



[Back](#)

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Drydock leaves Barbers Point

Advertiser Staff

Federal authorities yesterday towed a floating drydock out of the Marisco Ltd. ship-repair facility at Barbers Point Deep Draft Harbor to a Pearl Harbor storage area, where it will be auctioned off by congressional order.

The floating drydock, named Ex-Competent, is owned by Tan-adgusix Corp. (TDX), a Native Alaskan business belonging to the inhabitants of tiny St. Paul Island in the Bering Sea, and has been in use by Marisco, a private shipyard.

The congressional order, contained in the "miscellaneous provisions" section of the 1,000-page Transportation Act passed by Congress in late July and signed into law Aug. 10, calls for an auction within 60 days to a new owner who must take the drydock out of the country.

The new law also appropriates \$4 million to be paid to TDX as compensation for loss of the drydock.

The payment is being provided despite allegations made in a lawsuit by the U.S. Justice Department that TDX and Marisco engaged in fraudulent conduct in how they obtained and used the Ex-Competent.

Language in the new act was negotiated by U.S. Rep. Don Young, R-Alaska, the powerful head of the House Transportation Committee, and U.S. Sen. Daniel Inouye, D-Hawai'i, Inouye staffers have said.

Inouye got involved in the case after representatives of Pacific Shipyards International, a competitor of Marisco, complained that the federal surplus drydock donated to TDX was supposed to be used in Alaska, not Hawai'i. Having it in Hawai'i gave Mar-isco an unfair business advantage, Pacific Shipyards complained, according to federal records.

Alaska's Rep. Young took an interest in the dispute after TDX complained to him that the federal government was unfairly trying to force removal of the drydock to Alaska, federal records show.

The Ex-Competent was built in 1944 for the Navy and was in service on the West Coast, the Philippines, Guam and finally at Pearl Harbor from 1980 until it was mothballed in 1997. In 2001, it was donated to TDX under a federal surplus property program that allows Native American and Native Alaskan corporations preferential rights to such equipment. Federal law does not grant Native Hawaiians the same rights.

The drydock was moved from Pearl Harbor to the Marisco yard, where it was extensively rehabilitated and

then put into service repairing ships.

Marisco and TDX said it was never their intent to ship it back to Alaska because that would be prohibitively expensive and the market there was too small. The idea was to bring Native Alaskans here to the Marisco facility to learn the ship-repair business, the companies have argued in court records.

They lost that argument earlier this year when the 9th U.S. Circuit Court of Appeals upheld an Alaskan judge's decision that the drydock was supposed to be used in Alaska.

A second case is pending in federal court here that was originally filed by Pacific Shipyards in 2001 and taken over by the federal government in 2003. It accuses TDX and Marisco of conspiring to defraud the government.

Marisco owner Fred Anawati has accused Inouye of helping Pacific Shipyards because of strong political ties between the senator, the company and some of its executives.

Jennifer Goto-Sabas, chief of staff in Inouye's Honolulu office, acknowledged those political ties but said Inouye's actions had nothing to do with politics.

"The courts have ruled that the drydock was never supposed to be used in Hawai'i," she said. "It's supposed to be in Alaska."

Goto-Sabas added: "Our parochial interest was just to get the drydock out of our waters."

She acknowledged that the law also protects a claim by Pacific Shipyards to a percentage of any damages awarded if the government wins its fraud lawsuit here.

The new law further says that when the Ex-Competent is auctioned, "the vessel shall not be used within the United States" or its territorial waters.

Inouye originally wanted language in the law to prevent TDX from using its \$4 million payment "to repeat the situation in Hawai'i," according to Goto-Sabas. But the final language to bar the drydock's use in the U.S. was actually expanded by members of Congress representing "other seaports around the country," she said.

Anawati of Marisco said yesterday he is in the process of acquiring another drydock, identical to the Ex-Competent, now in private hands in Guam. "I'll have it out here, up and operating, in four months or so," he said.

TDX officials could not be reached for comment. Young also was unavailable for comment.

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