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WOW: What Are We Waiting For?

Wednesday, September 9th, 2009

Wrecks of the World: Hidden Risks of the Deep (WOW) Conference in Linthicum, MD highlights a ticking time bomb. Industry, politics and the regulatory arms converge at MITAGS to contemplate the mitigation and removal of as much as 4.3 billion gallons of oil lurking below the surface on some 8,500 ship wrecks around the globe.

Linthicum, MD: In the very same week that the U.S. Environmental Protection Agency and other agencies have released a first-of-its-kind, smart growth guide that will "help coastal and waterfront communities tackle threats from sea level rise, stronger hurricanes, flooding and other challenges," a similar and perhaps more dangerous – although far less publicized – threat also lurks in those same waters. Hidden below the surface of the world's oceans the potential for ecological disaster, presented by more than 8,000 sunken ship wrecks, could someday eclipse any number of better known environmental problems. What to do about all of that and how to eventually do it was the subject of this week's Wrecks of the World (WOW) Conference.



Joseph Keefe

In his opening address to the gathered throng of salvors, regulatory personnel and maritime attorneys, NAMEPA's Founding Chairman, Clay Maitland called the threat represented by seeping oil from the world's collective sunken wrecks, "A hidden cancer on the ocean environment." Indeed, the rapidly emerging awareness of a potential pollution problem (representing more than 4 billion submerged gallons of oil) is capturing new attention from a host of flag states. That said, the majority of these wrecks are also more than thirty years old, with no apparent owners to approach for help with the salvage process. Many were sunk during World War II, which also means that these 50-year-old hulls are probably rapidly deteriorating and perhaps getting ready to discharge their deadly cargoes. This problem cannot be denied. How to identify, prioritize and fund the mitigation and/or elimination of these threats is another predicament altogether.

This week's WOW Conference, unfortunately, also meets the perfect storm of a financial crisis that hasn't been seen since the Great Depression. Although Blank Rome partner and attorney Jonathon Waldron definitively told attendees on Wednesday, "The owner is liable," he also qualified that statement by admitting that most of these wrecks are so old that the owners – if they are even still in business – will be difficult to pursue and even harder to find. In the end, the oil from the wrecks, if it is to be removed, will be funded by local governments here and abroad. Like the maritime industry itself that hasn't always been the best PR mouthpiece for its own cause(s), so too has the issue of sunken wrecks been buried for far too long. That metric may be about to change.

Significant challenges lay ahead. Demonstrating the magnitude of the problem to the general public, the media and the governments of the countries affected, according to Wednesday's speakers, is the first place to start. That process is finally underway, with vigor. Once accomplished, the next task involves demonstrating the benefits of a "proactive" approach to these wrecks, as opposed to what has been confined to a "reactive" approach so far. The U.S. Coast Guard's Captain Anthony Lloyd (Chief, U.S. Coast Guard Office of Incident Management & Preparedness) defended the effectiveness of the current response mechanism in place, but in the case of a decades-old sunken wreck that is beyond the control of the Coast Guard, a reactive approach usually involves too little, too late.

As the day progressed during the conference, more than one speaker spoke of a "proactive" approach that involves the use of "cost-benefit analysis." That analysis involves many variables, including but not limited to:

- Identifying the sunken wrecks;
- Prioritizing the most dangerous of these threats;
- Monitoring the wrecks for leakage or potential thereof;
- The impact of intervention on the environment versus "leaving it alone."

Determining whether the mitigation of a particular threat will ultimately benefit the environment and society as a whole is a particularly tricky proposition. As one speaker said, "If removal of the wreck or oil costs less than the perceived eventual impact on society, then remove the wreck!" Ultimately, the liability represented by failing to act may far outweigh the costs of doing the right thing. Still, the program will be a tough sell, especially here in America where people will want money spent on putting the ten percent of the unemployed

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population back to work, as opposed to an invisible and largely "theoretical" threat of pollution. On the other hand, the 280 million gallons of oil thought to be lurking in as many as 1,500 wrecks off the coast of the United States in the North Atlantic, ought to give many some pause. Maybe not.

On Wednesday, as many as 10 maritime attorneys – domestic and international – put their own particular spin on liability, indemnification, insurance, P&I cover and at least a dozen other "funding" mechanisms related to getting these wrecks identified and threats mitigated. One of them pointed out that the American pollution fund now stands at about \$1.3 billion. When they were done, I was no closer to understanding where the money would come from, when that would happen and who would decide where to spend it.

There is good news. Although lacking a concerted international cooperative effort to address the threat represented by oil laden and sunken wrecks thus far, there are exceptions to that rule. Sweden and Norway (since 1992) have been actively identifying and at least beginning to address the sunken vessels, one by one, in their own waters. Separately, France and Italy have begun their own cooperative effort as well. Finally, there is hope that international ratification of the 2007 Wreck Removal Convention will eventually come to pass. When, and if, that might happen is anyone's guess, but the Steamship Mutual Underwriting Association says, "The convention will come into force after ratification by at least ten states and this process is predicted to take not less than three to five years."

According to the Steamship Mutual website, "The convention seeks to lay down a uniform set of rules for dealing with a wreck and its removal. In this respect, the convention reflects current non-convention practice but with the very significant introduction of compulsory insurance and the right of action directly against that insurer."

With regard to the "nuts and bolts" of the salvage aspect of this issue, Hans van Rooij, Principal at Global Marine Solutions, told Wednesday's luncheon attendees that although technology to attack these problems is improving rapidly, at the same time "the salvage industry is lagging behind the subsea industry in this regard." Hence, it is no surprise that ROV and AUV operators and manufacturers were conspicuous in their attendance on Wednesday. Still, van Rooij insists, "Technology is improving and becoming more cost-effective."

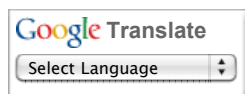
Like most other serious maritime issues, attacking problems lying dormant in international waters affects everyone. International cooperation on that matter will be the key to solving the problem. Down the road, the sunken oil may be the least of our problems. Submarines containing mercury and/or chemical weapons could be the tip of the iceberg when it comes to all of the dangerous cargoes contained in these sunken vessels. None of these even approaches the very real danger represented by several nuclear submarines (and their weapons) that also lurk beneath the surface.

This week's WOW Conference was enlightening; certainly it gave hope that solutions are certainly attainable, but also left unanswered questions as to who would pay to eliminate these imminent threats. Here in the United States, for example, the U.S. Government thinks that an annual outlay of \$12 million is plenty to eliminate the threat of more than 100 decaying, obsolete vessels laying at anchor in Beaumont, TX, Suisan Bay, CA, and Hampton Roads, VA. Arguably, those vessels – some of which contain bunker residues and other toxic substances – represent as big a threat, especially in the event of a hurricane or other catastrophic event.

Heightened awareness is a good thing. In this climate, however, it may not be enough. And, while it may be obvious to many of us that a proactive approach to eliminating the threat of pollution represented by these wrecks is the right thing to do, the reality of current events means that the best of intentions will miss the mark unless it is reinforced by real action. From my standpoint, I only have one question: What are we waiting for? – **MarEx**.

* * *

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