoned vessels and the associated costs, and (3) the adequacy of federal laws and regulations on abandoned vessels.

In summary, although we have not yet completed our work, our preliminary information shows the following:

- Almost 1,300 vessels lie abandoned in our nation's waterways, predominantly along the commercially important East and Gulf coasts and the eastern inland waterways. The number of abandoned vessels is likely greater because the U.S. Coast Guard's recently completed search did not include all waterways.
- Since 1988 abandoned vessels have caused 82 incidents of water pollution nationwide, threatening marine animal and plant life. In 14 additional incidents, the Coast Guard was able to intervene to prevent a spill. Of these 96 incidents--involving almost 2 million gallons of pollutants--15 included hazardous materials that had been illegally dumped into abandoned vessels. Furthermore, \$4.4 million has been spent, mostly by the federal government, since 1988 to clean up the pollutants from these abandoned vessels.
- Federal laws do not prohibit owners from abandoning vessels and do not ensure that all vessel owners can be identified. More specifically, federal law (1) does not prohibit an owner from abandoning a vessel and (2) does not require that some barges¹--which constitute almost half of the current abandoned vessels--be registered with the Coast Guard so that their owners can be identified. Without laws that provide penalties for vessel abandonment, there are no disincentives to discourage future abandonments and the federal government will likely incur costs to clean up resulting pollution.

¹A barge is a flat-bottomed vessel used for transporting freight, including bulk liquids, or passengers. It usually has no propulsion system and is intended to be pushed or towed.

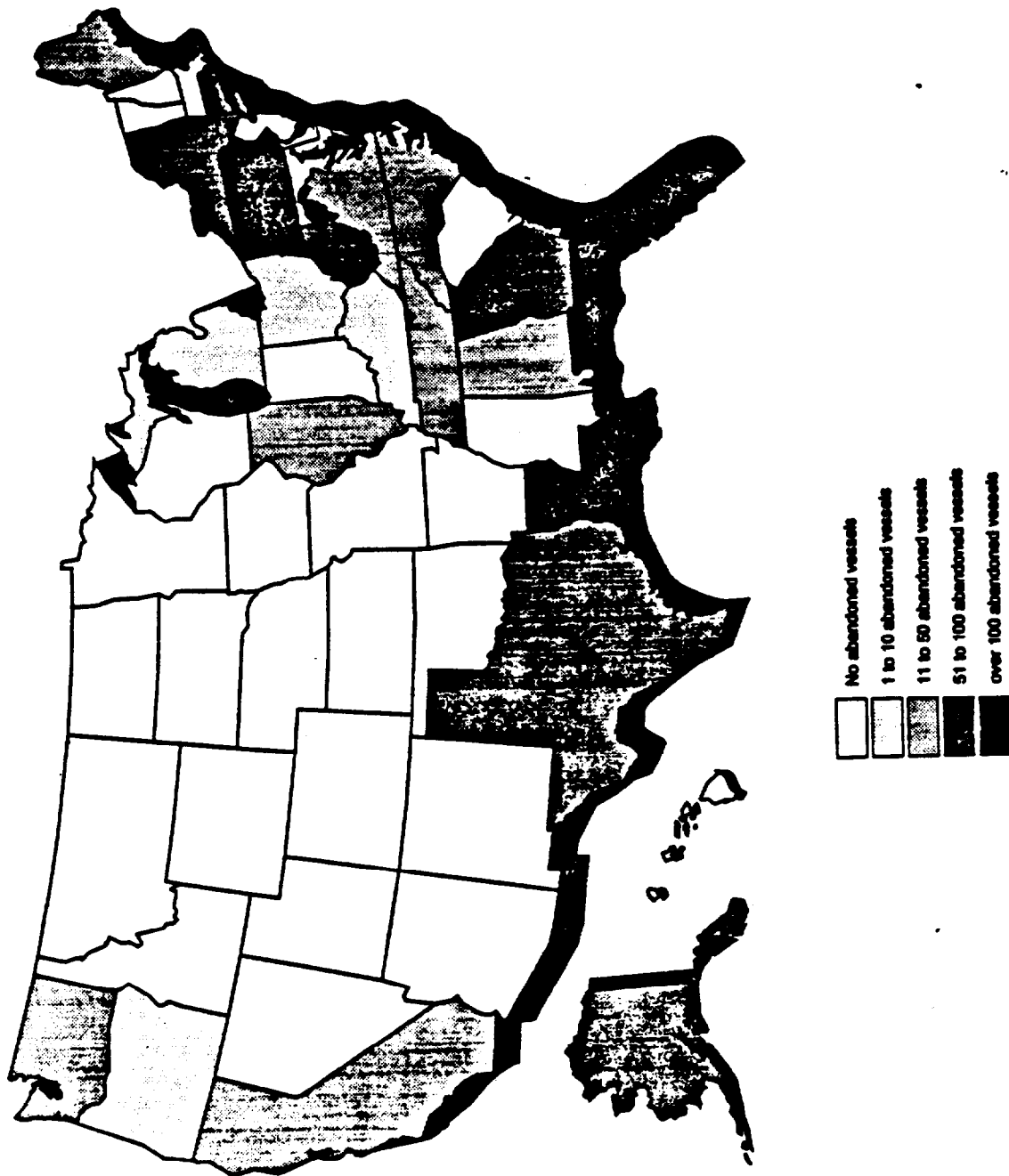
VESSELS ARE ABANDONED IN
WATERWAYS THROUGHOUT THE NATION

According to the Coast Guard, approximately 1,300 vessels are abandoned in our nation's waterways, predominantly along the East and Gulf coasts and eastern inland waterways, which have a high level of waterborne commerce.² Coast Guard officials in 38 of the agency's 45 field offices reported at least one abandoned vessel in their area of jurisdiction. Coast Guard officials in three states, (Florida, Louisiana, and Pennsylvania) each reported over 100 abandoned vessels. Of the abandoned vessels, almost 600 are barges and another 328 are other types of commercial vessels, such as fishing boats. The remainder are recreational vessels.

Figure 1 shows Coast Guard estimates of the number of abandoned vessels reported by Coast Guard field offices.

²To determine the number of abandoned vessels currently in our nation's waterways and the problems they cause, we sent a questionnaire to and received responses from all 45 Coast Guard field offices responsible for waterways throughout the United States.

Number of Abandoned Vessels Estimated by Coast Guard Field Offices



As a result of our inquiry, in August 1991 Coast Guard field offices began to search for abandoned vessels. The information we compiled was, in large part, based on the results of this search. According to Coast Guard headquarters officials, however, some additional abandoned vessels exist in certain remote areas not included in the Coast Guard's search.

The U.S. Army Corps of Engineers is responsible for removing wrecked vessels that obstruct navigation in our nation's most important waterways. We plan to discuss the Corps' role in dealing with abandoned vessels in our final report which we anticipate will be issued this summer.

ABANDONED VESSELS POLLUTE THE
MARINE ENVIRONMENT AND WILL
COST MILLIONS TO CLEAN UP

From January 1, 1988, through September 30, 1991, the Coast Guard investigated 96 incidents in which abandoned vessels either spilled or could have spilled almost 2 million gallons of pollutants. Although 85 percent of these incidents involved an actual spill, the Coast Guard was able to prevent all but 7,282 gallons from entering the water. The potential for additional pollution from abandoned vessels is much greater because most abandoned vessels have not been investigated. Over 40 percent of the 45 Coast Guard field offices reported at least one spill from an abandoned vessel. Such incidents generally occur when pollutants such as fuel oil, left onboard when the vessels are abandoned, leak into the waters, threatening marine animal and plant life.

The Clean Water Act³ prohibits any discharge of oil or other hazardous material into waterways. CERCLA⁴ imposes liability upon several parties for the costs of cleanup due to the disposal of hazardous substances, such as chemicals without a federal permit. Under both the Clean Water Act and CERCLA, the Coast Guard can order owners of vessels to respond to spills of pollutants. If owners are unresponsive or cannot be identified, the Coast Guard can respond and then assess the owners, when they can be identified, for the cost of cleaning up the pollution.

For example, the Coast Guard learned of one instance of pollution from an abandoned vessel in August 1989 when an anonymous caller reported oil in the Elizabeth River to the Coast Guard field office in Hampton Roads, Virginia. Coast Guard investigators

³The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), is referred to as the Clean Water Act.

⁴The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, is referred to as CERCLA.

determined that 2,500 gallons of diesel and waste oil had leaked from a partially sunk, abandoned commercial fishing vessel. Although owners are responsible for spill cleanup, two parties disputed ownership of the vessel and neither took responsibility for reporting or cleaning up the spill. Consequently, the Coast Guard hired a contractor to clean up the spill at a cost of about \$22,000 to the federal government. The Coast Guard has initiated legal action against responsible parties.

The Coast Guard also reported that, in some cases, abandoned vessels have been used as disposal sites for hazardous materials such as herbicides banned by the EPA. Under the Resource Conservation and Recovery Act, parties who dispose of hazardous materials illegally are subject to fines and penalties.⁵ In addition, under the Clean Water Act, vessel owners are liable for federal cleanup costs. About 16 percent of the incidents associated with abandoned vessels since 1988 have involved illegally dumped hazardous materials.

For example, in 1989 Coast Guard officials in New Orleans found that two abandoned barges in Empire, Louisiana, had leaked 1,000 gallons of illegally dumped waste petroleum products into a waterway. Because one owner was deceased and the other was bankrupt, the Coast Guard contracted for the removal and disposal of 210,000 gallons of waste material at a cost of approximately \$835,600 to the federal government. To prevent further illegal dumping, all openings on the barges were secured with locks and chains.

However, when we visited the Empire site with Coast Guard officials in August 1991, we found that the locks and chains had been broken and illegal dumping had resumed, and hazardous material was again leaking into the water. The Coast Guard determined that about 300 gallons of waste chemicals and petroleum products had leaked from one of the barges, damaging local oyster beds, crustaceans, plants, and marine animals. Using CERCLA authority, Coast Guard contractors began to remove an estimated 571,200 gallons (285,600 gallons from each barge) of hazardous materials. Cleanup work is still under way at an estimated cost of \$1.7 million. No legal action has been taken on this incident because the dumper has not been identified.

Before passage of the Oil Pollution Act of 1990 (P.L. 101-380, Aug. 18, 1990), federal agencies had authority to remove abandoned vessels causing or threatening to cause pollution of the nation's waterways only under limited circumstances. Under the act, however, the Coast Guard has broader discretionary power to remove an abandoned vessel with pollutants--including fuel and bilge oil--on board if the Coast Guard determines that there is a substantial

⁵Resource Conservation and Recovery Act, 42 U.S.C. 6928(d).

threat of a discharge. In making a determination to remove a vessel, the Coast Guard should consider all relevant facts and circumstances, such as vessel age, condition, and location, as well as the agency's experience with illegal dumping of hazardous materials in the area. Owners are responsible for vessel removal costs.

The Coast Guard estimated that \$4.4 million was spent from January 1, 1988, through September 30, 1991, to clean up pollutants from abandoned vessels.⁶ Half of the cleanup efforts cost less than \$10,000 each and another 41 percent cost between \$10,000 and \$100,000 each. Future costs, however, could be much higher, particularly if the Coast Guard identifies a significant number of abandoned vessels that contain large amounts of pollutants. The Empire, Louisiana, site alone, for example, may cost about \$1.7 million. Of the 96 total pollution incidents resulting from abandoned vessels since 1988, 51 cases required expenditure of monies to clean up the pollutants. Of these 51 cases, owners paid all costs in 6 cases, partial costs in 5 cases, and none in the remaining 40 cases, which were paid by the federal government.

FEDERAL LAWS DO NOT DISCOURAGE FUTURE
ABANDONMENTS OR ENSURE THAT OWNERS
ARE HELD ACCOUNTABLE FOR DAMAGES

Even though abandoned vessels are currently causing or threatening pollution damage nationwide, no federal laws specifically prohibit abandonments or require that barges are registered so that owners can be identified and held accountable. Without disincentives, additional abandonments and pollution incidents will likely continue to occur and the Coast Guard may have to clean up or remove many of the vessels using federal funds.

Abandonments Are Not Currently Illegal

No federal law prohibits owners from abandoning vessels in waterways. However, the River and Harbors Act of 1899, as amended (33 U.S.C. 409), makes it unlawful for vessels to obstruct, impede, or endanger navigation of federally maintained channels and empowers the Army Corps of Engineers to remove and destroy vessels that are effectively abandoned in order to keep the channels clear.

In addition, owners are not discouraged from abandoning vessels for any economic reasons. First, an owner cannot be fined unless the vessel obstructs a channel. Second, according to Coast Guard and Corps of Engineers officials, owners often abandon derelict vessels instead of selling them as scrap metal because the cost of

⁶The Coast Guard spent funds under the Clean Water Act or CERCLA, depending upon whether the polluting material was petroleum or chemicals, to clean up spills from abandoned vessels.

scrapping the vessels may be greater than the scrap value. For example, two barges in New Orleans yielded about 260 tons of scrap steel, which had a value of \$2,900 but cost \$1.3 million to clean up and over \$300,000 to remove and dispose of the vessel. Unless some legal or economic disincentives are created, abandonments are likely to continue.

Owners Are Not Being Identified Through Vessel Documentation

While it is not illegal to abandon a vessel, federal law holds owners financially responsible for pollution that occurs because of the vessel. However, the owners of abandoned vessels often cannot be held accountable for spill cleanup because almost half either cannot be identified or are bankrupt. In these cases, the costs of cleaning up pollution or removing the vessel will come from the Oil Spill Liability Trust Fund for petroleum pollutants or from the CERCLA Hazardous Substance Superfund for chemical pollutants.

The Coast Guard administers a vessel registration system, referred to as vessel documentation, to ensure that U.S. vessels are qualified to engage in various trades (such as fishing) or commerce (such as transporting cargo within the United States). Owners must renew vessel documentation annually; this process thus provides a record of vessel owners. Historically, barges that use inland waterways have been exempt from documentation laws.⁷ However, owners may choose to document barges for various reasons, such as to obtain a marine mortgage on the vessel. About 27,000 barges are currently documented, but the Coast Guard estimates that 14,000 barges are not. Because of these exemptions, the Coast Guard cannot identify many owners of abandoned barges and hold them responsible for pollution and related costs.

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In conclusion, Mr. Chairman, the abandoned vessels currently located throughout the nation's waterways potentially require the additional expenditure of a significant amount of federal funds. The vessels often contain pollutants such as fuel oil that can leak into the water, and some of the vessels are being used for illegal dumping of hazardous materials. Spills from the vessels have damaged the environment, and additional releases of pollutants from these vessels pose a constant threat. Because about half of the owners of current abandoned vessels cannot be identified or are bankrupt, the federal government is likely to continue to bear the

⁷See 46 U.S.C. 12110(b). Barges were exempted from documentation laws as early as 1793 because (1) barges had a short useful economic life and (2) unpowered barges could not be easily transported, as required, to one of a few ports where documentation was accomplished. These original justifications for exemption from documentation are no longer relevant because barges now have a useful economic life of about 40 years and documentation is accomplished by mail.

cost of cleaning up spills from the vessels or--when the Coast Guard considers it necessary--removing the vessel.

To minimize both further environmental damage and additional expenditure of federal funds, it is important to prevent future abandonments and to identify owners of abandoned vessels. Currently, however, no federal law makes abandonment illegal or establishes penalties to deter it. In addition, no law exists requiring barge owners to register their vessels with the Coast Guard. We plan to issue our final report on this subject this summer, which will also include additional information about the problem.

This concludes my prepared remarks, Mr. Chairman. We would be pleased at this time to respond to any questions that you or other Members of the Subcommittee may have.

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