

BY JOHN A. WITTE JR., PRESIDENT, AMERICAN SALVAGE ASSOCIATION

## Lessons from our past, a guide post for the **future**

**S**ummer has quickly come to a close. While most of the working world typically finds time to rest and revitalize during the summer season, such is not always the case for the marine salvor. Casualties do not distinguish between winter and summer, nor holidays. This is the life of the marine salvor; waiting for work while praying it does not fall on a holiday, family vacation or another "inconvenient" time in ones' life. The ASA certainly follows this view of the world as we continue our never-ending efforts towards a more effective and compliant approach to our industry.

The ASA's continuing efforts have focused on such important salvage-specific issues as the revised salvage requirements relative to OPA-90, and the Wrecks of the World (WOW) Project, which involves the identification of long-forgotten wrecks worldwide for the purpose of removing oil and hazardous materials that could result in potentially damaging releases into our marine environment. Additionally, we have daily interaction with the regulatory community and other sister organizations whose members work within the marine community. Suffice it to say that marine salvage is a 24/7/365 business.

The salvage industry, like the world we live in, is changing on a daily basis. Issues that weren't major concerns for the salvors of old like Responder Immunity, regulatory compliance and interaction are now necessary and required by each salvor as the ever increasing attempts to legislate and

regulate our industry through new laws and interpretation of old law permeates our industry. While the salvage community recognizes this and have learned to live with these changes, these same regulators and lawmakers that do not work on a day-to-day basis in our industry must recognize that there are some key concepts and principals that are steeped in salvage history and should not be tweaked, no matter how good the intensions may be.

One such concern of the salvage community relates to the 100-plus-year-old salvage contract known as the Lloyds Open Form (LOF). While not the end-all contract form for every salvage situation, the LOF is a contract form that is accepted by the world wide shipping, insurance and salvage communities as the quickest, most efficient way to contract a salvor when time is unquestionably of the essence. In the simplest terms, once an LOF is executed, the salvor is obligated to immediately commence a salvage response in the most efficient, effective and compliant manner possible. I suggest that this is one of the primary reasons that after the *Exxon Valdez*, U.S. lawmakers began to create legislation that would ensure the most professional salvage response possible in the event of a casualty. Interestingly, a recent opinion offered by some legal advisors to the Federal government believe that the LOF does not respond to the specific requirements of Oil Pollution



Act of 1990 (OPA-90) as relates to contracting and funding documents. The ASA, as well as our sister organization, The International Salvage Union (ISU), whose members include salvors worldwide, strenuously disagree.

The ASA encourages the U.S. regulatory community to reflect on its new vision of salvage as

delineated, in part, by legislation such as OPA-90 not only based upon their present view of how the world should work, but also taking into account the history of success that the professional salvage community has enjoyed over the last 100-plus years and not forgetting these valuable lessons learned. The use of the LOF is a valuable asset, as a salvor, both here in the U.S. and abroad, to facilitate a salvage response when holidays, vacations and distance threaten to delay a response.

The world was not built in a day, so we should therefore look to history before we branch out into the future blindly. We are in the position we are in today as a result of learning from our mistakes and embracing our successes. On behalf of the ASA and its membership, we believe we will all be much better if we move forward in this manner. **ML**

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