

STATE OF OREGON  
DEPARTMENT OF STATE LANDS

In the Matter of Violation of ORS 830.911  
By Richard Schaefer

File No: 8404-ENF

Notice of Seizure  
(Post-seizure Notice)

And Opportunity for a Hearing

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 vessels 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. "Vessel" means a boat, a boathouse as defined in ORS 830.700 (definitions for ORS 830.060 to 830.140 and 830.700 to 830.870), or any other floating structure that is normally secured to a pier or pilings. ORS 830.908(6)(a)
4. "Derelict Vessel" means a vessel that is on the waters of this state and that is:

- a. Sunk or in imminent danger of sinking;
  - b. Obstructing a waterway;
  - c. Endangering life or property; or
  - d. In such dilapidated condition that it is in danger of becoming a significant environmental hazard as evidenced by repeated and documented instances of leaking fuel, sewage or other pollutants. ORS 830.908(3)
5. 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.
  6. 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)
  7. 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.
  8. 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).
  9. 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.
  10. 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.
  11. 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).
12. ORS 830.908 further defines specific terms, including:
    - a. Abandoned Vessel
    - b. Enforcement agency
    - c. Owner
  13. The State is the owner of certain submerged and submersible lands in this state, including those on the Willamette River, 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.
  14. 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).
  15. 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.
  16. 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).
  17. Commercial, industrial or residential uses require a lease from the Department. OAR 141-082-0265(2)(k).

## **II. FACTUAL ALLEGATIONS**

1. Richard Schaefer is the owner of two floating homes (ie vessels), one of which is registered with the State of Oregon, registration number FH 00404, and associated marine debris attached to the registered vessel. These vessels and associated marine debris have been in trespass on the Multnomah Channel in Multnomah County adjacent to 19400 NW St Helens Rd, Portland, OR 97231 (Tax Lot: 2N1W, 00900) without authorization since at least July of 2018.
2. On July 30, 2021, the Department delivered a field trespass notice informing an individual aboard the vessels that the vessels and associated marine

debris were in trespass and needed to be moved to an authorized moorage location or removed from the waterway. The individual claimed to be watching the vessels and marine debris while the owners were away and said they would deliver the message to Scott and Pam Sterio (the previous owners of these vessels) when they returned. These vessels and associated marine debris have since transferred ownership to Richard Schaefer.

3. On March 2, 2022, the Department received notice that Richard Schaefer's vessels and attached marine debris had broken free from their moorage at 19400 NW St Helens Rd and drifted, unattended, roughly two and a half miles downstream where they were intercepted by emergency services and secured to the river's edge directly across from Rocky Point Marina located at 23586 NW St Helens Rd, Portland, OR 97231.
4. Richard Schaefer's vessels and attached marine debris fall into the categories of "Abandoned" and "Derelict" as defined in ORS 830.908. Vessel FH 00404 and attached marine debris present an imminent threat to public health and safety. Multiple floating home communities are in the direct vicinity of vessel FH 00404 and associated marine debris. The infrastructure holding these vessels in place is inadequate and susceptible to failure at any time. The surrounding communities are at risk of collision if the one rope holding these two floating homes (vessels) and associated marine debris breaks under tension. In addition, left unattended these vessels will likely be used by the unhoused as shelter exposing them to the instability of these vessels and the hazards onboard.
5. On April 14, 2022, at 12:44 PM, the Department seized vessel FH 00404 and attached marine debris in place under the authority cited above. These vessels and the attached marine debris are located directly across from Rocky Point Marina at 23586 NW St Helens Rd, Portland, OR 97231, on the Multnomah Channel, in Multnomah County.
6. The vessels and attached marine debris were seized by:  
Department of State Lands  
775 Summer Street NE, Suite 100  
Salem, OR 97301  
503 986-5200
7. At the time of seizure, the Department deemed entering the vessels hazardous and no inventory for personal property was conducted. All items on the vessels during the seizure will remain on the vessels until the end of the 30-day storage period.
8. To date, the Department has incurred \$32,660.00 for storage of the of the float homes and associated marine debris.

### **III. CONCLUSIONS OF LAW**

Based on the foregoing, the Department determines that the vessel registered as FH 00404 and associated marine debris were lawfully seized. The Department may sell or destroy the vessel and attached marine debris and any personal property onboard if Richard Schaefer does not (a) pay all costs incurred by the Department in salvaging, towing, and storing the vessels and attached marine debris, and (b) establish to the satisfaction of the Department that they are able to move the vessels to an authorized location and remove the marine debris from the waterway, by the date provided below.

The Department also determines that Richard Schaefer is the owner of the vessels and attached marine debris and shall be liable to the Department for all costs arising out of salvage, towing, storage and disposal of the vessels and attached marine debris. The total cost for this project will amount to \$123,410.00.

### **IV. RECLAMATION OF SEIZED PROPERTY**

The Department has seized the vessel registered as FH 00404 and attached marine debris, anchored on the Multnomah Channel, in Multnomah County. Richard Schaefer is ordered to not enter or move the vessels without the written consent of the Department. If Richard Schaefer wants to reclaim these vessels or the attached marine debris, the deadline by which they may do so is:

**May 21, 2022, at 5:00 PM**

In order to reclaim the vessel, Richard Schaefer must (a) pay all costs incurred by the Department in salvaging, towing, and storing the vessels and attached marine debris, and (b) establish to the satisfaction of the Department that Richard Schaefer is able to move the vessel to an authorized location and remove the marine debris from the waterway, by the date listed above.

### **V. RIGHT TO HEARING**

Richard Schaefer 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. Richard Schaefer may mail a request for a hearing to:

The Oregon Department of State Lands  
Aquatic Resource Management Program  
775 Summer Street NE, Suite 100  
Salem, OR 97301  
503-986-5200

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 Richard Schaefer does not request a hearing within 10 business days of the notice, or if Richard Schaefer requests a hearing and then either withdraws the hearing request, notifies the Department that they will not appear or fail to appear at a scheduled hearing, then title to the vessel, attached marine debris, 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, attached marine debris, and any personal property found on the vessel. In addition, the Department may issue a final order by default finding the owner of the vessel is responsible for all costs arising out of salvage, towing, storage and disposal of the seized vessels and attached marine debris. If the Department issues a final order by default, it designates its file on this matter, including any materials submitted by Richard Schaefer that relate to this matter, as the record for purposes of proving a prima facie case.

DATED on this \_\_\_ day of April 2022.

OREGON DEPARTMENT OF STATE LANDS

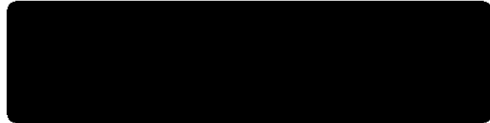
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Christopher Castelli  
Northern Field Operations Manager  
Aquatic Resource Management Program  
Department of State Lands

**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 Richard Schaefer, by certified and first-class mail to the addresses listed below:



DATED this \_\_\_\_ day of April 2022.

\_\_\_\_\_  
Signed