



LAW & ETHICS

Protection and Ownership in British Columbia

Module 6: Laws governing wreck protection
salvage and underwater archaeology.



LAW & ETHICS

By the end of this module you will understand:

- The history of heritage wreck protection in B.C.
- How vessel ownership and salvage rights relate to heritage protection.
- Relevant federal and provincial laws.
- Your role in heritage protection.



LAW & ETHICS

This module uses heritage laws in British Columbia to discuss the ethics and legal issues associated with underwater heritage sites.

The value of underwater cultural heritage sites is recognised in the UNESCO Convention on the Protection of the Underwater Cultural Heritage.

By this convention, member states agree to protect all underwater heritage within their territorial and international waters.

HISTORICAL WRECK DIVING

The history of wreck diving throughout the world is a story of changing attitudes towards underwater heritage sites.

1960s

- Souvenir collection
- Trophies and bragging rights
- “Saving” artifacts from rotting away
- Absence of professional or academic interest

1980s

- Awareness of impact from collectors
- Dwindling heritage value
- Poor preservation of removed artifacts

2000s

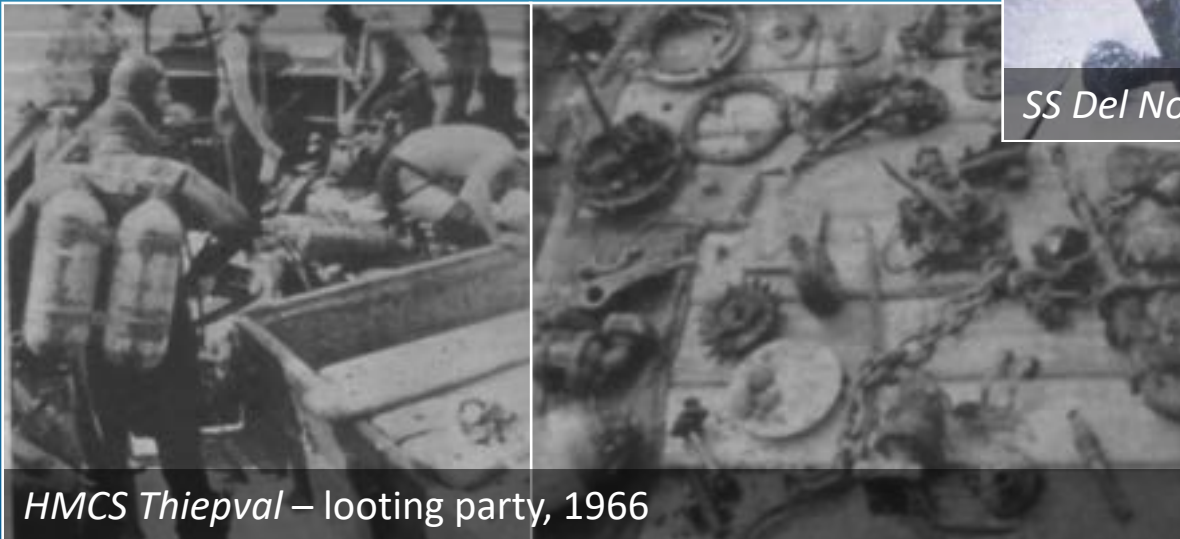
- Reputations built on documenting
- Stronger legislation
- High-tech searches
- High-profile projects & professional interest

HISTORICAL WRECK DIVING

In the 1960s and 1970s, collecting trophies was what wreck diving was all about. Bells, portholes, steam valves, deadeyes – all the best stuff – ended up as souvenirs.



SS Del Norte – souvenir collection dives, early 1970s



HMCS Thiepval – looting party, 1966

HISTORICAL WRECK DIVING

Even the UASBC removed artifacts just to keep them from private collections!

- ▶ obtained permits
- ▶ kept records
- ▶ applied conservation treatments
- ▶ situation still far from ideal



Ericsson porthole collected by UASBC

RAISING AWARENESS



UASBC gives a TV interview in the 1970s.

UASBC began a public education campaign to end the looting of shipwrecks in the 1970s.

Sport divers quickly embraced the new ethics.

Legal protection was still years away.

CHANGING PERCEPTIONS

- ▶ “Look, but don’t touch” is the modern wreck diving ethic.
- ▶ Looting artifacts damages sport diving by taking away the very artifacts we dive to look at.



The *Point Grey* **propeller** gives the wreck its distinctive character.



Ericsson bell – the thrill is in finding, not collecting.



UNDERSTANDING IMPACTS

International **academic studies** demonstrate that:

- ▶ Undisturbed underwater sites can remain **preserved for centuries**.
- ▶ Sites reach an **equilibrium** with their environment.

UNDERSTANDING IMPACTS

Consequences of artifact collection or looting may not be obvious:

- ▶ Searching for artifacts made from long-lasting material like brass or stone **damages more delicate material.**
- ▶ Most recovered artifacts require **extensive conservation treatment** once removed from underwater.



Brass signal gun from the *Dora*.



Remnants of brass bell from SS *Iroquois*.



UNDERSTANDING IMPACTS

Preserved, *in situ* contexts are even more valuable than individual artifacts.

- ▶ The arrangement of preserved fittings can indicate a wreck's dimensions & its **identity**.
- ▶ Arrangement of objects and structures indicates a **site's function** and can describe a shipwreck event.

UNDERSTANDING IMPACTS



A wreck's heritage value may not be obvious.

Historical expertise and cultural knowledge are important.

This abandoned fish packer was once a World War II submarine chaser.

Documenting Canada's war effort has heritage value.

OWNERSHIP

Under the law, a shipwreck is always owned by someone, no matter how old it is.
Ownership can also rest within a community where a site represents cultural heritage.

A Vessel

- The registered owner
- A state government
- Insurance company
- Salvors
- Descendants or successor company

Cargo

- Various owners
- Various insurance companies
- Salvors

Personal Items

- Wreck survivors
- Casualties' descendants

Cultural Heritage

- Site of cultural practices (e.g., reefnet fishing).
- Inherited ownership (e.g., hereditary fishing site).
- Unextinguished title.

WRECK OWNERSHIP

- ▶ By convention, warship or aircraft wrecks remain the property of the flag state, regardless of where they sink.
- ▶ Formally abandoned wrecks of any kind become the property of the local authority who “owns” the waters.
- ▶ Conflicts can arise over whether a wreck has been abandoned, and which level of government has jurisdiction.

WRECK PROTECTION LAWS

In British Columbia, federal and provincial laws interact to protect ship or aircraft wrecks.

CANADA

- No federal heritage legislation in Canada
- *Wrecked, Abandoned or Hazardous Vessels Act*
- Regulates hazards to navigation and ownership responsibilities
- Authority over most waters in British Columbia

BRITISH COLUMBIA

- *Heritage Conservation Act*
- Supersedes federal wreck legislation
- Issues permits authorizing artifact collection and invasive studies
- Authority over *some* waters in British Columbia



FEDERAL LAW

The federal law is the *Wrecked, Abandoned or Hazardous Vessels Act* (2019).

- ▶ In the 19th century, shipwrecks were frequent and everyone in the vicinity swarmed aboard to get what they could.
- ▶ To encourage legitimate salvage, not piracy, the government created an officer called the “Receiver of Wreck”.

Other environmental laws may also apply.

FEDERAL LAW - SALVAGING

WAHVA – how does it work?

- ▶ A potential salvor claims the wreck by taking possession of it and presenting it to the Receiver of Wreck.
- ▶ The Receiver of Wreck locates the owner.
- ▶ The owner reclaims the wreck by proving title and paying reasonable costs to the salvor.
- ▶ If no owner is found, the Receiver of Wreck may sell the wreck at auction (proceeds go to government) or release the wreck to the salvor in lieu of salvage and storage fees.
- ▶ These regulations do not apply to heritage wrecks as defined by any province's laws.

PROVINCIAL LAW

Provincial law in British Columbia is the *Heritage Conservation Act*.

- ▶ Provides **automatic protection** for heritage wrecks and any evidence of human use earlier than 1846 AD.
- ▶ A **heritage wreck** is the remains of a vessel or aircraft if “2 or more years have passed from the date that the vessel or aircraft sank, was washed ashore, or crashed...”.
- ▶ Also includes protections for artifacts or locations that *might* be a heritage wreck or may pre-date 1846 AD.
- ▶ **Prohibits alterations** of any kind to sites or objects associated with a heritage site or wreck.
- ▶ If convicted of violating the *Act* a person faces **fines** of \$50,000 CAD or 2 years in jail. Corporations, which could include some dive boat operators, face penalties of \$1,000,000 CAD.



PROVINCIAL LAW

Permits issued by the Archaeology Branch or Heritage Branch allow authorized alterations to underwater heritage wrecks and sites.

- ▶ Heritage salvage in the public interest
- ▶ Legitimate academic or community research
- ▶ Limited commercial or industrial alteration
- ▶ Permits issued to qualified individuals



PERMITS & UNDERWATER ARCHAEOLOGY

Obtaining a permit for an invasive study or recovery requires demonstrating the need for the work and the expertise of those involved.

- ▶ The UASBC has obtained permits to raise informative artifacts.
- ▶ Permit obligations include conservation of recovered artifacts.

Form No. 2024-02

Province of British Columbia
HERITAGE CONSERVATION ACT

SITE INSPECTION PERMIT

THIS IS TO CERTIFY that Thomas F. Beasley (Name)

of #205 - 2255 Cypress Street, Vancouver, B.C. V6J 3M6 (Address)

representing Underwater Archaeological Society of British Columbia (Organization or Institution)

is hereby authorized to conduct inspections as described below, subject to the terms and conditions on the back thereof, or any other conditions that the Minister may impose, as empowered by the above Act.

Type of inspection and location: To remove bricks, for identification purposes, from the wreck site of the historic BEAVER, at Prospect Point, Stanley Park, Vancouver as outlined in a letter to the Archaeology Branch dated August 28th, 1991.



Lord Western

- ▶ A proposed log dump required cultural **heritage assessment**
- ▶ Province issued UASBC permit to complete an assessment
- ▶ UASBC's assessment led to **discovery and protection** of oldest recorded wreck in BC

PERMITS & UNDERWATER ARCHAEOLOGY

21

Ballast pile from *Lord Western* being assessed by a UASBC diver.



OTHER LAWS

Different types of heritage sites may receive more or less protection under local or state laws.

In B.C., wrecks & wreck artifacts, and indigenous sites & artifacts are automatically fully-protected.

OTHER SITES & ARTIFACTS

Historical refuse may not be protected by law:

- ▶ Pottery and bottles dumped off docks.
- ▶ Vehicles and other equipment not associated with a wreck.

These are not automatically protected by federal or provincial heritage law in British Columbia

Know your local heritage laws!



NO PERMIT NEEDED

If disturbing a site or removing artifacts is restricted, **what can divers do, legally?**

Divers can dive and sightsee and photograph all they want in British Columbia.

Engage with Indigenous communities before diving their ancestral heritage sites.

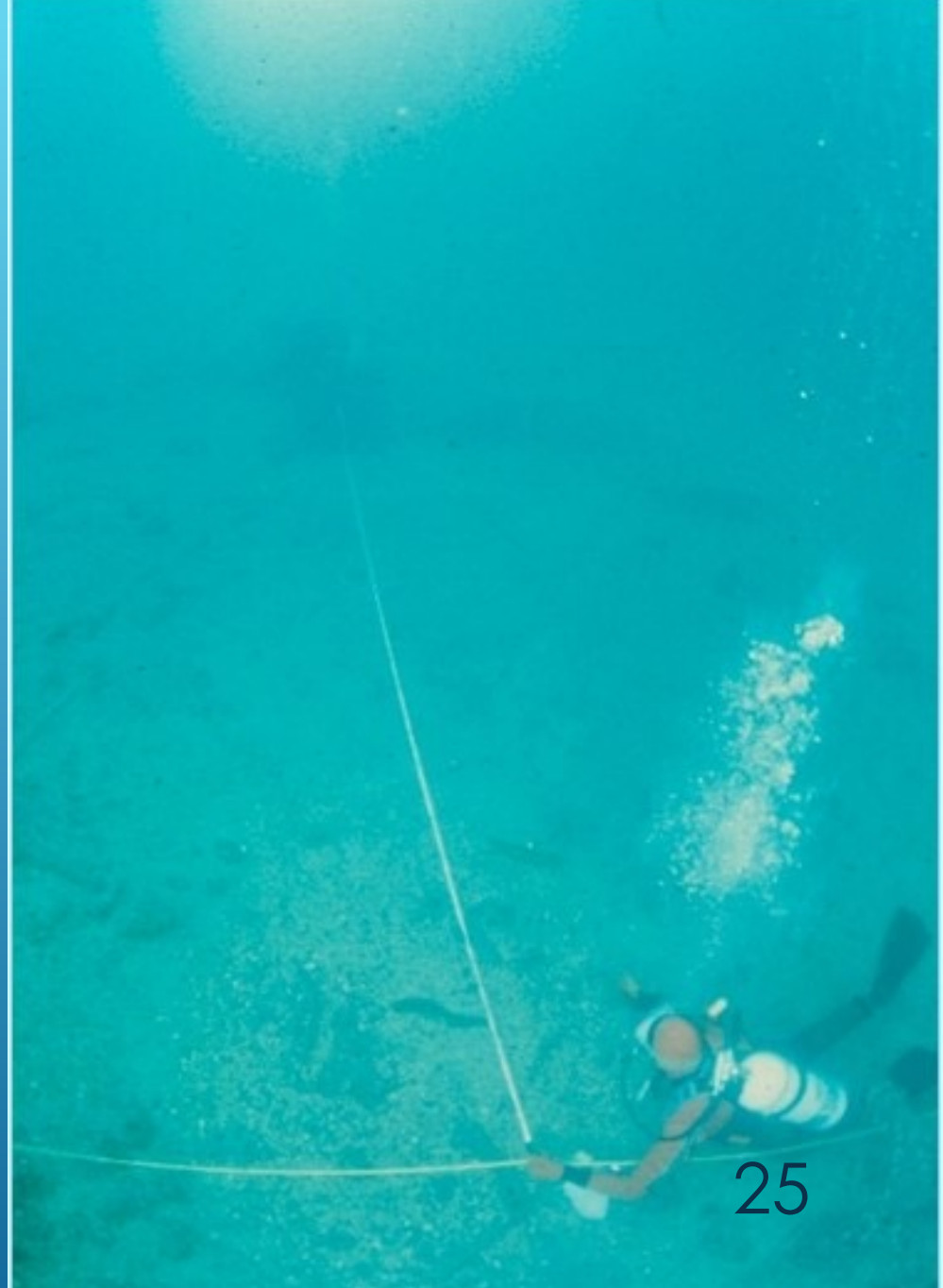
Understand local and state laws regarding diving sites considered to be **war graves**.



NO PERMIT NEEDED

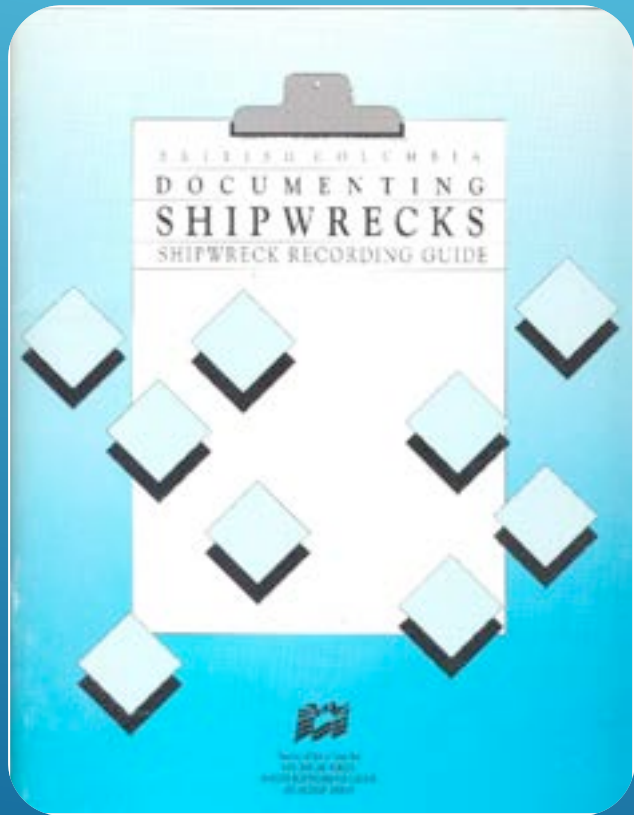
Mapping and **non-invasive study** are usually encouraged, worldwide.

In fact, it is why you are all here!



Mapping the rudder of the *Orpheus*.

NO PERMIT NEEDED



In British Columbia, no permit is needed to **report your findings** to the Archeology Branch.

The government's "Shipwreck Forms" are relatively easy to complete, and **contribute** to the archaeological record.

Other site forms can be completed for non-wreck sites.



NEW ATTITUDES & APPROACHES

We've come a long way since the days of collecting trophies and bragging rights.

Today, when UASBC finds a vulnerable artifact we put a **survey tag** on it – just to remind those who might be tempted.

But thanks to changing attitudes, most divers aren't going to take it!