



Oregon

Tina Kotek, 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

State Land Board

CERTIFIED MAIL

7022 0410 0001 7666 8480

FIRST CLASS MAIL

August 7, 2024

DD410/8573-ENF

Shaun Huckabay

63524 FLOWER ROAD

COOS BAY, OR 97420

Tina Kotek

Governor

LaVonne Griffin-Valade

Secretary of State

RE: Post-seizure Notice for Vessel *Miss Stacey*
(DSL Enforcement File # 8573-ENF)

Tobias Read

State Treasurer

Dear Shaun Huckabay,

The Department of State Lands seized the vessel *Miss Stacey* ("Vessel") on August 1, 2024, at 1:00AM, in the Coos River in Coos County near the area of Empire (43.3967211335932, -124.27881228209148) under the authority of ORS 830.911 as an abandoned vessel.

Post-seizure Notice: Enclosed is a Post-seizure Notice ("Notice"). The Notice provides information on your rights and obligations related to this Vessel. Failure to reclaim the vessel by the deadline given in the Notice will cause the title and ownership of the Vessel and all personal property found on the Vessel to be vested with the Department of State Lands who then may sell or otherwise dispose of the Vessel and property pursuant to ORS 830.933(2). If you do not reclaim the Vessel as provided in the Notice, the Department may pursue cost recovery from you, pursuant to ORS 830.908 to 830.948.

Opportunity to Appeal: The Notice contains information on how you may request a hearing to challenge the allegations in the Notice, or otherwise correct the violations.

Sincerely,

Dorothy Diehl

Project Manager, Waterways Stewardship Program

Aquatic Resource Management Division

Oregon Department of State Lands

CC: Matt Devore, Oregon Department of Justice
Robert Baker, Deputy Sheriff, Coos County Sheriff's Office
Ray Dwire, Charleston Marina Manager, International Port of Coos Bay

STATE OF OREGON
DEPARTMENT OF STATE LANDS

In the Matter of Violation
of ORS 830.911

By Shaun Huckabay

File No: ENF-8573

Notice of Proposed Action
(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 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

The State is the owner of certain submerged and submersible lands in this state, including those in Coos Bay in Coos County (Oregon Admission Act, 11 Stat. 383 (1859); ORS 274.025; and ORS 274.710). The State delegated authority to the Department for the management of these submerged and submersible State lands (ORS 274.040 and ORS 274.710).

The Department rules provide that no person shall place a vessel 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).

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.

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 laws. 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
dsl.waterways@dsl.oregon.gov

An enforcement agency may seize a vessel if the agency 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. In some situations, an enforcement agency may

immediately seize the vessel, board the vessel, or take other actions as authorized by ORS 830.911.

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).

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)).

The owner has a right to a hearing. 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).

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)).

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).

Not less than 30 days after seizing a vessel, the enforcement agency may sell or destroy the vessel. The owner of a vessel shall be responsible for all costs arising out of salvage, towing, storage, and disposal of the seized vessel (ORS 830.938).

A vessel owner who 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)).

II. FACTUAL ALLEGATIONS

1. The vessel *Miss Stacey*, O.N. 504307, is a 55' steel fishing vessel manufactured in 1966 in Rockport, Texas ("Vessel").
2. The Vessel is unregistered, but Shaun Huckabay is the owner of the Vessel as defined by ORS 830.908(5).
3. Shaun Huckabay does not have authorization from the Department to leave the Vessel on state-owned submerged and/or submersible land.
4. At the time of seizure, the Vessel was moored in the Coos River near the area of Empire. The Vessel had been moored in this vicinity since at least July 25, 2023. On July 31, 2024, the Vessel moved approximately 1,300' upriver but this movement did not change the status of the Vessel as an *abandoned vessel* as defined by ORS 830.908(1).
5. On October 17, 2023, the Department notified Shaun Huckabay that mooring at this location was not authorized and constituted trespass (DSL Enforcement File 8573). The notice described the ways in which the trespass could be cured. Shaun Huckabay did not cure the trespass.
6. On May 24, 2024, the Department sent a second notice of trespass to Shaun Huckabay. This notice was returned to the Department by the USPS as "unclaimed" on June 17, 2024.
7. On July 12, 2024, the Department provided pre-seizure notice to Shaun Huckabay via Certified Mail, First Class Mail, and hand-delivery by Deputy Robert Baker of the Coos County Sheriff's Office.
8. Shaun Huckabay did not remove the vessel from the water, move it to a place where it could be lawfully kept, or request a hearing by the deadline given in the pre-seizure notice.
9. On August 1, 2024, at approximately 1:00AM, the Department seized the Vessel. (Contents and personal property are documented in *Attachment A: Photos of Miss Stacey August 1, 2024*)
10. To date, the Department has incurred recoverable costs for salvage, towing, and storage of the vessel in the amount of approximately \$7,000.00.

III. CONCLUSIONS OF LAW

Based on the foregoing and pursuant to the authority cited above, the Department was authorized to seize the Vessel as abandoned, pursuant to ORS 830.911. Title and ownership of the Vessel and all personal property found on the Vessel shall be vested with the Department on **September 2, 2024 at 5:00PM**. After this date, the Department is authorized to sell or otherwise dispose of the Vessel and the property pursuant to ORS 830.933(2).

Shaun Huckabay is an owner of the Vessel as defined in ORS 830.908. Shaun Huckabay shall

3- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)

be liable to the Department for costs arising out of salvage, towing, storage, and disposal of the Vessel, pursuant to ORS 830.938.

IV. RIGHT TO RECLAIM VESSEL

An owner may reclaim the Vessel by (a) paying all costs incurred by the Department in salvaging, towing, and storing the Vessel, and (b) establishing to the satisfaction of the Department that he is able to move the Vessel to a place where it can be lawfully kept. An owner may reclaim the Vessel by completing the above-described steps and moving the Vessel to a location where it can be lawfully kept by **September 2, 2024 at 5:00PM**.

If an owner does not reclaim the Vessel as provided above and move the Vessel to a location where it can be lawfully kept, the title and ownership of the Vessel and all personal property found on the Vessel will be vested with the Department of State Lands. The Department may then sell or otherwise dispose of the Vessel and property pursuant to ORS 830.933(2). The Department may also pursue cost recovery efforts against owner for the Department's costs to salvage, tow, store and dispose of the Vessel.

V. RIGHT TO HEARING

An owner who is provided post-seizure notice has a right to a hearing on the post-seizure notice. A request for a hearing must be in writing and submitted to the Department no more than 10 business days after the post-seizure notice is given. A request for a hearing must be submitted before **August 21, 2024, at 5:00PM**. An owner may mail a request for a hearing to:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301
503-986-5200
dsl.waterways@dsl.oregon.gov

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 Department. ORS 830.931(4). If an owner requested a pre-seizure hearing under ORS 830.918(5), that 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 Department. ORS 830.931(5).

If an owner submits a timely request for a hearing, the Department must set a time for the hearing that is no more than seven business days after receiving the hearing request. 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.

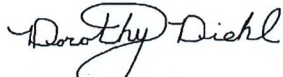
VI. FINAL ORDER BY DEFAULT

If a request for a hearing is not submitted within 10 business days of the notice, or if an owner requests a hearing and then either withdraws the hearing request, notifies the Department that they will not appear, or fails to appear at a scheduled hearing, then the Department may issue a final order by default. The final order by default may order that title to the Vessel and personal property will vest in the Department. The final order by default may authorize the Department to sell or destroy the Vessel and any personal property found on the Vessel. The final order by default may find the owner of the Vessel responsible for all costs arising out of salvage, towing, storage, and disposal of the Vessel. If the Department issues a final order by default, it designates its file on this matter, including any materials submitted by an owner that relate to this matter, as the record for purposes of proving a prima facie case.

VII. Federal Servicemembers Civil Relief Act:

Active duty servicemembers have a right to stay certain proceedings under the federal Servicemembers Civil Relief Act. See generally 50 USC 3901 et seq. For more information, contact the Oregon State Bar (800-452-8260), the Oregon Military Department (503-584-3571), or the nearest United States Armed Forces Legal Assistance Office (<http://legalassistance.law.af.mil>). The Oregon Military Department does not have a toll-free telephone number.

DATED on this 7th day of August, 2024.



Dorothy Diehl
Project Manager, Waterways Stewardship Program
Aquatic Resource Management Division
Oregon Department of State Lands

CERTIFICATE OF FILING/SERVICE

I hereby certify that on the 7 day of August, 2024, I posted the substance of this notice on a website maintained by the Department of State Lands.

I further certify that on the 7 day of August, 2024, I served the within Post Seizure Notice on Shaun Huckabay certified and first-class mail to the addresses listed below:

63524 FLOWER ROAD, COOS BAY, OR 97420

DATED this 7 day of August 2024.

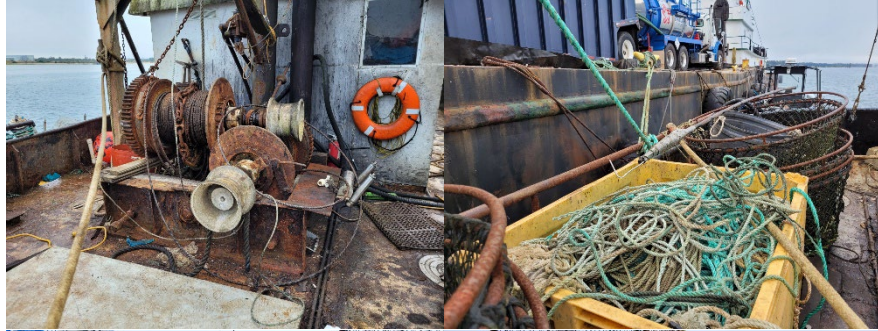
Print name: Heather Klebs

Position: Support Services

Attachment A: Photographs of Miss Stacey August 1, 2024

Photographs taken August 1, 2024, approximately 7:30AM - 8:00AM





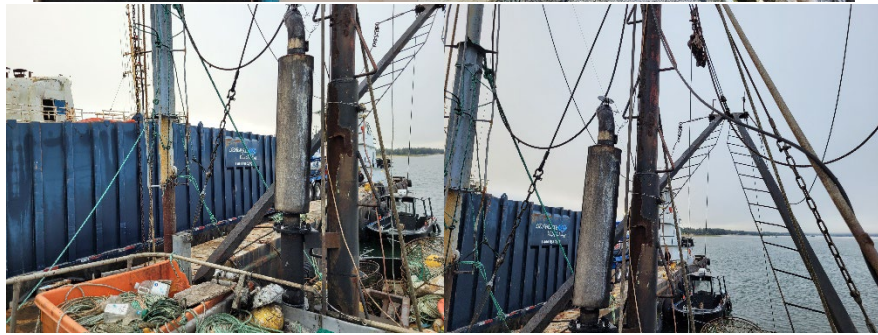
7- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)



8- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)

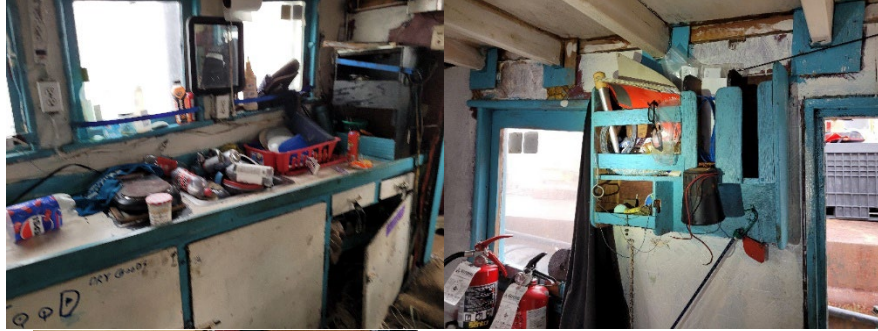


9- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)

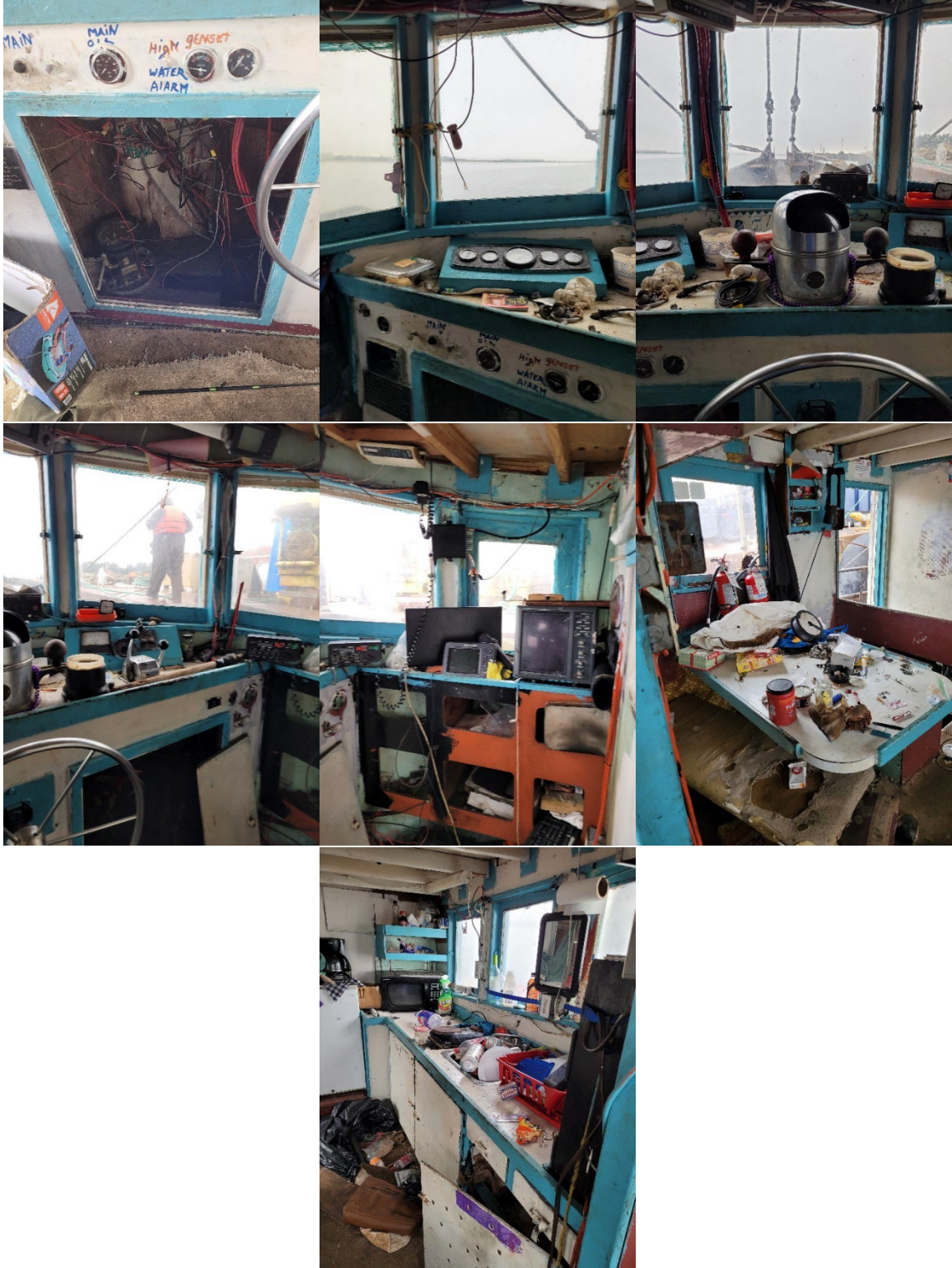




11- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)



12- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)



13- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)

Photos taken after haul-out and washing on August 1, 2024



14- NOTICE OF PROPOSED ACTION (POST-SEIZURE NOTICE)