

SAMS[®] NEWSLETTER

Fall/Winter 2017



Winter Time

**Volume
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**Editor:
Stuart
J.
McLea,
AMS[®]**

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The
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**2018 SAMS[®]
International Meeting &
Educational Conference
(IMEC)
Oct. 31st To Nov. 3rd
Portland, OR**

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Stuart J. McLea, AMS®
SAMS® Editor/Past President

Good Day to you all from the cooling North...

Bonita Springs was a great success in a “5” Star location, with Platinum Speakers.

It was a great opportunity to network, and if you were successful, the costs incurred attending should be recovered in short order. Hats off to Joe Loble, AMS® and Kenny Weinbrecht, AMS® for a job well done! Now for next year we are heading west, to Portland, Oregon.

Now, you are thinking, why is Stu McLea still the editor of the newsletter. Well, I have been asked to stay on as Editor, and it will be my pleasure to do so.

E&O Insurance

E&O insurance is finally moving forward, and you will be receiving your application that will need to be filled out and sent back to SAMS® HQ with your fee, \$400 (plus 5.2% tax = **\$421**). So, be on the lookout for a Mail Chimp from HQ with this information, and an application (one page).

Newsletter Articles

I am on the hunt for technical articles, or articles of interest to the profession of Marine Surveying. I know we have a number of our members on CAT duty and I would be interested in hearing some stories from them. I would also like to hear your experiences in a column I am calling “while on my way to the survey”. Tell us a funny or interesting experience that you had.

Need CE Credits - you will receive 3 CE credits for a newsletter article, if approved and published.

In closing I would like to wish everyone a Very Merry Christmas, and all the best to you and yours for 2018.



**Robert Horvath, AMS[®]
President**

GREETINGS

The weather here in the Great Lakes has been un-believable good, so everyone should be having an excellent year.

It is a pleasure to announce that we finally have enough members interested in obtaining E & O insurance. This is strictly voluntary, but the more that sign up the less the rate will be.

The first offering will be in 2018, the cost to be determined once the numbers are known.

Our past President Stuart McLea, AMS[®] has been working on this for many years, we owe him a great deal of thanks for bringing this to a successful conclusion.

The IMEC 2017 in Bonita Springs was a success, with an excellent educational program, the accommodations and food were superb. All the feedback I got was very positive. Both Kenny Weinbrecht, AMS[®], VP of Education and Joe Lobley, AMS[®], VP of Meetings and Conventions deserve a round of applause.

Let's not forget Rhea, Irene and Mark for their usual outstanding job of keeping registration running smoothly and Susan for holding down the home office.

All, are already hard at work on IMEC 2018 in Portland, Oregon.

Bill Trenkle, AMS[®] was elected to Executive VP, John Lowe, AMS[®] to Secretary/Treasurer, Eddy Assaf, AMS[®] to VP of Public Relations.

New Regional Directors are: Peter Spang, AMS[®] North East, Michael Tock, AMS[®] Great Lakes, Nicole Mcloughlin, AMS[®] Canada and Clinton Evans, AMS[®] Gulf. Thank you all for stepping up to serve SAMS[®].

We are viewed by the maritime industry as the premier marine surveyors group in the world.

I am honored to serve as President.



Downing Nightingale Jr. AMS®

After 30 years of serving SAMS® as a member of the Board of Directors, President and 21 years as an Advisor to the Board, Downing has decided that the position of Advisor is no longer a beneficial need. He has, however, volunteered to be of assistance anytime we needed him.

The Board and SAMS® members would like to thank him for his valuable input through his many years of service. His smiling face will be missed at the annual board meetings.

THANK YOU DOWNING



**Bill Trenkle, AMS®
Executive Vice President**

Hard to believe as I write this, it has been over a month since so many of us were together in Bonita Springs for a great SAMS® annual meeting and educational conference. If you did not attend, you missed a great conference. The venue was superb, the educational programs were top notch and the social events were really great, the organized, and the impromptu ones. I always enjoy getting the chance to spend time socializing with members I have never met before, or only see once in a blue moon. The information shared in those social settings is amazing. We saw Kit Kittredge, AMS® pass the President's mantle to Bob Horvath, AMS® after doing a great job the last two years. Bob is going to be a great President and I am looking forward to working with him as he leads our organization for the next two years.

The next IMEC is in Portland, Oregon and it is also shaping up to be a very good one. Portland is a great location and Ken Weinbrecht, AMS® has some great educational presentations planned. Book your flights now to get to the cheap rates!

At this year's business meeting, at the IMEC, I was elected Executive VP. This means I head the ethics committee. I am already getting a feel for what I have heard from people who have had this job in the past. There are lots of complaints about late reports and poor work product. There really is no excuse to have a customer complain about a late report. We all know things happen and deadlines sometimes get missed, but most times people will understand if they are communicated with. Call the client if there is an issue; just don't let them keep checking their email waiting for the report to show up.

One of the other issues we get calls on, poor work product/unhappy customer thus is often due to a simple misunderstanding. Again, so many of these can be resolved by communicating with the client. Personal interaction with the client over a phone call is better than email in most cases. Just think customer service at all times, don't be defensive and try to solve the problem before it escalates. I read an article in a law newsletter that says that most doctors' malpractice lawsuits happen because the doctor gets defensive after making even a small mistake. If a doctor admits he made a mistake, offers to undo any damage, at his cost, the lawsuits don't develop. We are big targets and we must be proactive to keep the clients happy, so they don't make ethics complaints, or even worse file a lawsuit.

The next most common issue is complaints about SAMS[®] marine surveyors who are also yacht brokers. While it is not technically against the SAMS[®] code of ethics to work as a yacht broker and a surveyor, the opportunity for conflicts or perceived conflicts of interest is very, very high. If you are a broker and you do surveys you MUST never survey boats you have anything to do with in a sale or purchase. This includes boats that are being sold by other brokers or brokerages that you do business with. Steer clear of any situation that could be considered a conflict of interest, or perceived conflict of interest, because there are plenty of people watching and they will be happy to report you to SAMS[®] with an ethic complaint, or take legal action. Best advice is to exercise an abundance of caution on any survey jobs you take. Before you take the job write down a list of all players, see if there are any dots that connect you to any of the involved parties from your brokerage work, if they do, better to not take the survey.

If anyone has any questions on the issues discussed above, or any others related to SAMS[®] code of ethics, please do not hesitate to reach out to me. It is always easier to put out the fires when they are small, rather than when they become an all consuming inferno.



**Gary Frankovich, AMS®
Membership Vice President**

WOW!!!

What a great IMEC, any of you who didn't attend certainly missed one of the best venues, and set of speakers we've ever had. BIG thanks to Joe Loble, AMS® and Ken Weinbrecht, AMS® for the tremendous amount of time, and effort they put into making such a great conference. I'd also like to congratulate Eddie Assaf, AMS® the newest member of the Board of Directors as Vice President of Public Relations, and welcome Nicole McLoughlin, AMS®, Clinton Evans, AMS® and Michael Tock, AMS® as new Regional Directors for Canada, Gulf and the Great Lakes Regions, respectively.

And this is really important, anytime a Regional Director calls on a member for help, I urge you to please do all that you can. The amount of time the Regional Directors contribute to the running of SAMS® is incredible, and at times almost over-whelming, remember, they have the same number of hours in a day, and the same number of days in a week as everyone else.

Surveyor Associates (SA's), it's YOUR responsibility to keep track of your due dates, every year you're required to submit a current report or survey for review by the anniversary date of your acceptance into SAMS®, if you don't submit the reports, or if a report gets a poor review and the following reports don't improve, it's a BIG problem for you when you apply for upgrade to AMS® Candidate status, which brings us to the second important date you need to keep track of, your Up or Out date, the date by which you must be approved for upgrade to AMS® Candidate status. In order for the Regional Director and Vice President of Membership to have sufficient time to review your request for upgrade to AMS® Candidate status you **SHOULD apply at least 90 days PRIOR** to your Up or Out Date, failure to do so can result in the review not being completed, which will result in your suspension.

I hope everyone had a prosperous year, and see you all in Portland, Oregon next fall.



**Kristoffer Diel, AMS®
Testing Vice President**

Some musings from the swamp:

I hope this finds everyone as busy as they wish to be! The southern U.S. states had their share of hurricanes this year; so there should be lots of damage surveying going on. Also, everyone needs to keep their eyes open for the “restored” boats, coming back into the market in the next couple of years!

Another item I would like to remind all about; is the massive KIDDE fire extinguisher recall. Go online and download the list, and you might even consider going back to your notes, checking through the boats you have recently surveyed.

The SAMS® testing world experienced one of the slowest for many years. We had 22 people take the Y&SC exam; with congratulations to the 16 new AMS®’s. But, the big news (for me!) is the completion of the new Commercial Workboat exam. Congratulations go out to Mark Clark, AMS® from New Jersey, the first to pass the new CW exam during the IMEC 17.

At the recent IMEC I noticed the “ageing of the fleet” among the SAMS® members. I have seen the same thing in the past; as previously experienced by the prior Surveyors Guild, and now NAMS. I entreat everyone; please reach out and either mentor a local Surveyor Associate, or talk up the surveying business among your friends, acquaintances, and contacts. Whom better, as ambassadors for our future surveyors and SAMS®?

And, as I asked in March; I hope everyone learned something about Confined Space Entry this year. If not, get it on your schedule. The life you save might just be your own...

Have a wonderful Christmas Season with your Families and Friends.



**Kenneth Weinbrecht, AMS®
Education Vice President**

**Portland, Oregon.....here we come.
October 31st - November 3rd, 2018**

Sounds kind of silly to be planning this far ahead, but we have to. Here are some of the things that are being planned from some of the suggestions from our members.

- Tow boat company
- Sailboat rigging inspections and failure
- Battery manufacturer
- Welding basics and inspection
- Audio gauging and ultra sound
- Outboard engine failure analysis
- Environmental compliance for small craft

Did you know that SAMS® has now approved 8 CE's per day for an IMEC attendance? First time in the industry to approve that amount of CE's. The reason why is that after the day has ended (usually from 0800 - 1700) 9 hours have gone by with one hour of lunch. Between all the networking we felt that 8 CE's is more appropriate.

As ever, if you should have any questions please feel free to email if you want to know if something that you are attending can be awarded CE credits.

Lastly, I would like to "Thank You" for your continued confidence in voting me to continue to be your Education VP.

Have a wonderful Thanksgiving and a wonderful holiday season.

These Members Have

**R. Dylan Bailey, AMS®
Florida Regional Director**



Will Return For The Next Issue

**John Lowe, AMS®
Secretary/Treasurer**





**Joseph Lobley, AMS®
Meeting/Conventions Vice President**

I am happy to report we had a very successful IMEC in Bonita Springs, Florida. The resort was beautiful, and the service we received was outstanding. There were about 250 members that attended. We had over 300 members and guests at the President's Reception, and the Thursday night dinner. The educational portion was excellent thanks to Ken Weinbrecht, AMS®, VP of Education. I have been forwarded several comments about the cost of these meetings going up. As explained before, we are too large for the smaller, cheaper venues, and too small for the convention centers. So we find a hotel that fits our needs, but to get the meeting rooms for free, and the nightly room rate negotiated down, we have to commit to a minimum number of rooms, and a food and beverage minimum. The difference between the minimum food, and beverage costs, and having a very nice function is not much more costly per person. Also, understand that any profit we make at an IMEC goes back into the General Fund, and this helps with office expenses. Remember, we have not had a dues increase since 2008.

IMEC 2018 is at the Hilton Portland and Executive Tower in Portland, Oregon, October 31 - Nov.3. We have a guaranteed room rate of \$189.00. Unfortunately, parking is at a premium, but there are many public, and private transportation options, as is with any city. The Max Light Rail runs from the airport to Pioneer Square which is a block from the hotel. The cost is \$2.50 each way and takes about 30 minutes. This is a world class hotel in the heart of the city with numerous shops, restaurants, pubs, and dozens of gourmet food trucks just blocks from the hotel.

IMEC 2019 will be at the Hilton DeSoto in Savannah, Georgia, October 30th - November 2nd. The rooms will be \$176.00 per night, and the parking is fixed at \$18.00 per day. The hotel is in the Historic District which is a beautiful part of the city. We will be there over Halloween which should be interesting based on the number of ghost tours, and haunted pub crawls offered. Perhaps we can have a Halloween party.

At the last General Membership Meeting, it was voted that Montreal, Canada will be the location for IMEC 2020. I will be working with Eddy Assaf, AMS[®], our new VP of Advertising and Public Relations, to locate a venue that fits our needs. I will provide you with an update in the next newsletter.

Thank you and see you in Portland.



**Eddy J. Assaf, Jr., AMS[®]
Public Relations Vice President**

It was great to see such a large turnout in Bonita Spring in October, hope you all found the meeting to be as informative as it was for me. Most people I have talked to enjoyed the venue.

This is my first newsletter as VP of Public Relations and just starting to get informed, and knowing what is going on. Seeing what we have in publicity that is active, what are good results and what isn't?

The SAMS[®] Google group seem active but more of us should use it. These are often very good subjects and some questions that more experienced surveyors could help with their broad knowledge in the business.

Over the winter I will be reviewing how our budget can get the best bang for the buck, a little quieter up here in the winter, so it's a good time to visit underwriters, yards and local marinas and hand out business cards (the ones who are open, that is). This is good to help promote yourself and to promote SAMS[®] surveyors, the organization and all that SAMS[®] organization offers to the marine industry. We run a tight ship and it would be good for all to know how professional we really are. Even, some times talking to a client who might need the services of another surveyor, who specializes in a certain domain and showing him how advantageous it would be using a SAMS[®] surveyor.

Pretty much all for now, once I get my feet wet I am sure I will have more to say next time.

**Randell Sharpe, AMS®
Pacific Regional Director**



Business continues to be brisk here in northern California, I trust you are all busy.

If you missed the annual IMEC meeting in Bonita Springs, Florida you missed a great event. We were in practically the only large hotel that had reopened after the hurricane, and they did a great job of feeding, and giving us an excellent meeting hall. The education speakers, sea stories, and networking among those that attended were well worth the cost. Next year will be on the west coast so no excuses for missing the meeting in 2018. Mark your calendar for October 31 - November 3 in Portland.

I am in the planning stage for our West Coast Regional Meeting. It will be in February some time. Dates dependent on room availability. We voted at the last meeting to hold this one in the San Francisco Bay area so I am looking for a meeting place. I plan on another two day event. The key to success for these meetings is the quality of the presentations. If you have any suggestions or know someone you want to hear speak, let me know, and help me to set it up. If you have a topic near, and dear to you, and want to make a presentation let me know that, too. We have some very talented folks in SAMS® here on the west coast.

The board along with a committee of the RD's has worked on updating the recommended survey report content, and the final updated guide will be published shortly. Sit down with the guide, and your survey template, and make sure you are covering all the bases. Your reports are the way you show off your work as a surveyor.

The membership voted to allow SAMS® to go forward with a group E&O policy. This is separate from the SAMS® liability policy that everyone has, as part of your annual dues. The E&O will be available to all members, but you have to sign up for it, and pay for it separately. It's a great deal for anyone interested in this insurance. Read the information from Headquarters and don't delay, if you want to sign up.

As always, if you have any questions I am available via phone or email, unless I'm under a boat or in the bilge somewhere.

Work Safe & Stay Safe !!!

**Nicole McLoughlin, AMS®
Canada Regional Director**



Big shoes to fill...one step at a time!

My hearty congratulations to fellow SAMS® member, Mr. Eddy Assaf, Jr., AMS® for your recent election to the SAMS® Board of Directors! Well deserved, and best of luck!

In my first month as the new Canadian Regional Director, I am grateful for the support and guidance provided by my RD's, who helped establish "Canada" as a region; and to include bi-lingual exams to celebrate diversity and talent in the province of Quebec; and who laid the ground work to form a sub-region of Western Canada in the near future. Having taken my first few steps in this role, I am acutely aware of how much time you put in to making sure all members are supported, and that SAMS® is promoted to a professional standard, that is tough to beat. I would also like to acknowledge the retirement of Wallace Gouk, AMS®. Your work is fondly remembered as "outspoken" and "really detailed!" On a personal note: To the women at SAMS® headquarters, particularly Rhea, Irene and Susan, who have helped me navigate through correspondence and processes on a daily basis as I gain my footing in this role. THANK YOU! THANK YOU! THANK YOU!

I'm pleased to report the Canadian Region is growing! I've reviewed a half-dozen new applications and Surveyor Associate reviews looking to upgrade to AMS® status. Study hard! I look forward to working with you all, and hope to see you at the Canadian Regional Meeting Nov. 22-23, 2017 at the Comfort Inn, Toronto Airport. The program includes: a site visit to Klacko Spars www.klackospars.com; a presentation from the training manager at FLIR www.flir.com on non-destructive testing and thermography techniques in the field; and a word from the director general of the Quebec Maritime Association www.nautismequebec.com as highlights. See you there!

In the spirit of education: “You learn something new everyday, that’s what makes it fun!” is a mantra often said by the older and wiser surveyors’ whom I’ve had the privilege to call mentors. They are also the first to share a new tool or news of a safety recall notice that could help me and my clients. If you’ve had a mentor, consider becoming one, and pass along that hard-won knowledge.

After a wild season of extreme weather, including hurricanes that ravaged the Caribbean, and the Gulf Coast from Texas to Florida, as well as West Coast Forest Fires, and record flooding along the St. Lawrence River and Lake Ontario, there is no shortage of work out there—and no shortage of risk. We are each other’s strengths and are strongest when we work together.

Best regards

**T. Fred Wright, AMS[®]
Mid-Atlantic Regional Director**



Sorry to have missed IMEC for the second consecutive year, due to Hurricane Matthew last year which hit in my backyard (well actually 4 hours away, but within driving distance), then Harvey this year, followed by Irma.

I left on 29 August, gave my wife a birthday kiss at the airport before we went our separate ways; she to Denver (for work) and I to San Antonio. After some 3 weeks in South Texas, on to the Lower Keys and Key West (not for Fantasy Fest; although there was a memorable evening downtown on Tutu Tuesday; still trying to erase those images from my memory), finally returning home on 28 October 2017. Two months away from home, long time, I missed a lot; my youngest grandson learned to sit up and rollover, the older one did not recognize Papa during a Facebook chat (I got a beard trim and a haircut that day). In my absence; the Mrs. held down her job, dealt with the daughters, kept the dog fed and the yard mowed (and raked; leaves were green when I departed, and off the trees when I returned) and welcomed me home with a kiss and a list of “Honey-Do’s”. She is my Rock.

Now trying to reconstruct files that had been addressed only marginally during my absence, and return to normal duties; cargo and small boat damage claims and Condition and Valuation Surveys.

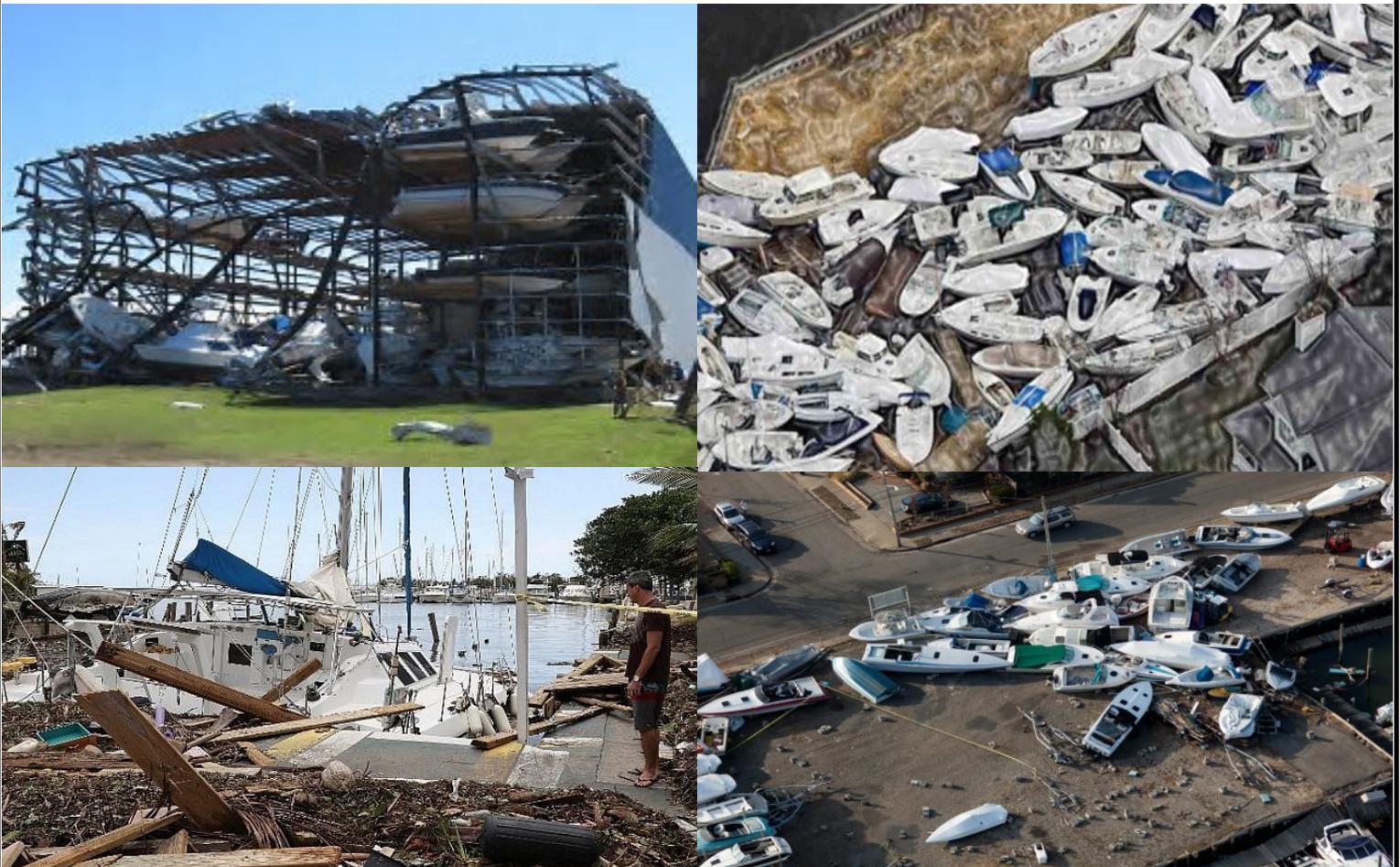
To those who've submitted upgrade requests or applications in my absence; my apologies for any delays; I'm working on them.

To those Surveyor Associate's who've submitted surveys for annual review; I'll get through them when I can and provide the feedback you deserve.

To those who attended IMEC; thank you for passing the E&O initiative which I believe elevates the professionalism of the Society and the profession in general.

I'd also like to mention an upcoming educational opportunity arranged by SAMS[®]/NAMS-CMS Lloyd Griffin, AMS[®] to be held 12/1-2/2017 in Norfolk. All interested surveyors are welcome. There are 12 CE credits available. Upgrade candidates who wish to test for AMS[®] should contact headquarters as soon as possible to arrange testing the morning of the 1st.

Now back to work; as per my Dad: "There's no rest for the wicked and the righteous don't need none".



**Michael R. Tock, AMS®
Great Lakes Regional Director**



Change In The Air

Those of us in the Great Lakes Region, we are experiencing the change in seasons. The 2017 boating season is coming to a close and the colder weather is on the way. With the economic recovery this past year, boat sales have been at a brisk pace. I hope you all enjoyed a prosperous and successful year. Those of you who were too busy to attend the 2017 IMEC in Bonita Springs, Florida you missed a great educational venue and the chance to gather with your fellow SAMS® members for conversation and camaraderie.

There was also another change for the Great Lakes Region announced at IMEC, Scott Schoeler has resigned his position as Regional Director to focus on some family matters and that I would be assuming the duties as Great Lakes Regional Director. I want to thank Scott for all his hard work and commitment during the past four years. We wish him the best now and in the future. I will be working hard to meet the duties as your new Regional Director, with that being said, I have been working on survey reports that fellow surveyor associates have submitted for their Surveyor Associate annual review or for upgrade to SAMS® AMS®.

I would ask that all SAMS® Surveyors review the newly revised “Recommended Survey Report Content” (RSRC) to ensure your reports meet the new standard for survey content.

One major change that you will need to include in your reports is an explanation of how you arrived with the vessels fair market value. Not just the sources of the values (Soldboats, BUC, ABOS), but an outline of the actual calculations to determine the fair market value.

I also recommend that you save digital (pdf) copies of your research and source documents used in the vessel value computations. You may need these documents in the future, if your market evaluation is questioned and you are asked to show your information sources for values, you can readily provide the research data.

Future Great lakes Regional meetings are in the initial planning stages. I have had several very good suggestions from fellow members for meeting venues, and will be working on firming up details. Look for an announcement from SAMS® HQ for a meeting in the near future.

Peter J. Spang, AMS®
North East Regional Director



We've been through a lot this year with the economy bringing a lot of business our way, and the hurricanes and storms, not so much in our region, but nonetheless, many surveyors working for CAT teams or independently traveling to Florida and the offshore islands. I know that most of us in this region wish we could spread the work more evenly throughout the year rather than getting more than we can handle in just a few short months, but on the other hand, I enjoy having a couple months to get "Honey-dos" accomplished and get north for skiing and snowmobiling. I answered many calls with a referral to www.marinesurvey.org for the roster.

IMEC in Bonita Springs was nothing less than perfect. A great hotel, great presentations, unbelievable social events and food. Nobody throws a party like SAMS® (and calls it educational)! It was amazing that the Hyatt Regency Coconut Point was able to get up and running after Irma stormed through. Building and grounds damage could be seen if you looked for it, but not to the impairment of treating their guests with a Class A experience. This is one of the reasons why we use the larger hotels. Maybe not the cheapest, but most reliable and capable for handling our large attendance. Kudos to Joe Lobley, AMS® and Ken Weinbrecht, AMS®.

Now that IMEC is over, it's time to think about a Regional Meeting. Originally planning one at the Mt. Sinai Yacht Club on Long Island, Roy Scott, AMS® and club member didn't think we could get in there until late February 2018. So, we will put that offer aside until then, but I still would like to get one in before Christmas and looking at venues more North. I have a call in to the Massachusetts Maritime Academy who hosted us a few years back. Once I get a spot for us to land, then I can confirm presenters. I am open to suggestions, and if any of you have something you would like to present, I'd love to hear about it. Bill Lee, AMS® is bringing his collection of foreign life jackets, and I will have another table for "Your Favorite Artifact". Items, photographs, anything unusual you have come across in your practice. (Please- no Searay hulls).

Since I assumed the Regional Director position in July, it has been a learning experience and I am overwhelmed at the amount of help that has been offered to me. There is a lot more to this than I had expected, and in addition to running my own business, I continually burn the midnight oil trying to keep up. My wife wonders, “why don’t I get paid”- I do, but it’s hard to put a price on pride.

Look for an announcement from SAMS® HQ about the meeting.

Please attend, as always, it will be great to see you all.

**Clinton Evans, AMS®
Gulf Regional Director**



By the calendar, it is fall along the Gulf Coast, but by the thermometer it is still summer. It was not as if I did not have plenty to do with Hurricane Harvey, that I accepted the position of Regional Director. Now, I have more than plenty to keep me out of trouble.

The question that has come up several times already is “are we having a fall regional meeting in New Orleans?” The answer is “No”. However, I am working on putting together a spring meeting. More to come. I will also be sending out a short survey to get a better idea of the subjects people want to see presented. If you have any suggestions put them in the survey.

One thing to consider when working around broken docks, fences and other building materials that have a way of finding themselves near boats after a hurricane is rusty fasteners. Make sure you wear good shoes with good soles, watch where you step, and put your hands. Check your tetanus shot records, you may need a new one.

Be Safe!

2017 IMEC Pictures



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Fire Investigation

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Van Macomb

Director of Marketing

Company: SoftPoint Industries Inc.

Product: SoftSand® Rubber Particles

Application: Non-Skid coatings



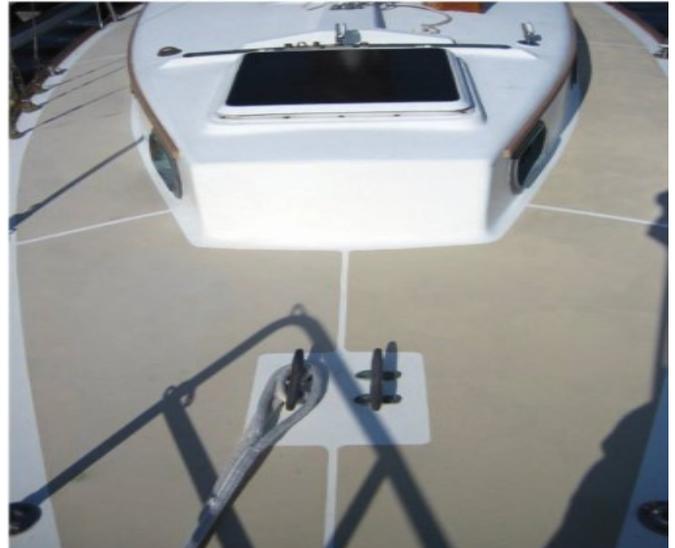
Description: The idea behind SoftSand Rubber particles came from the observation that non-skid coatings are composite structures – a binder system (urethane, epoxy, acrylic, enamel, etc.) and a particle.

Since urethanes are flexible, low modulus materials, it makes sense that a rubber particle with similar physical properties will be the ideal complement when the two are combined to make a non-skid coating. Mineral additives (1st generation technology) like sand, aluminum oxide, garnet, pumice, etc. are too rigid and tend to pop out of the coating after some initial wear. The move to plastic particles (2nd generation) is a step in the right direction from a composite perspective but not as ideal as a true elastomer like SoftSand Rubber particles (3rd generation).

Several benefits are derived from building a better, all elastomeric, composite:

- Improved wear life – the coating and the particle work together to absorb energy and the particles will not pop-out of the coating.
- Better Feel on bare skin for pleasure boaters.
- Better Performance for commercial marine – larger particles that won't crack or pop out.
- Reduced wear and tear on equipment – rubber boots, ropes, etc.
- Faster Recoating – the rubber particles will sand nicely with the coating. The particle won't eject like hard particles when hit by sandpaper, leaving a crater behind that requires further sanding.

Improved Safety - a larger rubber particle and more of them can be used since the particles work synergistically with the urethane coating.



Ted Stevens, Force5

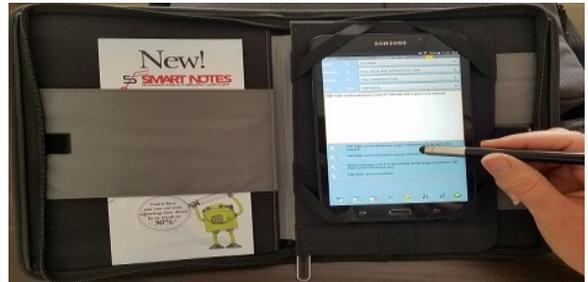
After retiring from the computer business in 1990, I decided to go to Chapman's School of Seamanship, and take a Yacht and Small Craft course. While at school I became friends with Charles V. Corder, Director of the survey school, and then President of SAMS®.

Charlie, along with some higher ups in Boat US, and the founders of the fledgling SAMS® organization, worked with me to design a survey report format and content, outlining what should be addressed in most pre-purchase surveys.

SAMS® later adopted their recommended survey report content document based on our Force5 report. In late 1990, while surveying out of the Jensen Beach area, I took a teaching job at Chapman's survey school. I taught the propulsion segment for four years. Then in 1994, we introduced the first Force5 program on a floppy disk at the SAMS® meeting in Salem, Massachusetts. Twenty three years later, with the help of our customers, SAMS® and Chapman's school, we have a well-respected marine survey report software business, dedicated to our favorite people. Our Force5 customers like our SmartNotes upgrade version 2.0 onboard data acquisition tool Force5.org.

What we do for a living day to day? For the last 25 years we have run a successful computer network support business in Jensen Beach, Florida called Computer Network Services. We are Microsoft and Intel Certified Partners, and have a team of seven full time employees. Running CNS is what helps make our managing, and supporting Force5 so effective for our customers. We are dedicated to our Force5 customers, and they get preferential treatment from my staff when they need help.

Thanks to the great volunteer leadership of SAMS®, they have helped elevate the profession of Marine Surveying to a higher level than was ever even dreamed of in 1990. Congratulations boys, well done!



Maintenance of Wooden Boats

(Wooden boat , wooden head, wooden listen!)

By

John Dolmage AMS®

Since Spring has sprung, here are some long-developed tips on the maintenance of wooden boats:

The greatest threat to wooden boats is fresh water. Most everything in the construction is aimed at keeping water out, in one form or another and the first line of defense against ingress of fresh water is paint and oils and their proper application. If not properly applied, paint can be a cause of moisture retention. Taking the time to do a good and proper job of preparation and application of coatings will in the end save you far more time down the road, not to mention the real protection and life it will give your boat.

Preparation is key and it is often the most time-consuming and neglected part of maintenance.

Hulls:

(My interpretation of an older wooden hull would be anything over 35 years of age.)

1. Hulls should be stripped to bare wood every 10 to 15 years by burn, scrape and sanding or stripping and sanding.

Wipe the sanded areas clean with a rag dampened in turpentine.

2. Inspect the seams thoroughly and then apply a good soaking of turpentine over the whole bare surface. You can apply it as heavily as possible and you'll see if the wood is properly dry, the turpentine seems to pull into the wood more quickly with each pass. You can apply as many coats of straight turpentine as you like.

3. Mix 50/50 turpentine and raw linseed oil (boiled linseed oil will form a finish). I always heat this mix on an electric hot plate to near boiling and then apply it hot, but if the temperature is warm it may not make any difference, and saves the risk of heating the oil! Remember if you do heat the oil, only do so over an element, *not* over open flame, and have a tight fitting cover to put over your pot and appropriate fire safety equipment at hand in case it does catch fire.

Brush or spray this mix on as heavily as the surface can absorb and hold. You'll notice that around fastenings the wood seems much dryer, especially if the steel fastenings are rusting. I believe the galvanize or oxides somehow pull the natural oils out of the wood and of course the fastenings are also a conduit for moisture through condensation and possible wicking. That's why most rot in planking radiates out from fastenings.

Continue to apply as many coats as possible - several coats a day if time and weather allow. You can, after the first couple of coats, increase the ratio of linseed oil to 75% or even a little higher.

Your planking is weather proof from the first application so there is no need to worry about rains between coats as long as the surface is allowed to properly dry after a rain.

It is most important to remember that these are natural oils and so rags and absorbent materials which are in contact with the oil are able to spontaneously combust if left in the direct sun or very warm areas. Store them in a closed metal container or lay or hang them out flat, out of the direct sun, to dry thoroughly before disposal.

4. When you're tired of oiling and feel ready to apply paint, try to find oil-based paint – I haven't done this for several years and I know it's only getting more difficult. Sand the surface (100 to 150 grit) and wipe with a turpentine-soaked rag.

Thin the undercoat 50/50 with turpentine and apply. Let dry overnight and apply a second coat without the turpentine. After drying overnight again, apply the top coat and leave overnight. Then add a second top and you're done. If you cannot apply a second coat within 24 hours then wipe quickly, just ahead of where you are applying the paint, with acetone. This softens and cleans the paint's surface allowing a good bond between the two coats of paint. Or, better yet, lightly sand the surface again and wipe clean with acetone or turpentine.

By oiling the wood before painting, the paint will make a better bond to your wood, and will be more durable and maintain its gloss longer. In addition, now that the wood has been rejuvenated it will not absorb moisture and will not expand and contract as much.

If oil paint is not an option then ignore thinning the first coat of undercoat with turpentine and just apply the coatings as directed. Water based paints will adhere to the oiled wood just fine, provided it's well dried.

This process should be followed for any surfaces which will be varnished as well, but not if an epoxy type paint will be used as top coat.

Replacing Planks

Scrape and clean the existing plank edges, butts, the exposed ribs, and frames; soak in the turpentine and linseed oil. Apply the oil to the backside of the new plank(s) as well, and before installing the plank get a good coat of pine tar on all the surfaces.

Often a person is rushed, as they may be on the ways, but any amount of oils you can get into the wood can only be a benefit to the vessels longevity, and helps to do a better job.

The pine tar leaves a flexible film surface once dry which will protect for many years, if out of the sun. All these oils are natural biocides which kill or inhibit mold and fungus, as well as seal and waterproof the wood.

When sheathing over planking, I highly recommend laying fibergum and Irish felt. I have never seen rot where this method has been done properly. The felt provides a barrier that will last 30 or 40 years at times, and if the planking surfaces are painted to seal them off, it is even better. Use any inexpensive primer, varnish or even copper paint. This prevents the wood from absorbing the fibergum and drying out the felt.

The sheathing can be any sort of material. When sheathing with steel or aluminum you can drill and tap ¼” holes every 2 feet on the plate, and then once the plate is welded and secured you can pump heated fibergum into the holes. When the gum comes out the next holes, plug it off and move your pump to the next hole, spreading fibergum into any cavity behind the plating and assuring that bugs cannot get in. Heating the plate with a torch as you go helps to spread the fibergum as well. Another trick when sheathing a hull with metal plate, is to lay a 2’ wide strip of exhaust lagging tape under the plate seams, so that when you weld the heat won’t catch the felt on fire.

Bow Stem

Depending on the size of stem, drill up to a ¾ Inch hole directly down the center of the stem about 12 to 18 inches deep (deeper on bigger stems). Fill the hole as often as possible with turpentine, this will preserve the stem. Cap over the stem with a wood or metal cap, with a bit of felt under it, which can be easily removed to fill each summer. Again, you can’t apply too much turpentine!

Plank Decks.

Plank decks are almost always a problem. If you want to have the traditional plank decks, and the boat was built with tarred seams, then the planks have to be well caulked and carefully pitched or sealed, and then maintained from then on.

I have seen lots of methods used to try to seal decks but the best way is still the old way: using oils and pitch. The new caulking compounds are good, but if you have old planking it's very hard to clean the old pitch and oils out, which will contaminate these compounds and prevent them from sticking to the surfaces. I would stay with pitch, but I can't suggest where to find a pitch pot! I used to use an old coffee pot and pinch the end of the spout to a narrow slot.

Careful application of good caulking sealants can work well too, but that extra care has to be taken in the preparation before application.

1. The decks should have been scrubbed recently and dried in warm weather. Inspect the seams to ensure they are in good order. The planks may have shrunk a bit and cracks between the plank and the pitch seam might be visible.

Again the good old turpentine, apply a liberal coat to the entire deck surface.

2. Mix the 50/50 turpentine and raw linseed oil, heat to near boiling and apply it to the decks. This process can be done as often as the coats soak in. With each coat increase the ratio of linseed oil. Do a minimum of at least one coat at 50/50 and one coat of only linseed oil.

3. Next is the best – Pine Tar – mix 50/50 pine tar and turpentine, or 50% pine tar, 25% turpentine, and 25% linseed oil. Heat to a roll and apply on a hot day as early as the deck is warm. The pine tar will take longer to dry as it won't soak as deeply into the wood. Apply a second coat as soon as the first is dry to touch (should be in 24 hours) of 100% pine tar - you can also add 10 -15% varnish to the pine tar before heating it. If the deck has been oiled the previous year, then this process will be simpler - only apply coats as the wood will absorb them. The more coats, the better the protection provided there is no moisture on the surface between the coats. If you are concerned about moisture on the surface, from dew or fog, heat it with a tiger torch.

As long as the oil is dry the surface will not catch fire, unless you hold the torch directly to it for a length of time. It's worthwhile to invest in a good tiger torch. I found one through the propane supply, but they are also getting hard to find. This process will probably stand up for several years on a pleasure boat. On working tugs it was an annual event.

As Fall approaches and you notice there are still some cracks in the pitch seams, you can take a small torch and melt the pitch in that area and it will refill the crack. Then when the rains come again the planks will swell slightly and you're sure to have tight seams. On the tugs the crew would scrub the decks every few days and would throw a bit of sand on the deck ahead as they went. The planking would almost be white by the winter.

If you are not prepared to do this kind of maintenance then I'd suggest you scrape and clean the insides of the bulwarks at least a few inches up and the same with the carlins, or deck sills. Flush caulk or fill the deck seams and paint the decks with a thick coat of oil paint or varnish to seal the wood. Lay Irish Felt over an ample coat of Fiber Gum on the decks and sheath the deck with 5/8ths' or heavier fir plywood. Coat the plywood with what used to be called P.R.C. and is now sold by International Paints as I think Interlac 262 and is a 2 part application with a non-skid third coat option. This product is fairly costly initially, but is still the best deck coating available. I've seen it on wood decks over 30 years and it still is pliable and looks good. The trick with PRC is to mix it really thoroughly – 7 to 10 minutes on an aggressive drill mixer. It generally goes further than they tell you.

If you'd rather sheath with aluminum or steel then lay the Felt and Fiber gum, and under the seams in the metal deck you lay strips of Thermo Tape, which will insulate over the felt when you go to weld the plate seams.

Be careful to get proper 'Fiber Gum' not roofing gum.

Now your decks can expand and contract all they like, and the moisture can't get into them and into your bunk!

Interior Compartments

The steering flat or lazzerette, fish hold, chain locker or any place you have access to the inner lining of the hull, it's planking and frames.

In the 'bad old days' we had good stuff like creosote and coal tar to apply on areas where you wanted an inexpensive and effective biocide and water sealant.

It all smelt pretty good too but some people have taken exception to some of these products and they have become very hard to buy so it's back to the turpentine, linseed oil and pine tar. I go about it the same way as the exterior only I apply by spray so you can get in behind the linings, through the vents and the many tight spots it would be impossible to brush. A garden spray applicator works pretty well as long as you don't heat the oil! The best tool is an old fire tank that the forest fire fighters wore on their back and pumped up the pressure. These have welded steel tanks which you can stand right on the hot plate and warm the oil, and they can build up a really nice pressure to apply the oil. The hose and wand are also good material and will outlast dozens of garden applicators.

You can't apply too much oil, the wood will soak up as much as you can get to it. A final coat or two of pine tar will seal and protect the surfaces for years. It's my opinion that doing this will also freshen the interior odor of the vessel as it kills mildew and seals the wood with a long working biocide, which not only repels moisture but prevents the growth of mildew and molds (which are the state of rot).

Another way to protect the bare wood on the interior areas is rock salt. In the damp areas of the boat, you can spread rock salt out on the beam shelves, it will gradually dissolve and leach down the inside of the planking. Salt is also a biocide and it will kill molds as well, and thus, freshens the interior odors.

There is also the use of glycol – antifreeze, which displaces water and will preserve the wood. Unless you're in the habit of sucking or licking your boat, there is reportedly no ill effects from this method. You can soak green wood with glycol and it prevents the wood from checking.

And the last is borate salts, which also is a biocide and help to preserve wood. I have read up on it and there are plenty of enthusiastic reports of its qualities. I think it was when they did the last big refit on the sailing ship tied in San Francisco, there was quite a bit of discussion about borate salt. I bought some through the drug store, but a chemical supply might be a better bet.

When I applied it, I dissolved it in glycol and then sprayed it on in the lazzerette.

House works

Most house works are plywood sheathed, so if you are stripping them to bare wood, go through the same process as the hull put one good coat of turpentine and another of 50/50 linseed, turpentine would be sufficient as the oils will

not penetrate past the glues on the wood laminates.

Window Frames, Doors and Railings – Bright Work

Sand or strip to bare wood and give several good soakings of turpentine, if the wood is very old then a couple more coats of 50/50 turpentine, linseed oil. I recommend an oil based varnish. I hear all sorts of glowing reports about these epoxy varnish type coatings, but I've also talked with a few people who have had to remove them and it's a huge job, you end up doing considerable damage to the wood in the process. All I know about water based varnish is that it doesn't stand up as well as oil based. Sikiens Varnish stands up very well, but it discolours the wood and has a slightly foggy finish. I prefer a clear gloss finish oil based varnish or a clear satin finish. Thin the first coat of varnish at least 50/50 with turpentine. This pulls the varnish finish deep into the wood giving a really good seal and a good anchor to further coats. I always lightly sand between coats with no more than a 220 grit paper and try to build up at the very least 8 coats. 12 coats is ideal and then the next year you should be able to give a thorough sanding with 220 grit and one or two coats of varnish will maintain your finish. Try to get a last coat on as late in the season as possible to help keep a good seal over the surface, and a nice seen.

For interior finish I recommend an oil finish as it's so easy to maintain, looks great, can be built up to a lovely luster and if it is damaged it's very simple to sand out and match back to the original finish.

Sand the surfaces to a clean finish using no more than a 220 grit paper. A couple of coats of turpentine will freshen up the wood, then apply the first coat of oil thinned 50/50 with turpentine. I always wet sand the first two coats with 400 paper and if applying a coat for maintenance, a quick going over with 400 smooths and gives a bit of a "tooth" for the new coat of oil. I like to get at least 4 coats on most surfaces, and 6 or 7 on surfaces exposed to the sunlight. To maintain the finish you just dampen a small cotton cloth in oil and wipe down all the surfaces, like a dusting, maybe twice a year.

I have had great success with a product out of Seattle called "Daly's Sea Fin Oil". It stands up very well outside as well, and gives a very durable and beautiful finish and it's easy to apply – just follow the instructions and you can't go wrong!

They have a primer product called “Daly’s Ship and Shore” which I strongly recommend using as it really does seem to harden the wood substantially. You can use it after the turpentine.

I have also used “Mini Wax – Tung Oil” on interior surfaces and it too, provides a beautiful and tough finish and is easy to apply.

I also have done flame tests on different woods coated with different coatings and wood coated with a tung oil finish is the least flammable! Less flammable than bare wood and when it does start to burn there is no flame spread when the fire source is removed.

I have also steamed dents out of wood with the Sea Fin finish and there was no damage to the finish afterward. If you have a dent in a wood surface, just take a decent piece of cotton, soak it with water and lay it over the dent, then take an iron at high heat and hold it on the cotton for about a minute then have a look. If the wood fibers are not broken, the wood will swell right back to its original shape. If the fiber is broken, it will swell back up but there may be a small dent remaining. It’s a surprisingly simple ‘fix’. I then give it a wipe of oil and it’s like new. Haven’t tried it with tung oil but I’m sure it will be the same. Most hard finishes will go white and possibly lift off.

I don’t understand the fear of oil based paints to the environment. Once the lead was removed there really should only be natural oils remaining and what harm can they present? A cars exhaust would produce hugely more pollutants, you would think.

Acetone is highly flammable. It is not considered a carcinogen nor a genotoxic. Gloves should be worn when using acetone as it is hard on your skin and can cause organ damage with prolonged exposure.

“Turpentine” is distilled wood resins, usually pine pitch. It is used as a disinfectant and is an additive in many medicinal products – Vicks Vapor Rub for one! It can be an irritant if too concentrated, to people with breathing ailments.

“Linseed Oil” is made from flax seed – a vegetable oil.

“Pine tar” is also derived from pine trees. A different process than turpentine, it’s extracted while making charcoal, but also is used as a disinfectant and antiseptic on trees and animals (including old seamen!).

“Fibergum” is different than roofing gum and usually has to be specifically ordered. Unfortunately, it doesn’t have the same characteristics as it had when it contained asbestos. It tends to soften and can actually run in the direct hot sun after its applied, and even years later it can ooze if kept under the direct sun in summer.

Wolfe Marine Supply (Richmond, B.C.) are still carrying Irish Felt and pine tar. Turpentine and raw linseed oil are also available at most hardware stores. Buckerfields also carry pine tar, but some people think the pine tar used on animals is different. I’ve found it to be maybe just a bit thinner, still smells great!

“If you’re going to do a job you might as well do it the best you can.”

Congratulations to SAMS® New AMS® Retirees

Wallace Gouk

Courtice, ON, Canada



Wishing you lots of enjoyment and relaxation in whatever you decide to spend your time doing !!!



While we fondly remember the departed.....



William R. Bartosch
5/13/2017
Vero Beach-Fellsmere, FL

R. V. (Chuck) Wagner III
10/27/2017
Bradenton, FL

John E. Day
9/21/2017
Moorehead City, NC

Robert J. Dupuis
10/29/2017
Honolulu, HI



My Surveyor's Day!
by
Bob Goodchild, AMS®



The day starts early in Grenada and I am usually in my office by 5:30am. It's still cool and the phone hasn't started ringing! The local buses are busy on the road below as the early workers head off to St. Georges. As the sun comes up the night sounds of cicadas and frogs give way to the parrots in pairs making their noisy way across the garden from night roosts to day feeding areas.

I sailed to Grenada twenty six years ago on a 28ft 'Queen Bee' sloop. Designed by A K Balfour it was typical of the 60's designs, long keel, carvel construction with a transom hung rudder that was approaching forty five degrees to the vertical, and often acted more like a brake than a steering device.

I had completed a traditional boatbuilding course after I left school and later a degree in technical education. There followed a varied career that included charter skipper, yacht delivery, yacht repairs, furniture making, a boat repair and joinery business in Portugal. Setting up artisan cooperatives in Kenya for an International charity with projects as diverse as advising on pair trawling on Lake Kisumu using sailing boats built locally, to a Dutch design that dated back at least two centuries.

Of course, the stop in Grenada was not intended to last quite as long as it has. Life takes over and a 28ft sloop is a small home for two adults and two children. Before I knew it, I was setting up a technical teaching department in a Grenada government school and re-building a 45ft 1951 ocean racing centerboard yawl, pulled sinking out of the mangroves.

The clear need for services to the growing yachting community led me to starting a yacht management business. In amongst the variety of work that was involved I found myself being asked to make inspections, write basic reports and at times report to insurers. I realised I was beginning to operate as a surveyor and that I should get some training. I did this at the end of 1999 and by 2003 was surveying full time.

Which brings me back to my surveyor's day!

Grenada is only 12 degrees north of the equator and thankfully cooled by fairly constant trade winds. In spite of this a yacht shut up in the full tropical sun of a boatyard can get unpleasantly hot, add to this the intermittent showers of the rainy season and you have conditions for survey that are akin to a sauna. Needless to say I get into the yards as soon as they open, get the hatches open and finish as much of the interior inspection before heat stroke becomes an issue!

There are three boatyards in Grenada and the most recent to open has a 250-ton travel lift. Between the three yards there can be over 600 yachts hauled ashore at any one time. Development in the marine industry has been rapid; sixteen years ago there was one yard with a capacity of 35 yachts and a 20-ton travel lift. There was one operating marina and no chandlery. Now in addition to the three yards there are four medium to large marinas and three small marinas, three major chandleries and the marine support industries are struggling to keep up with the demand.

The range of ensigns indicates the large variety of nations that the yachts and sailors have voyaged from. There are distinct groups within the rainbow of nationalities. A French Canadian couple has a small marina here and this is a mecca for sailors from the French speaking part of Canada. If, like me, you believed you had basic French conversational skills, I challenge you to understand a word of a conversation between two sailors speaking Quebecois French!

It is the variety of people and situations that I meet that makes the job so interesting for me. No two jobs are the same. Every work day really is different!

The largest single national group is from the USA. It is possible to sail from the southern United States to Grenada, day sailing, with only a couple of overnight passages. This encourages large numbers of yachts to sail south and Grenada is the 'end of the line' before more significant passage making is necessary. As a result many 'live-aboard's' made the passage south years ago and are still here.



Grenada is about 100 miles from the South American continent, and over the years I have conducted damage surveys in most of the countries in that continent. At least those that have a coastline! Venezuela provided me with a steady supply of interesting jobs, and some very enjoyable family holidays, for many years. More recently the economic and security situation has deteriorated to such an extent that only the most foolhardy travel into the coastal water of Venezuela, and the occasional times that I am involved are likely to be following the tragic consequences of their voyages.

I regularly travel between Trinidad to the south and as far north as the Dominican Republic, acting for underwriters following losses and for SCV coding inspections. The number of surveyors in Grenada has increased to three and we are all kept busy. Although, there is inevitably a degree of competition between us, there is a good rapport and I find it invaluable to be able to share knowledge and experience.

Although, we are in the northern hemisphere the sailing seasons here are the reverse of Europe and North America. Launching starts in late October as the hurricane season ends and yachts are hauled for storage by May. All the yards now tie vessels down using cargo straps to strong points. Engineered cradles are available and some yachts have their masts un-stepped. This improved preparation for storage was driven by underwriters who took a massive hit in hurricane Ivan of 2004.

Years of complacency as hurricanes struck the island north of Grenada resulted in a 'it well never happen here' attitude, which was rudely shattered when the eye of a category 3 hurricane swept over the southern part of Grenada leaving unimaginable destruction in its wake. I remember so clearly huddled with family and friends in a storeroom under the house, later to emerge into an island changed beyond recognition, our roof, like most others gone and among the destruction sunk and damaged yachts by the hundreds. But that is another story.....



Two new books for Marine Surveyors

‘**Marine Surveying and Consultancy – An Introduction**’ by *Mike Wall*, published Jan 2017 by the author. Cost US\$99 + P&P. ISBN: 9-78-616-429-228-4.

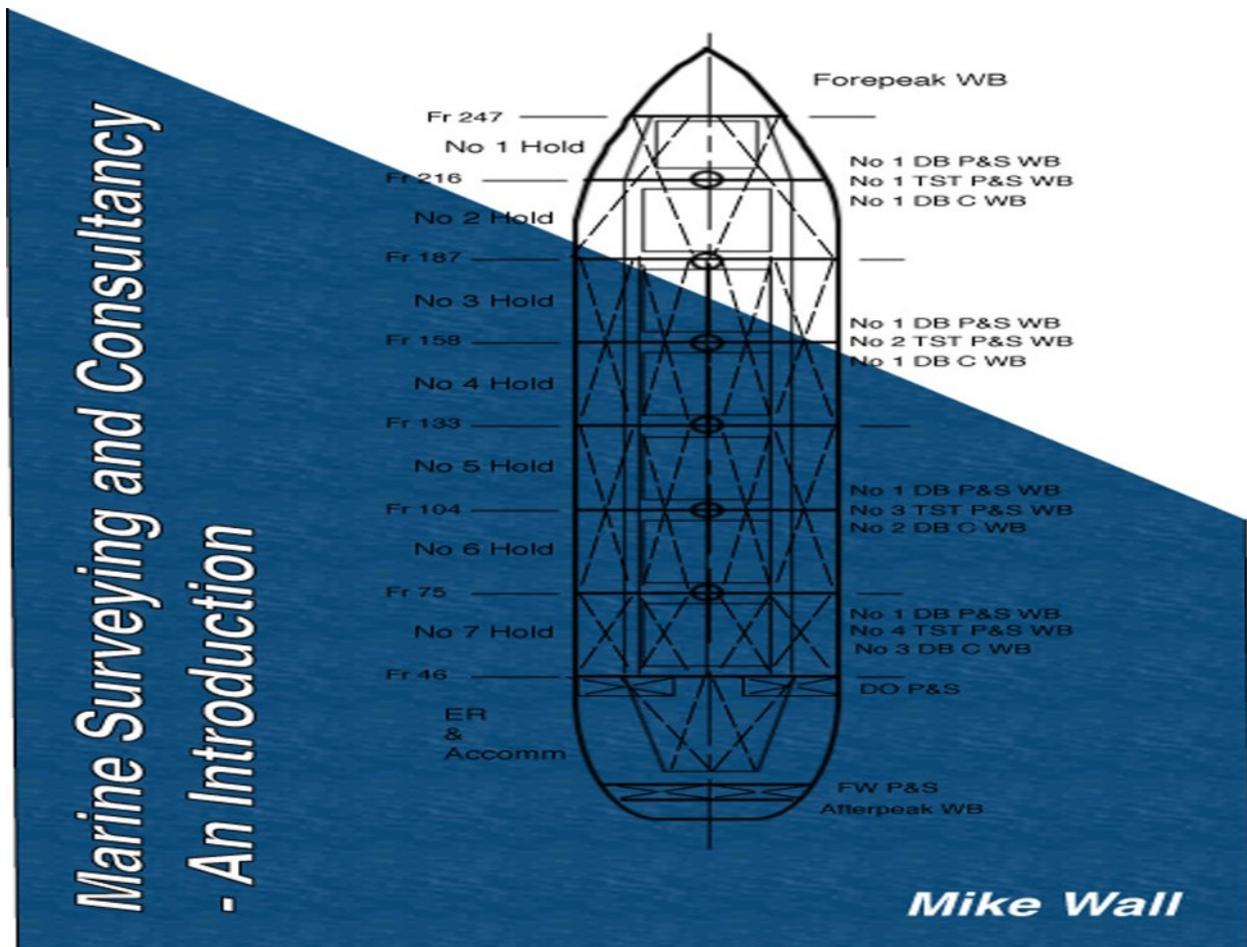
The book is intended to introduce marine surveying and consultancy to those thinking of entering the profession. No single marine surveyor has knowledge of all types of survey. Whilst much of the content is based on the author's experiences some has been taken from those of others.

Review by Nautilus Telegraph

With 30 years of service as a marine surveyor and consultant, including commercial and public sector work, former chief engineer officer Mike Wall is well placed to produce these guides for those considering following in his footsteps.

With extensive experience of producing training materials, he also has the knack of making stuff simple, and he does this to good effect here. With carefully crafted text, he explains everything right from the basics without sacrificing interest or appearing patronising.

There are many types of surveyor, and both guides go into the complex nature of the profession and the special skills and experience demanded by the different disciplines, as well as the fuzzy dividing lines between some of them. Wall provides lots of useful tips about how to get started, set operating principles and manage your finances. He also offers advice on how to make the transition from marine surveyor to marine consultant, or how to specialise in accident investigation and expert witness work.



‘Marine Warranty Surveying – An Introduction’ by *Mike Wall*, published Jan 2017 by the author. Cost US\$99 + P&P. ISBN: 978-616-429-215-4

The book is intended to give those considering entering the marine warranty surveying discipline an understanding of the role of the marine warranty surveyor. It is intended to introduce them to the wide variety of work available to them. It is also intended for those currently in the market who may be looking for different ideas and ways to expand their services.

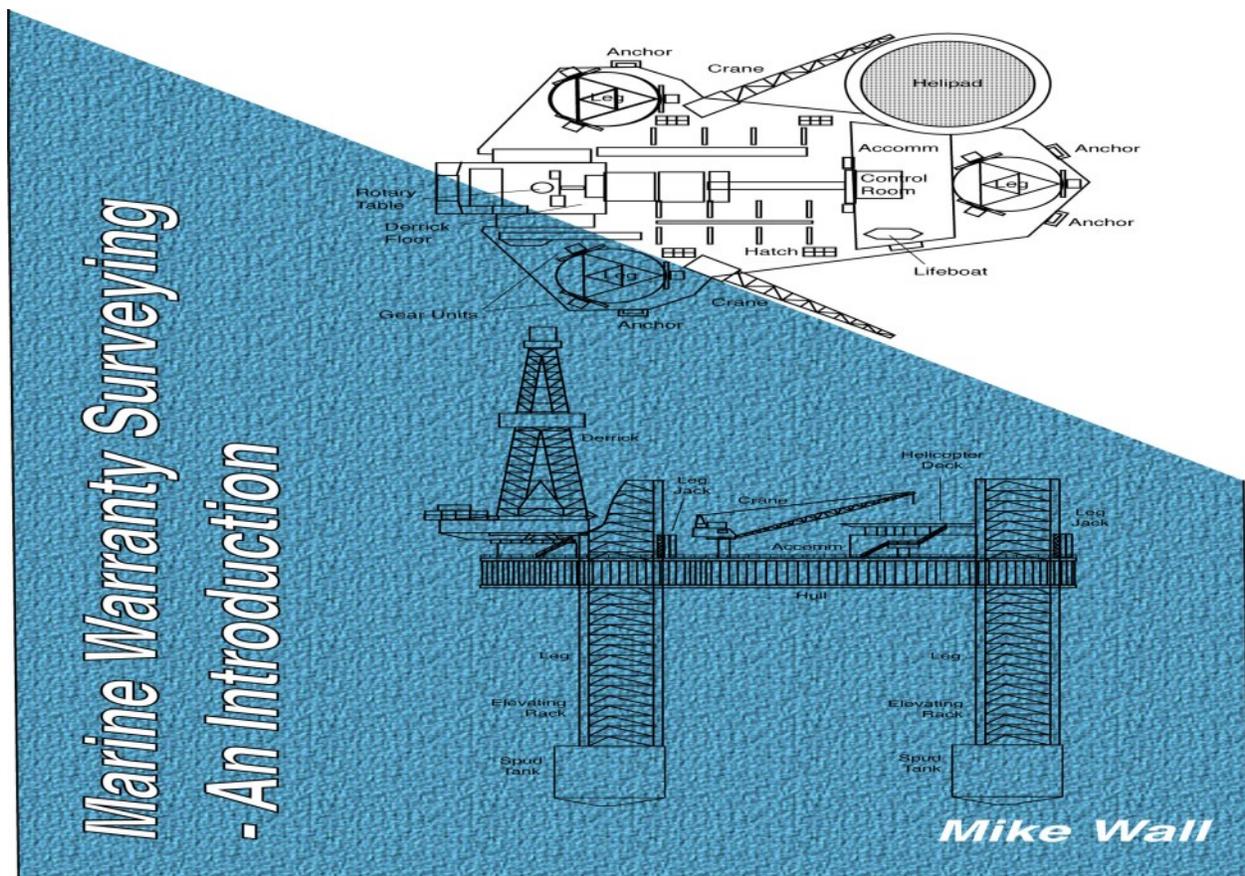
Review by Nautilus Telegraph

This title delivers great insight into the remarkable range of this particular role, with some fascinating background about the evolution of marine insurance and the many areas of overlap between the warranty surveyor and other parties.

It also includes some important material about liability, standard of care, professional indemnity and terms and conditions of service.

Both books form part of a four-strong series covering all aspects of marine surveying, with the remaining volumes providing detailed advice on report writing and how to run a marine survey company. Well indexed and with glossaries of specialist terms and handy references for further reading, they provide the ‘go-to’ point for anyone thinking about making the move into this important area of the maritime profession.

Both books available from the author at: mikewallassociates@gmail.com





ADMIRALTY LAW

Expert Analysis

Troubled Waters: A Tweet to the Supremes

Tweet: The test for federal maritime jurisdiction is “very bad, Sad.” A tort must pass two tests with difficult subparts before proceeding in federal court under admiralty jurisdiction, 28 U.S.C. §1333(1). As noted recently by Chief Judge Robert Katzmann of the U.S. Court of Appeals for the Second Circuit, and previously by U.S. Supreme Court Justice Clarence Thomas, there is nothing more wasteful than spending so much time litigating where to litigate.

The most recent enunciation of the admiralty jurisdiction test was by the Second Circuit in *In re Germain*, 824 F.3d 258 (2d Cir. 2016): First, the tort must occur on navigable waters (“location” test). Second, it must bear a substantial relationship to traditional maritime activity and have a potentially disruptive impact on maritime commerce (“connection” test). Easier said than done.

The multifactor approach and “an ambiguous balancing test” results in contested jurisdiction, motions,

By
James
Mercante



rulings, appeals and delay. This “may discourage judges from hearing disputes properly before them. Such rules waste judges’ and litigants’ resources better spent on the merits,” in a field that had once had such a clearly applicable rule. *Jerome B. Grubart v. Great Lakes Dredge & Dock Co.*, 513 U.S. 527 (1995) (J. Thomas concurrence).

For instance, the Eastern District of New York anchored maritime jurisdiction over a car accident that occurred while defendant was driving home from a “booze cruise,” *Bay Casino v. M/V Royal Empress*, 199 F.R.D. 464 (E.D.N.Y. 1999), while neither the District of Connecticut nor the Second Circuit found jurisdiction to exist over a fist fight on a floating dock that occurred after the parties maneuvered their vessels to a dock to carry out the brawl, *Tandon v. Captain’s Cove Marina of Bridgeport*, 752 F. 3d 239 (2d Cir. 2014) (the author represented the vessel owner in this case). The Southern District of New

York took on a swimmer’s propeller-injury case, *Roane v. Greenwich Swim Comm.*, 330 F. Supp. 2d 306 (S.D.N.Y. 2004), and admiralty jurisdiction surfaced over a scuba diver’s shark-bite injury, *Specker v. Kazma*, 2016 U.S. Dist. LEXIS 95516 (S.D. Cal. 2016). Similarly, injury to a guest from a backflip off of an anchored pleasure craft on Onetda Lake did not pass muster when first analyzed by the Northern District of New York (*Germain v. Ficarra*, 91 F. Supp. 3d 309 (N.D.N.Y. 2015), but later passed the test in a unanimous

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decision of the Second Circuit (*In re Germain*, 824 F.3d 258 (2d Cir. 2016) (the author represented the vessel owner in this case)). An airplane crash into Lake Erie was denied entry to federal court by the U.S. Supreme Court, *Erector Jet Aviation v. City of Cleveland*, 409 U.S. 249 (1972), but a Connecticut federal court found that a helicopter crash into the Atlantic Ocean fell within its maritime jurisdiction. *Sikorsky Aircraft v. Lloyds TSB*

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Gen. Leasing (No. 20), 774 F. Supp. 2d 431 (2011).

Course Correction

Once upon a time (1813), a bright line rule existed: A tort merely had to occur or originate on a vessel in “navigable waters” (a waterway upon which a vessel can travel between states or countries). *Thomas v. Lane*, 23 F. Cas. 957 (CC Me. 1813) (J. Story). This simple test avoided confusion, allowed for consistent results, and curbed inefficiency. The “situs (location) test” was easy and one of the oldest rules in maritime arsenals. But, then came plane crashes into navigable waters and the simple test sank. The bright line rule has faded in recent years, but some notable jurists are advocating that the test revert back to its roots: All torts originating on a vessel upon navigable waters.

Wing It

The “situs” test worked well for most maritime torts. However, “the simplicity of this test was marred by modern cases that tested the boundaries of admiralty jurisdiction with ever more unusual facts.” *Grubart*, 513 U.S. 527 (1995) (J. Thomas concurrence).

For example, in the early 1970s, a plane traveling from Ohio to New York struck a flock of seagulls after take-off. The plane crashed into navigable waters sparking a challenge for the court under the then current admiralty jurisdiction test. To address this gap, the Supreme Court expanded the test when confronted with aviation torts because a “vessel” was not involved. The new test required that the incident must bear a significant

relationship or “connection” to “traditional maritime activity.” *Executive Jet Aviation v. City of Cleveland*, 409 U.S. 249 (1972). Thus, it appeared that this second prong was to apply only to aviation torts. Nonetheless, the plane’s collision with a flock of seagulls failed to satisfy the test because that flight was exclusively overland between points in the continental United States and thus, not a traditional “maritime” activity. Then, in 1986, in *Offshore Logistics v. Tallentire*, 477 U.S. 207 (1986), the Supreme Court held that a helicopter crash in the Gulf of Mexico that occurred while transporting

it is time to bring back the “bright line” rule, and apply maritime jurisdiction to all torts that originate on a vessel in navigable waters. Ultimately, it’s up to the Supreme Court to make the test “see-worthy.”

workers from an offshore oil platform to Louisiana satisfied the “connection test” because “that helicopter was engaged in a function traditionally performed by waterborne vessels: the ferrying of passengers from an “island”, albeit an artificial one, to the shore.” In 2006, a federal court in New York found admiralty jurisdiction when a plane crashed into a residential area in Queens less than two minutes after takeoff because it was en route from New York to the Dominican Republic—a transatlantic flight and thus, a route traditionally performed by a vessel. *In re Air Crash at Belle Harbor*, 2006 A.M.C. 1340 (S.D.N.Y. 2006). This expanded test appears to

have been intended to apply to aviation torts, not become the new rule. However, courts subsequently picked up the ball and ran with it applying the test to maritime torts as well.

Throughout the next decade, district courts began applying the “connection” test to all water-based torts, including those that originated on a vessel. In doing so, courts struggled with what constituted a “traditional maritime activity”—which were then limited to strictly “commercial” shipping. This misapprehension resulted in a decision initially denying jurisdiction in a collision between two pleasure craft. The decision, however, was reversed by the U.S. Supreme Court in 1982, which recognized that the “primary focus of admiralty jurisdiction is unquestionably the protection of maritime commerce ... this interest can be fully vindicated only if all operators of vessels on navigable waters are subject to uniform rules of conduct.” *Foremost Ins. Co. v. Richardson*, 457 U.S. 668 (1982). Under this rationale, the collision between the two pleasure craft fell within maritime jurisdiction as navigation (and sometimes collision) on U.S. navigable waters was clearly related to traditional maritime activity.

In *Sisson v. Ruby*, 497 U.S. 358 (1990), the Supreme Court held that a fire onboard a pleasure craft docked at a marina satisfied the “connection” test. Here, however, the court expanded the test even further, holding that the “connection” prong actually had two sub-parts, and required that the (1) activity giving rise to the incident have a substantial relationship to traditional maritime activity, and (2) the



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