

Marine News

NOVEMBER 2020

www.marinelink.com

The Workboat Annual



Inland Waterways Report
Pushing through high waters &
swirling market currents

The Great Lakes Group
A storied company with
a bright future

John Batten
One-on-one with Twin Disc's CEO

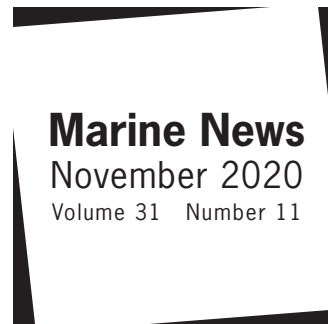
Authors & Contributors



Carpenter



MacPherson



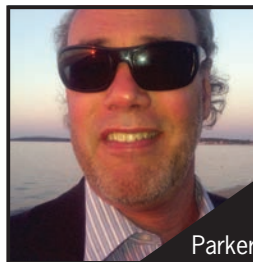
Duffy



O'Neill



Ewing



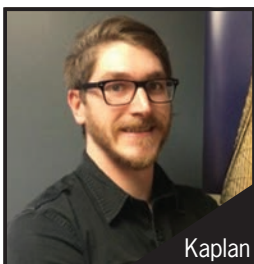
Parker



Haig-Brown



Paschoa



Kaplan



Vogel

Jennifer Carpenter is President & CEO of The American Waterways Operators (AWO), the national trade association representing the inland and coastal tugboat, towboat and barge industry.

Sean Duffy is executive director of the Big River Coalition, a group dedicated to ensuring the future of navigation on the Mississippi River Ship Channel (MRSC).

Tom Ewing is a freelance writer specializing in energy and environmental issues. He contributes regularly to this magazine.

Alan Haig-Brown began his career as a commercial fisherman on the B.C. coast and later worked on coastal freighters. He writes about commercial marine subjects worldwide and has published several books, most dealing with commercial fishing history and issues.

Adam Kaplan is Project Manager, Propeller Tools at HydroComp as well as Chief Technical Officer of HydroComp's sister company, TrueProp Software LLC.

Donald MacPherson is Technical Director of HydroComp,

Inc., a research consultancy specializing in applied hydrodynamic and propulsion system simulation.

Until recently retiring, **Randy O'Neill** was a Senior Vice President for Lancer Insurance Company and Manager of its MOPS Marine License Insurance division. A regular columnist for this magazine, he has authored many articles on the importance of USCG license defense and income protection.

Barry Parker of bdp1 Consulting Ltd provides strategic and tactical support, including analytics and communications, to businesses across the maritime spectrum. He is a freelance writer and regular contributor to this magazine.

Claudio Paschoa is *Marine News'* correspondent in Brazil.

Jeff Vogel is a partner in Cozen O'Connor's Transportation & Trade Group. He focuses his practice on strategic and operational matters affecting the United States maritime industry and on government contracts across all industries.

By Jeff Vogel

Working Out the Election's Impact on the U.S. Workboat Industry

By the time this article is published, voting will have concluded in the 2020 United States presidential election. Based on the possibility of legal challenges to the election, however, it may be some time before we know who will be occupying 1600 Pennsylvania Avenue on January 20, 2021. Additional uncertainty may linger with regard to control of the Senate. However, beyond the general spectacle of American politics, an important question remains: What does this election mean for the U.S. workboat industry?

Jones Act support will continue

Regardless of the outcome of the presidential election, it is reasonable to assume that Executive Branch support for U.S. cabotage laws will continue. President Trump had a somewhat turbulent start with the Jones Act. For example, it was widely reported in 2019 that the Trump Administration was considering a blanket 10-year waiver for the transportation of liquefied natural gas to Puerto Rico and

New England. Ultimately, the Administration declined to issue such a waiver, and has only issued limited Jones Act waivers under the existing authority of 46 U.S.C. § 501, in response to Hurricanes Harvey, Irma and Maria in 2017. Moreover, in recent months, the Trump Administration has increased its public support for the Jones Act. For example, on October 2, 2020, the White Office of Trade and Manufacturing Policy released its Buy American, Hire American report, in which the Jones Act featured prominently. The report noted that the Jones Act “helps ensure America has a robust domestic shipbuilding capability, which is a critical element of our defense industrial base” and “helps ensure our nation has a merchant marine work force sufficient to serve both our commercial and military needs.” Based on these recent reports, it appears that President Trump would support the Jones Act during a second term.

Correspondingly, Vice President Biden has been explicit in his support of the Jones Act, which has resulted in of-



© christodorney / Adobe Stock

ficial endorsements from the International Longshore and Warehouse Union (ILWU), the Marine Engineers Beneficial Association (MEBA), the International Organization of Masters, Mates and Pilots (MM&P), and the Seafarers International Union (SIU). In accepting the endorsement of MEBA and MM&P, Vice President Biden wrote, “Just as unions are essential to the middle class, the U.S.-flag Merchant Marine fleet and the men and women who operate U.S.-flag ships are crucial to America’s national security, our international trade relationships, and economic development. For this reason, I have been a consistent and strong advocate for the Jones Act and its mandate that only U.S.-flag vessels carry cargo in the coastwise trade. As President, I will continue my strong support for the Jones Act.” Accordingly, it would appear that general Jones Act interests are in good hands, regardless of the outcome of the presidential election.

Post-election legislative opportunities

While U.S. workboat interests may have an ally in the White House, there is less certainty about the election’s impact on pending maritime legislation in Congress. Indeed, there is much work to be done during the lame duck session (and beyond) with the current Continuing Resolution set to expire on December 11, 2020. Congress’ failure to reach agreement on a subsequent funding bill could result in another federal government shutdown.

Beyond these funding issues, however, important legislation that impacts the U.S. workboat industry remains pending in Congress. As discussed in my September 2020 Washington Watch article, the House-passed version of the National Defense Authorization Act for Fiscal Year 2021 (NDAA) included the Maritime Transportation System Emergency Relief Act (MTSERA), which was introduced by Chairman of the House Committee on Transportation and Infrastructure Peter DeFazio (D-Ore.) and Chairman of the House Subcommittee on Coast Guard and Maritime Transportation Sean Patrick Maloney (D-N.Y.). MTSERA, if enacted, would seek to offset the economic costs of the COVID-19 pandemic incurred by the U.S. maritime industry, through the creation of a new Maritime Administration (MARAD) grant program. The grant funding could be used for the costs of capital projects to protect, repair, reconstruct, or replace equipment and facilities of the U.S. maritime transportation system that MARAD determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency. In addition, the funding could be used to cover one year (with

the opportunity for an additional year) of operating costs of U.S. maritime companies affected by an emergency (including the COVID-19 pandemic), including costs related to emergency response, cleaning, sanitization, janitorial services, staffing, workforce retention, paid leave, protective health equipment, and debt service payments.

The Senate version of the NDAA, however, did not contain a similar provision. Accordingly, the House and Senate will discuss the inclusion of MTSERA during a lame duck session NDAA conference. Even if MTSERA is ultimately included in the final version of the NDAA, the work will have only begun. The new program would also require Congress to provide appropriations before the U.S. workboat industry could experience any sort of positive impact. If MTSERA becomes law, support from new Congressional members will be critical to obtain necessary programmatic funding. In addition, regardless of the election’s outcome, MARAD may have new leadership in 2021, who could shape the manner in which MTSERA is administered.

In addition, there are opportunities for the Jones Act’s reach (and therefore the U.S. workboat industry) to grow with the new Congress. On September 24, 2020, the House passed the Clean Economy Jobs and Innovation Act, which focused in job creation in the renewable energy sector. A last-minute amendment to the bill from Rep. John Garamendi (D-Calif.) would amend the Outer Continental Shelf Lands Act to extend federal laws (including the Jones Act) to “installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom or producing or supporting the production of energy from sources other than oil and gas.” As explained in Congressman Garamendi’s press release, “The Garamendi amendment will enforce Jones Act requirements for all offshore renewable energy production and strengthen our domestic maritime industry.” The practical result would be to end the debate – once and for all – as to whether the Jones Act applies to offshore wind construction and operations.

It is unlikely that the Clean Economy Jobs and Innovation Act (including the Garamendi amendment) will be taken up during the lame duck Congressional session. However, Congressman Garamendi has made it clear that he intends to continue the fight into the next Congressional session.

Accordingly, regardless of the outcome, the election creates new opportunities for the U.S. workboat industry to build political support for both long-standing and brand new maritime legislation.