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October 2008

# The MARITIME EXECUTIVE

INTELLECTUAL CAPITAL FOR EXECUTIVES



**George E. Wittich**  
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(ASA Vice President)

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(ASA President)

**Tim Beaver**  
(ASA Secretary/Treasurer)

**American**

# Salvage

**Association**

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(President)

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# The American Salvage Association (ASA)

## Leaders Speak With One Voice About Salvage, Competition and Today's Regulatory Environment

**As little as twenty years ago**, the concept of domestic salvage players coordinating response efforts, regulatory outreach and the development of best business practices was unheard of. In this fiercely competitive and dangerous industry, mistrust and misunderstanding were arguably the rule and not the exception. And this spanned the full gamut of relationships – between the salvage companies themselves, the industry being served and the regulatory players overseeing all of it. But that was then; this is now.



From left to right: George E. Wittich (Immediate Past President, ASA), Mauricio Garrido (ASA Vice President), John A. Witte Jr. (ASA President), Tim Beaver (ASA Secretary/Treasurer)

# Operate

**Today, the American Salvage Association (ASA)** is a highly effective and cohesive organization, impacting an emerging regulatory environment in a big way while developing common sense relationships between the stiff competition that defines this fascinating business. In September, MarEx caught up with the leadership of ASA – no easy task in itself – for a fast-paced and informative dialogue. Follow along as John A. Witte, Jr. (President), George E. Wittich (Immediate Past President), Mauricio Garrido (Vice President) and Tim Beaver (Secretary/Treasurer) explain the origins of ASA and its many goals and functions. Along the way, they also shed new light on one of the most critical aspects of the maritime industry. As a result, you may never look at salvors in the same way again.

**MarEx: John (Witte), why don't we start off with you? The ASA as an organization is fairly well known, but I don't think that the consortium, why it is in place and how it came to be, are well understood. So bring our readers up to speed.**

**John Witte:** Sure. The ASA, as you know, was started in 2000 and is loosely based on the concept created by the International Salvage Union. Originally, ASA was construed to be a trade organization that represents the interests of the American and North American salvage community. This allows us to discuss common issues and concerns and, more importantly, have a common voice. We have a coordinated response to regulatory issues and the “nuts and bolts” issues facing our industry today. By this I mean things like OPA 90 and the salvage/firefighting regulations, etc. People sometimes fear it when companies come together for a common goal – collusion or price-fixing – things of that nature. One thing that I can tell you, however, is that the ASA as an organization has not lessened the competitive nature of our business. The maritime industry benefits from this effort. We help mold sensible regulations, the pooling of knowledge and resources, for the greater good.

**MarEx: It wasn't always like this, though, was it? At one time, it was nothing more than fierce competition that defined the American business climate.**

**What brought you all together?**

**George Wittich:** The genesis of ASA was probably that meeting in Houston, TX – the Volpe Study, when they (the Coast Guard) first started looking into salvage capabilities here in the United States. Really, credit is due to John's father, Arnold Witte, who had the idea that it would really make sense for us to get together as an association. And we were fierce competitors, but I am amazed, since the inception of ASA, at just how many jobs are done with numerous ASA members working together under any number of business relationships. The real challenge was to create an effective organization. Originally, it was difficult to compete in the regulatory and legislative arena with associations that have multimillion dollar budgets. To the credit of this organization, however, what we cannot achieve in the absence of big dollars we often accomplish largely on sweat equity alone.

**MarEx: Take it a step further. How does your trade organization compare in structure to someone like API? How do you navigate the regulatory environment today – both in terms of evolving regulations and those that already exist?**



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“...the one thing that makes ASA stand out – more so than the others – is the dedication of our members. Our president might put in 40 business days annually on association business. That’s a lot. And the credibility that we achieve with the Coast Guard and on the Hill is a function of our ability to present to them an industry leader and not a paid lobbyist.”

**Witte:** We are fully cognizant that we’re not the size of an API or other organizations of that nature, but we still have a willingness to influence our industry by leveraging a large group of committed professionals. Right now you are interviewing four top managers at salvage companies who also manage the ASA. That sets us apart. We have full-time jobs, but we also realize that, in order to influence the regulatory process, we have to have decision-makers from industry participate. In the course of our day-to-day activities in the field we interact with the Coast Guard and other regulatory bodies.

**Wittich:** If I may, the one thing that makes ASA stand out – more so than the others – is the dedication of our members. Our president might put in 40 business days annually on association business. That’s a lot. And the credibility that we achieve with the Coast Guard and on the Hill is a function of our ability to present to them an industry leader and not a paid lobbyist.

**MarEx: What makes the salvage industry by itself unique, and what is the most pressing issue on your plate?**

**Witte:** I don’t think that there is any question that the most pressing thing on our plate is the effort involved with passing the modifications of OPA 90. The implementation of these pending modifications is something that we are going to see through, come hell or high water. This is not a financial goal, but one which helps to clarify in the eyes of the federal government everything that we do. Everything we do is already highly regulated, and this will help to improve our legitimacy.

**Tim Beaver:** What we are looking for, as an organization, is a definition or, if you will, an acknowledgement of what a salvor is. OPA 90 defined regulatory requirements to vessel owners and operators, one of which was to identify a salvor and firefighter to respond in the event of a casualty. Right now, there is something on the order of 270 contractors named as salvors and firefighters. The ASA membership is presently 16, a group generally representative of the salvage community here in the United States. OPA 90, as presently existing, allows for hundreds of others for inclusion in what constitutes a “salvor.” There are today – believe it or not – companies which specify a “summer camp” as their professional salvor. Under the current regulations, that is an acceptable salvor.

**MarEx: In other words, you want to make sure that everyone in the game is actually qualified to do what they say they are going to do?**

**Wittich:** That’s a good way to put it. It’s a matter of putting some teeth into the regulations. We’re not talking about making this a “good ole boys’ club.” But the way that the regulations are being shaped to be promulgated, there will be a number of criteria that the responsible party has to consider in selecting a salvor. And there are 13 criteria specified in the new regulations. This puts the onus on the responsible party to name a professional in this role or he may be setting himself up for some liability down the road.

**MarEx: This somewhat self-serving effort is also a public service initiative. Yes or no?**

**Wittich:** Absolutely – you are right on target. There is not one company in our membership that only does salvage. In today’s world, we must all supplement our salvage work with other business lines. We have to, in order to justify our equipment investments and to ensure sufficient cash flow to remain in business. But, to answer your question, if we want to have adequate salvage capability here in the United States, then we need to define what a salvor really is. It’s about ensuring a continuity of salvage capability for our nation in the future.

**Mauricio Garrido:** What we are trying to do is like any other organization – say a medical insurance company. We want to publish a book of board-certified salvors. Just as premium payers want to select from a qualified list of physicians in a medical emergency, operators should have the same option in terms of salvors. Insurers should be able to designate and adequately pay a fully qualified salvor. Another feature unique to the salvage industry is that we work under the precept of “no cure, no pay.” Not too many other industries work under that principle. As a matter of fact, there are many more that work under the “no cure, no pay” mode. We are out there to do a professional job – to achieve the desired goal – but get paid when we cure the problem.

**MarEx: These 13 pending requirements of OPA 90 run the gamut from insurance to experience to dedication to the industry and certain levels of equipment modifications? Is this new?**

**Witte:** These were modifications that were supposed to have been implemented as many as 10 years ago. The modifications are in the final leg of implementation – hopefully over the course of the next six to nine months. Mandated by OPA 90, it has taken this long for the regulatory process to move along. And that’s not to say that there hasn’t been some “push-back” from some of the owners and other involved parties. That’s where ASA outreach is so important.

**MarEx: Tell us about the Volpe Study.**

**Witte:** This was an initiative that began back in the late 1990s. While not without its flaws, this study was a very important first step in the cooperation of both the public and private sectors to better understand the goals and needs of one another for the common good of our National Marine Industry. We as the salvage community were asked by the Coast Guard to participate in a discussion to focus on the future of the salvage industry for the next 10 to 15 years. Most of the ASA member companies sat through the three-day meetings, but what ultimately came about didn’t quite resemble the realities, as perceived by the U.S. salvage community that the discussions covered. Once the U.S. salvage community read the results of this study, we recognized that more work and cooperation was needed, hence the creation of the ASA.

**Wittich:** With regard to these regulations, when the ASA saw this opposition arising as a result of some questionable conclusions derived from this Study, we organized a meeting with the major vessel-owning trade associations. It was an educational meeting for all of us

**“As a pollution responder, you are effectively released from liability, . . . We believe that this extends to the salvage end of the operation, but it is not clearly stated in the regulations. . . . we assume that we have some immunity to follow-on liabilities that happen as a result of our best efforts to mitigate a situation.”**

– finding out where each party was coming from. As a result of open informational sharing, when that meeting was over, we had essentially cleared our major obstacle in getting these regulations passed.

**MarEx: Okay. These regulations will make for a better contractor (salvor), but when all is said and done some of these 270 so-called “salvors” aren’t going to make the cut. Yes or no?**

**Beaver:** Possibly. But we show the operators and the underwriting community, over time, that if you employ professional salvors in the first place, the cost of the project ultimately decreases. We still see these part-time salvors take on a project which quickly grows out of their ability to respond to do the work. In these cases, often an ASA member company is then called in to pick up the pieces. At the end of the day, it is much more expensive for the underwriters. The OPA 90 aspect of the regulations is environmentally driven. So our mantra is to keep the oil on the ship, avoid the pollution in the first place and drastically minimize the effect when it does occur.

**MarEx: Okay, what else is on your plate?**

**Witte:** Well, the salvage community wants to be recognized as part of the cure and not part of the problem. I remember when I started following my father around to various salvage cases some 40-odd years ago, I would go to meetings – sometimes with the Coast Guard – and the salvors were treated more or less as pirates; a necessary evil, marine undertakers, if you will. A needed service, but not one that should be part of the discussion or the planning from Federal, State or Local perspectives. Back then, the message was, “Do your job, tell us when it’s done and then go home.” Over time, we have demonstrated that the North American salvage community provides a professional, valuable – and necessary – service. Now we want to be mainstreamed into the “response” community. Because we’re not just a part of it, we are a critically important part.

**Garrido:** We are actively involved in trying to get the role of the salvage master formalized. In the old incident command system, the salvage effort and the salvage master were almost excluded from the picture. So in an emerging disaster, suddenly the salvage master became in charge of everything. And even though there might be an oil spill involved, he still had no input to the incident command system. This was to the detriment of the environment, in our opinion.

**MarEx: Let’s talk about liability issues. Let’s say you are out there and trying your very best to do a good job, but something happens in any event. What’s the bottom line?**

**Beaver:** There is a liability issue unique to our industry. As a pollution responder, you are effectively released from liability, other than gross negligence. We believe that this extends to the salvage end of the operation, but it is not clearly stated in the regulations. Legitimate contractors carry pollution liability coverage and general marine liability policies. But we assume that we have some immunity to follow-on liabilities that happen as a result of our best efforts to mitigate a situation.

**Witte:** Our ASA attorney contends that, from a Federal perspective,

OPA 90 provides salvor’s indemnification. But the concern is: Can salvors be indemnified outside the purview of Federal OPA laws? This applies especially on the West Coast where there is a much more militant view of what a salvor could possibly do wrong. We don’t feel that we should be punished for something that we didn’t create.

**MarEx: And is this something you are actively working on?**

**Witte:** Absolutely.

**Wittich:** Our other concerns, outside of our normal salvage activities, go to the issue of payment stream during times of crisis. We are working on this with our regulators and other groups to get an answer to the question, “How do we ensure an adequate and timely payment stream?” In a traditional salvage job, not only should a salvage company have the experience, qualifications and equipment to do the job, it also needs the financial wherewithal to have the ability to fund a project over the course of a long assignment.

**Beaver:** And today’s salvage operation often involves curing a liability issue. For example, this might involve wreck removal, pollution abatement, along those lines. So the payment mechanism is very important. In the absence of a cargo or a ship to hold in lieu of payment, we really have nothing to fall back on.

**Garrido:** There is a fund called the Oil Spill Liability Trust Fund. That fund is administered by the National Pollution Funds Center, which is part of the Coast Guard’s domain. Those funds are available with the intent of mitigating environmental damage from oil and hazardous substances, working through something called BOA (Basic Ordering Agreements). I think most of the ASA membership has been compensated through this and seen quite a bit of work in the past 10 years managed through that system by the Coast Guard. The Coast Guard has realized that the salvage community does have quite a big role in environmental protection and provides cost-effective solutions to potentially major environmental disasters.

**MarEx: What about the threat of a nondescript freighter that loses power coming into port and is in danger of running up on the rocks. The Coast Guard needs you now to remove this threat. How does that work?**

**Garrido:** Well, being based here in Fort Lauderdale, I have been involved in about five of those very incidents. In cases like this and when the vessel indicates that they do not have the backing to pay for such a response, the Coast Guard has then taken over the response. We are then activated under a pre-negotiated contract.

**Wittich:** Most vessels coming into the United States today do have the appropriate insurance and financial capabilities to fund a response. But we still live in a world where we have a few vessel owners that will allow a disabled vessel to drift 50 miles off our coast and, rather than calling their named salvor, it goes out to a broker who may or may not immediately find a tugboat to take the vessel under tow. During that critical time period, the coastline is at risk.

**MarEx: Let’s talk about finances. Let’s say for six months we don’t have any wrecks, disasters or anything like that**

**“This is one of the big issues that we are all facing right now... The number of people that want to go offshore in a marine environment is decreasing.”**

**going on. You've then got to find something else to do. Can you tell me what it is you and your equipment and employees do when you are not engaged in a salvage operation?**

**Witte:** It depends on the company. Speaking only for Donjon, we perform dredging, heavy lift, transportation, and we have a scrap recycling operation as well. We're diversified along maritime lines, but the other activities keep the lights on when we are not engaged in salvage.

**Wittich:** In the case of American Marine, our day jobs consist of marine construction, dredging, diving and marine transportation.

**Garrido:** Well, Titan is a business that does only wreck removal and salvage. Being a part of Crowley, you know that their services span a wide range of transportation and logistics businesses. In the case of Titan, in order to be profitable, we've had to go global. So we're not only in the States but also all over the world. Today we are actively engaged in three major operations spanning the entire globe.

**Beaver:** At Global Diving, we use our ancillary businesses, which are underwater construction, oil spill response, environmental services and ship husbandry, to maintain and improve our position as a salvor. And we work as a sub-contract specialty contractor to most of the members of ASA in instances where services that they are not necessarily geared up for – such as saturation diving – are required.

**Wittich:** What's really interesting is that the salvage revenues for each of our companies are probably a smaller percentage of our total revenues than you would think.

**MarEx: Let's talk about personnel. I wouldn't imagine that salvage is a typical choice for a mariner. How do you find people and what makes a good salvage master?**

**Witte:** This is one of the big issues that we are all facing right now, no question about it. And it's not just ASA-specific. The number of people that want to go offshore in a marine environment is decreasing. That spreads across many lines of business. But in the end, in order to find and “make” a salvage master, you have to find someone who is willing and interested. Those two components are very important. And, it is important to note that all of the marine activities which we perform on a “regular basis” are a component in the training required to make sure our people are well-versed in the business of salvage.

**MarEx: ASA is trying to spearhead the removal of threats from the myriad of sunken wrecks along our coastlines. Tell us about this effort.**

**Witte:** For many years, the marine salvage industry recognized the need to respond to the pollution threat of over 7,000 sunken hulls identified by NOAA research over the years of which an estimated 400 are oil-carrying tank ships and barges, and 1,300 are non-tank vessels of a least 400 gross tons carrying oil as fuel. The strength and position of the ASA within the regulatory process gave us the ability to gather the necessary decision-makers to discuss this looming concern. These vessels are all potential pollution problems, meaning they contain oil or some related pollutant. There is no question that removal of a pollutant from a vessel when that vessel is still intact is much more cost-effective than attempting to chase it once released. Reaching out initially to NOAA and API, we also brought in the Coast Guard and the U.S. Navy, as well as the American Waterways Operators, Chamber of Shipping of America, INTERTANKO and others. Currently, we are researching targets that NOAA believes have the most potential to cause a spill in the short term. We hope that a pilot project will soon evolve that eventually will yield a process where identified hazards would then go out for competitive bid and then these hulls would be remediated before they have the opportunity to spill. This is a true group effort between the public and private sectors, which all recognize the need and are all working toward a practical solution. It is exciting and a very worthy project.

**MarEx: Arguably, if you can show value in the first pilot project, proactive response could become the rule and not the exception.**

**Beaver:** In round numbers, it works out to be about \$300/gallon to remove oil from a sunken wreck. Cleaning up oil on a beach costs at least \$1,000/gallon. In the case of the Cosco Busan, that 58,000-gallon cost in excess of \$90 million. You can pay now, or pay much more later.

**MarEx: In the end, you are trying to change the image of the business. How is that going?**

**Wittich:** We have made great strides, especially in terms of the regulators, such as the Coast Guard and others. We've spearheaded a lot of training exercises with the Coast Guard, and this has helped foster trust and understanding.

**Witte:** ASA's primary focus is the continued professionalism and involvement of our industry in the regulatory process. While we continue to be presented with proposals from production and television companies who believe the salvage industry may offer the next great reality TV show, we continue on course. While some may believe our industry involves unbridled danger and risk, we who make our living performing in this environment know that our goal is to create an industry that is efficient and effective. We see our goal as showing the ASA as a national – and international – force that is prepared to support salvage, pollution control and response in a professional way.

**MarEx: Gentlemen, good stuff. I know our readers will think so too.**

**MarEx**

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