



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

CERTIFIED MAIL

7020 0640 0000 7351 1859

April 21, 2022

SN410/8404-ENF
HAL E. NAUMAN



STATE OF OREGON
DEPARTMENT OF STATE LANDS

In the Matter of Violation of ORS 830.911
By Hal E. Nauman

File No: 8404-ENF

Notice of Seizure
(Post-seizure Notice)

And Opportunity for a Hearing

State Land Board

Kate Brown
Governor

Shemia Fagan
Secretary of State

Tobias Read
State Treasurer

Pursuant to the Abandoned or Derelict vessel statutes in ORS 830.908 to 830.948, the Department of State Lands (hereinafter the Department) has seized the abandoned or derelict vessel referenced in this notice, based on violation of the applicable provisions of ORS 830.908 through 830.948 as more particularly set forth below. In support of the proposed action the Department asserts as follows:

I. AUTHORITIES

1. The Legislature has authorized enforcement agencies to investigate and seize vessels that are abandoned or derelict. ORS 830.908 to 830.948. The Department is an enforcement agency authorized to enforce the Abandoned and Derelict Vessel law. ORS 830.908(4). The Department's address and telephone number are:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301
503 986-5200

2. An enforcement agency may seize a vessel if it has probable cause to believe that the vessel is abandoned or derelict, and the owner fails to correct the issues identified in the agency's notice. ORS 830.911. An enforcement agency may immediately seize a vessel if it presents a hazard to navigation or an imminent threat to public health or safety. ORS 830.923. In addition, an enforcement agency may enter and inspect the vessel, or take other actions as authorized by ORS 830.911.
3. "Abandoned vessel" means a vessel that has been left without authorization on public or private land, the waters of this state, or any other water. ORS 830.908 (1).
4. After a seizure, the enforcement agency must issue a post-seizure notice to the owner and post the notice on the agency's website, as provided in ORS 830.931. At any time before the date specified in this Notice, the owner may immediately reclaim a seized vessel by (a) Paying all costs incurred by the enforcement agency in salvaging, towing and storing the vessel; and (b) Establishing to the satisfaction of the enforcement agency that the owner is able to move the vessel to a place where the vessel can be lawfully kept. ORS 830.933.
5. If a vessel is seized and not reclaimed in the manner provided by this Notice, title to the vessel and all personal property found in the vessel vests in the enforcement agency, and the enforcement agency may sell or otherwise dispose of the vessel and the property. ORS 830.933(2).
6. The owner has a right to a hearing on the pre-seizure notice or the post seizure notice. If a hearing is requested, the hearing must be held within seven business days of the request. Statute sets out further requirements for the hearing. ORS 830.936.
7. A request for a hearing after a seizure must be in writing and submitted to the enforcement agency no more than 10 business days after the notice is given. The request must include a statement of the specific grounds on which the seizure is challenged, and whether the owner challenges the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency. ORS 830.931(4). If the owner requests a pre-seizure hearing under ORS 830.918 (5), the owner may request a post-seizure hearing only for the purpose of challenging the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency. ORS 830.931(5).
8. If the owner requests a hearing but fails to appear at the hearing, the enforcement agency will proceed with the proposed action and the owner may be precluded from any further hearings on the matter. ORS 830.936.
9. After seizing a vessel, the enforcement agency may sell or destroy the vessel. The owner of a vessel may be responsible for all costs arising out of salvage, towing, storage and disposal of the seized vessel. ORS 830.938.
10. A boat owner that fails to comply with a notice issued under ORS 830.918 or an order issued under ORS 830.936, may be found guilty of the offense of failure to

remove an abandoned vessel or possession of a derelict vessel, both Class A violations. ORS 830.944 and ORS 830.990(9).

11. ORS 830.908 further defines specific terms, including:

- a. Derelict vessel
- b. Enforcement agency
- c. Owner
- d. Vessel

12. The State is the owner of certain submerged and submersible lands in this state, including those on the Multnomah Channel, in Multnomah County. Oregon Constitution, Article VIII, Section 5, ORS 274.025, and ORS 274.710. The State has delegated authority to the Department for the management of these submerged and submersible State lands. ORS 274.040 and ORS 274.710.

13. The Department rules provide that no person shall place a structure on, or make use of state-owned submerged and/ or submersible land without the required authorization described OAR 141-082-0265 and defined in OAR 141-082-0255, unless the use is exempt from such authorization by law or these rules. ORS 274.040, OAR 141-082-0265, and OAR 141-082-0260(4).

14. Unauthorized use of state-owned land constitutes a trespass. OAR 141-082-0315(1). The Director of the Department is required to investigate and prosecute all trespasses on state lands. ORS 273.185.

15. Limited Duration Use is exempt from authorization under these rules. OAR 141-082-0265(5). "Limited Duration Use" means any temporary or infrequent use of state-owned waterways, with no long term or extended use intended. Limited Duration Use includes any non-commercial use of state-owned submerged or submersible land which is not more than thirty (30) calendar days during any contiguous 12-month time period, within a distance of five miles. OAR 141-082-0255(43).

16. Commercial, industrial or residential uses require a lease from the Department. OAR 141-082-0265(2)(k).

II. FACTUAL ALLEGATIONS

1. Hal E. Nauman is the owner of the vessel registered as OR 865 ADK and other vessels and structures attached to the registered vessel.

2. The Department found that Hal E. Nauman's vessel OR 865 ADK, and the other vessels and structures were moored on the Multnomah Channel without authorization.

3. On April 14, 2022, between the hours of 8:00 AM and 5:00PM, the Department seized vessel registered as OR 865 ADK near river mile 14 of the Multnomah Channel under the authority cited above. The Department seized the vessel in place by posting

a Notice on the vessel that indicated that the vessel has been seized. The Notice gave the name, address and telephone number of the Department.

4. The vessel was seized by:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301
503 986-5200

5. At the time of seizure, the Department conducted an inventory of the personal property in and on the vessel. A list of what was observed on board the vessel is attached as "Attachment A." All Items were left on board the vessel.

6. To date, the Department has incurred costs amounting to \$5,000.00 for salvage and disposal of the vessel.

III. CONCLUSIONS OF LAW

Based on the foregoing, the Department determines that the vessel registered as OR 865 ADK was lawfully seized. The Department is authorized to seize the vessel in place by posting a notice on the vessel, indicating that the vessel has been seized. Hal E. Nauman may not enter or move the vessel without the written consent of the Department.

The Department may sell or destroy the vessel and any personal property on the vessel if Hal E. Nauman does not (a) pay all costs incurred by the Department in salvaging, towing, and storing the vessel, and (b) establish to the satisfaction of the Department that they are able to move the vessel to an authorized location, by the date provided below.

The Department also determines that Hal E. Nauman is the owner of the vessel and shall be liable to the Department for all costs arising out of salvage, towing, storage and disposal of the vessel.

IV. RECLAMATION OF SEIZED VESSELS

The Department has seized the vessel registered as OR 865 ADK, anchored in the Swan Island Lagoon in Multnomah County. Hal E. Nauman is ordered to not enter or move the vessel without the written consent of the Department. If Hal E. Nauman wants to reclaim this vessel, the deadline by which he may do so is:

May 21, 2022 at 5:00 PM

In order to reclaim the vessel, Hal E. Nauman must (a) pay all costs incurred by the Department in salvaging, towing, and storing the vessel, and (b) establish to the

satisfaction of the Department that Hal E. Nauman is able to move the vessel to an authorized location, by the date listed above.

V. RIGHT TO HEARING

Hal E. Nauman has a right to a hearing on this Post-Seizure notice. If a hearing is requested, the Department must set a time for the hearing that is no more than seven business days after receiving the hearing request. Hal E. Nauman may mail a request for a hearing to:

The Department of State Lands
Aquatic Resource Management Program
775 Summer Street NE, Suite 100
Salem, OR 97301.

A request for a hearing after a seizure must be in writing and submitted to the enforcement agency no more than 10 business days after the notice is given. The request must include a statement of the specific grounds on which the seizure is challenged, and whether the owner challenges the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency. ORS 830.931(4). If the owner requested a pre-seizure hearing under ORS 830.918(5), the owner may request a post-seizure hearing only for the purpose of challenging the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency. ORS 830.931(5).

If the owner makes a timely request for a hearing, the Department will notify the owner of the time and the place of the hearing. The owner will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing.

If the owner's request for a hearing is not received by the Department within 10 business days or if the request otherwise fails to comply with the requirements of ORS 830.936, ORS 830.918 and ORS 830.931, then the owner's right to a hearing shall be considered waived.

VI. FINAL ORDER BY DEFAULT

If Hal E. Nauman does not request a hearing within 10 business days of the notice, or if Hal E. Nauman requests a hearing and then either withdraws the hearing request, notifies the Department that he will not appear or fails to appear at a scheduled hearing, then title to the vessel and personal property will vest in the Department, and the Department may issue a final order by default authorizing the sale or destruction of the vessel and any personal property found in the vessel. In addition, the Department may issue a final order by default finding the owner of the vessel responsible for all costs arising out of salvage, towing, storage and disposal of the seized vessel. If the Department issues a final order by default, it designates its file on this matter, including

any materials submitted by Hal E. Nauman that relate to this matter, as the record for purposes of proving a prima facie case.

DATED on this ____ day of _____,2022.

OREGON DEPARTMENT OF STATE LANDS

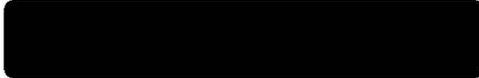
Chris Castelli
Northern Operations Manager
Land Management Division
Department of State Lands

CERTIFICATE OF FILING/SERVICE

I hereby certify that on April_____, 2022, I posted the substance of this notice on a website maintained by the Department of State Lands

I further certify that on April _____, 2022, I served the within Post Seizure Notice on Hal E. Nauman, by certified and first-class mail to the addresses listed below:

HAL E. NAUMAN



DATED this ____ day of April 2022.

Signed

Attachment A

Items found on the vessel include(s):

- Various PVC tubing
- 1 small fishing pot
- Multiple, various water-soaked DVD's
- A disassembled boat engine
- Soiled linen
- Weathered tarps