

STATE OF ALASKA  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
BOARD OF MARINE PILOTS

MINUTES OF MEETING  
APRIL 3-4, 1991

By authority of AS 08.01.070(2) and AS 08.62.030, and in compliance with the provisions of AS 44.61, Article 6, and AS 44.62.310, a scheduled meeting of the Board of Marine Pilots was held on April 3-4, 1991 at the State Office Building, Ninth Floor Conference Room, 333 Willoughby Avenue, Juneau, Alaska.

WEDNESDAY, APRIL 3, 1991

Agenda Item 2            Call to Order/Roll Call

The meeting was called to order by Chairman Taylor at 8:30 a.m. Those present and constituting a quorum of the board were:

Captain Harold K. Elsensohn  
Mark A. Foster  
William Lorch  
Captain Michael O'Hara  
M. Paul Taylor, Chairman  
Russell Sell  
Ann Boudreaux, Commissioner's Designee

Also present from the Department of Commerce and Economic Development, Division of Occupational Licensing, was JoAnne Cummings, Licensing Examiner.

Guests present on the first day of the meeting were:

Mark Hawker, Southwest Alaska Pilots Assoc. (SWAPA)  
John Baldry, Southeast Alaska Pilots Assoc. (SEAPA)  
Ed Creasey, SEAPA  
H. H. Scally, SWAPA  
George Porter, SEAPA  
J. F. Drahos, SWAPA  
Vincent Tillion, SWAPA  
Joseph Homer, Alaska Coastwise Pilots  
Bill Sharp, S.E. Stevedoring Corp.  
Terry Bennett, Alaska Coastwise Pilots

Agenda Item 1            On a motion made by Lorch, seconded by Foster and carried unanimously, it was

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RESOLVED to enter executive session for the purpose of conducting oral examinations.

Entered executive session at 8:32 a.m.; adjourned from executive session at 9:32 a.m.

The board took a brief recess until 10:00 a.m.

Agenda Item 3

Review Minutes

On a motion made by Foster, seconded by Sell and carried unanimously, it was

RESOLVED to approve the minutes of the meeting held December 17, 1990.

Agenda Item 4

Exam Results

On April 2, 1991, Captain O'Hara, Captain Elsensohn, and Paul Taylor administered licensing examinations. As a result of these examinations, the following licensing actions were approved by unanimous consent.

Wayne Carnes - Issue an initial license to read, "Channel Pilot on vessels not over 20,000 gross tons on the waters of Southeast Alaska - Dixon Entrance to Cape Spencer excluding Nichols Passage, Snow Pass, Sitka Sound, Gastineau Channel, Glacier Bay, Icy Strait, Cross Sound, West Coast Prince of Wales, and the ports of Metlakatla, Sitka, Juneau and Klawock."

Tony Chadwick - Upgrade existing Channel Pilot license to Limited, Step 1, not more than 20,000 gross tons.

Richard Murphy - Issue an initial license to read, "Pilot on vessels of not more than 20,000 gross tons upon the waters of Dutch Harbor, Captain's Bay, Chignik, and Port Moller/Herendeen Bay."

Vincent Tillion - Extend route, issue license to read, "Pilot on vessels of not more than 20,000 gross tons upon the waters of Resurrection

Bay/Seward; Cook Inlet; Kodiak Island Group; Alaskan Peninsula North & South; the Aleutian Islands, and Prince William Sound excluding Whittier."

Eric Eliassen - Extend route, issue license to read, "Pilot on vessels of not more than 40,000 gross tons upon the waters of Prince William Sound; Cook Inlet; Kodiak Island Group; Seward/Resurrection Bay; the South Side of the Alaska Peninsula; and the Aleutian Islands except Adak and Akutan."

Steven Hunnicutt - Extend route, issue license to read, "Pilot on vessels of any gross tons upon the waters of Western Alaska; Cook Inlet; Prince William Sound except Western Entrances; Seward/Resurrection Bay; and the Kodiak Island Ports of Kodiak/St Paul Harbor and Women's Bay."

Jim Drahos - Extend route, issue license to read, "Pilot on vessels of not more than 20,000 gross tons upon the waters of Western Alaska; Seward/Resurrection Bay; Kodiak/St Paul Harbor; Cook Inlet except Drift River; Prince William Sound, Northern Part including the Ports of Valdez, Whittier and Cordova."

David Sanders - Issue an initial license to read, "Pilot on vessels of not more than 20,000 gross tons upon the waters of the Aleutian Islands except Adak."

Gordon Terpening - Extend route, issue license to read, "Pilot on vessels of any gross tons upon the waters of Northern Prince William Sound including the ports of Valdez & Whittier; Resurrection Bay/Seward; Kodiak/St Paul Harbor; Cook Inlet; Western Alaska except Cold Bay and Adak."

Mark Hawker - Extend route, issue license to read, "Pilot of vessels of not more than 40,000 gross tons upon the waters of Prince William Sound; Resurrection Bay; Cook Inlet; Kodiak Island Group except Alitak; Chignik; and the Aleutian Island Ports except Adak and Akutan."

Harry Scally - Extend route, issue license to read, "Pilot on vessels of any gross tons upon the waters of Cook Inlet; Prince William Sound; the Aleutian Islands; Seward/Resurrection Bay; the Kodiak Island Group except Alitak and Perenosa Bay and the South side of the Alaska Peninsula."

William Cork - Issue an initial license to read, "Pilot of vessels of not more than 20,000 gross tons upon the waters of Dutch Harbor, Captain's Bay and Akutan."

Agenda Item 5

Report on Temporary License Exam

Temporary license exams were given on January 22, 1991 in Juneau and Anchorage. Weather conditions in Southeast Alaska prevented Paul Taylor from traveling to Juneau to assist Captain Elsensohn in the administration of the exam; therefore, only one board member was present for the examinations.

On a motion made by Sell, seconded by Boudreaux and carried unanimously, it was

RESOLVED to confirm the methodology in the administration of the temporary exam administered in Juneau on January 22, 1991.

Channel Pilot License Corrections

Due to an oversight, four Channel Pilot licenses were issued in November 1990 without the 20,000 gross ton limitation. Captain Elsensohn brought this to the attention of the division, and letters explaining the error were sent to Kurt Petrich, Robert Winter, Donald Charles and Anthony Chadwick, along with corrected licenses. Letters protesting the change were received from Captains Petrich and Winter.

The board reviewed the letters but took no action. The regulation restricting a channel pilot to vessels of not more than 20,000 gross tons became effective on July 26, 1990. This was after the date Captains Winter and Petrich

received their temporary licenses, but the regulation was in effect when the permanent licenses were issued in November. The board agreed that a permanent license is separate from, and not an extension of, a temporary license and must be issued under the regulations in effect on the date the permanent license is issued.

Agenda Item 6

Permanent Extensions of Route

Temporary extensions of route were issued on January 22, 1991 to four Southwest pilots. All four also took extension of route examinations on April 2, 1991. The new license wording which incorporates both sets of exams was approved above under Agenda Item 4. The four pilots are:

1. Vince Tillion
2. Eric Eliassen
3. Harry Scally
4. Mark Hawker

Temporary extensions of route were issued to two Southeast pilots on January 22, 1991.

By unanimous consent it was

RESOLVED to make permanent the extension of route for which Kurt Petrich received a temporary license on January 22, 1991. His license will now read, "Channel Pilot on vessels of not more than 20,000 gross tons upon the waters of Southeast Alaska, Dixon Entrance to Cape Spencer excluding Sitka Sound, Glacier Bay, and the ports of Sitka and Klawock."

BE IT FURTHER RESOLVED to make permanent the extension of route for which Robert Winter received a temporary license on January 22, 1991. His license will now read, "Channel Pilot on vessels of not more than 20,000 gross tons: Southeast Alaska - Dixon Entrance to Cape Spencer excluding West Coast Prince of Wales, Peril Strait, Hoonah Sound,

Whitestone Narrows, Neva Strait, Sergius Narrows, Nichols Pass, and the ports of Metlakatla and Klawock."

Agenda Item 7

License Upgrade Applications

The board took a short recess from 10:35 to 10:45 to review the upgrade applications.

Mark Hawker - By unanimous consent, the board approved the application to upgrade Captain Hawker's license from Limited, Step 2, to Unlimited.

Eric Eliassen - On a motion made by O'Hara, seconded by Sell and carried unanimously, it was

RESOLVED to approve the application to upgrade Captain Eliassen's license from Limited, Step 2, to Unlimited on his anniversary date of July 6, 1991.

Harry Jacobsen - On a motion made by O'Hara, seconded by Sell and carried unanimously, it was

RESOLVED to approve the application to upgrade Captain Jacobsen's license from Limited, Step 2, to Unlimited.

Hans Antonsen - On a motion made by Elsensohn, seconded by Sell and carried unanimously, it was

RESOLVED to issue a permanent Unlimited license to Captain Antonsen on his anniversary date of April 11, 1991.

Kurt Petrich - A motion was made by Elsensohn and seconded by Foster to approve the application of Captain Petrich to upgrade from a Channel Pilot License to Limited, Step 1. On a motion made by Foster, seconded by Lorch and carried unanimously, it was

RESOLVED to table the motion to approve Captain Petrich's application.

Ms. Boudreaux was absent for this vote.

Agenda Item 22

Schedule Exam and Meeting Dates

On a motion made by Lorch, seconded by O'Hara and carried unanimously, it was

RESOLVED to schedule a meeting of the board on November 13 and 14, 1991 in Anchorage.

Agenda Item 8

Proposed Regulations-Cominco/Red Dog Pilot Station

Kevin Henderson, Regulations Specialist, presented the corrected version of the proposed regulations creating compulsory pilotage waters and establishing a pilot station in the Red Dog Mine area. (See attachment 1). This version corrects two typographical errors.

Mr. Henderson explained that the thirty-day comment period on the proposed regulations will officially close on April 4, and the board should postpone the adoption of the regulations for one day.

Agenda Item 21

Private Vessel Navigation Systems

The board discussed the possible use of private vessel navigation systems to ensure vessels comply with established fairways and compulsory pilotage areas, especially in remote areas.

Problems may arise in monitoring the results and handling violations.

The board took no action.

Recess for lunch 11:40. Reconvene at 1:00 p.m.

Agenda Item 10

Tariff Rates

On a motion made by Sell, seconded by Foster and carried unanimously, it was

RESOLVED to table the discussion of the Red Dog Mine tariff rate until the following day.

Gary Amendola, Assistant Attorney General, spoke briefly on tariffs. Pending antitrust litigation against the board prevented Mr. Amendola from elaborating on his comments during public session.

On a motion made by Elsensohn, seconded by Sell, and carried unanimously, it was

RESOLVED to enter executive session for the purpose of attorney/client consultation.

Entered executive session at 1:15 p.m. Adjourned from executive session at 2:11 p.m.

Agenda Item 12

Status of Proposed Legislation

Marilou Madden and Brad Pierce from the Governor's Office of Management and Budget were present to report on the status of the proposed legislation rewriting the Marine Pilotage Act. There are currently two bills, one in the House (HB194) and one in the Senate (SB 218). The differences between the two revolve around regional licensing for the most part. The authority of the board in the proposed legislation is not a point of contention.

The board recessed from 2:20 to 2:30.

Agenda Item 11

Examination and Trip Requirements for Red Dog Mine Area

The U.S. Coast Guard does not currently test for the waters in the Kivalina/Red Dog Mine area, making this area similar to West Coast Prince of Wales in Southeast Alaska.

A motion was made by O'Hara and seconded by Lorch to require six observer trips and passage of a local knowledge exam before the Kivalina/Red Dog Mine area is included on a pilot's license.

A motion to amend the above motion to include the Kivalina/Red Dog Mine area in 12 AAC 56.027 was made by Lorch, seconded by Elsensohn and carried unanimously. The amended motion was also carried unanimously.



On a motion made by Elsensohn, seconded by Sell and carried unanimously, it was

RESOLVED that licensees presently licensed in Western Alaska will have three years to meet the new requirements for the Kivalina/Red Dog Mine area.

A short recess was taken at 3:25 p.m.

Agenda Item 18

Public Comment

Captain Dale Collins urged the board to support House Bill 194.

A motion was made by Foster and seconded by Sell to reiterate the board's support of the version of the proposed legislation approved by the board at its meeting December 17, 1990.

A motion made by Boudreaux and seconded by Sell to table the above motion carried unanimously.

A letter from Captain Smith regarding the board's regulation of vessel agents was reviewed by the board, but no action was taken.

Agenda Item 20

Continuation of Temporary Licensing

Captain O'Hara reported that the practice of issuing temporary licenses creates a loophole for applicants to obtain a license by passing a condensed version of an exam and is not in the interest of safety. Also, it allows for frequent reexamination and allows applicants to learn the exam rather than the ports.

On a motion made by O'Hara, seconded by Boudreaux and carried by a vote of 4 to 3 with Foster, Lorch and Sell objecting, it was

RESOLVED to schedule the next examination on November 12, 1991.

Designate Board Member to Prepare Annual Report.  
Paul Taylor designated Captain O'Hara and Russell Sell to prepare the 1991 Annual Report.

Recess for the Day

On a motion made by O'Hara, seconded by Elsensohn and carried unanimously, it was

RESOLVED to recess until Thursday morning.

THURSDAY, APRIL 4, 1991

Agenda Item 14

Call to Order/Roll Call

The meeting was called to order by Chairman Taylor at 8:33 a.m. Present and constituting a quorum were:

Paul Taylor  
Barney Elsensohn  
Mike O'Hara  
Russell Sell  
Mark Foster  
Bill Lorch  
Ann Boudreaux

Guests present on April 4, 1991 were:

Bill Sharp  
E. H. Creasey  
Terry Bennett  
D. Monkman, Attorney for Terry Bennett  
Arnt Antonsen, SEAPA  
George Porter  
John Baldry  
Joe Homer  
J. F. Drahos  
Dale Collins, SEAPA

Agenda Item 8

Proposed Regulations - Cominco/Red Dog Pilot Station

Proposed regulations 12 AAC 56.100(14) and 12 AAC 56.120 were read into the record. (See Attachment 2).

On a motion made by Sell, seconded by O'Hara and carried with Boudreaux absent and Foster opposed, it was

RESOLVED to adopt the proposed regulations as read.

On a motion made by Elsensohn, seconded by Sell and approved by unanimous consent, it was

RESOLVED to send a letter to Navios Corp. expressing the board's concern in the matter of compliance with compulsory pilotage waters, and inviting discussion on the use of position indicators on Navios' vessels operating in the Red Dog Mine area.

Regulations Amendment

On a motion made by Sell, seconded by O'Hara and carried unanimously, it was

RESOLVED to initiate a regulations project to change the wording in 12AAC 56.030(c)(1) and 12 AAC 56.040(c)(1). In both cases the present wording, "master or pilot" will be changed to read, "master and pilot."

The board recessed from 8:55 to 9:07 a.m.

Agenda Item 15

Investigative Report

Gary Veres, Robert Harrington, and Marcia Bissell, investigative staff, were linked via telephone from the Anchorage Office of the Division of Occupational Licensing.

Two cases, #1900-89-11 and 1990-89-5, were reported as under continuing investigation.

On a motion made by O'Hara, seconded by Sell and carried unanimously, it was

RESOLVED to enter executive session for the purpose of hearing the investigative report.

Entered executive session at 9:15 a.m.; adjourned from executive session at 9:55 a.m.

On a motion made by Foster, seconded by Sell and carried unanimously, it was

RESOLVED to close case 1900-90-3.

Agenda Item 16

Reconsideration of Applications

Joe Homer addressed the board concerning his application to upgrade his license to Unlimited. This application was denied by the board in April 1990. Captain Homer explained his qualifications for the Unlimited license.

Captain Elsensohn was excused from the board during this discussion due to a possible conflict of interest. The board took no action on Captain Homer's request for reconsideration.

Terry Bennett (represented by his attorney Dick Monkman) addressed the board concerning his application to upgrade his license to Limited, Step 1. Captain Bennett requested Captain Elsensohn be excused due to a possible conflict of interest.

On a motion made by Foster, seconded by Boudreaux and carried by a vote of 4 to 1 with Elsensohn abstaining and Captain O'Hara objecting, it was

RESOLVED to reconsider Captain Bennett's application.

A short recess was taken from 10:37 to 10:42 a.m.

A motion made by Foster and seconded by Boudreaux to waive 12 AAC 56.027(a)(4), requiring that no more than five dockings and five undockings be made under the supervision of one pilot, failed with Boudreaux and Elsensohn abstaining and all other members opposed.

Agenda Item 12

Proposed Legislation

Representative Cheri Davis addressed the board regarding the progress of HB 194, rewriting the

Marine Pilotage Act. The board stated it intends to issue a statement in support of the bill.

The board took a short recess from 11:12 to 11:20 a.m.

Agenda Item 10

Tariff Rates

Gary Amendola, Assistant Attorney General, summarized his findings on tariffs. He stated the tariffs may not be enforceable because of the wording in statute which does not specifically give the board the authority to set tariffs.

Mr. Amendola also stated that the regulations setting out the procedures for requesting a rate adjustment are presently in force but may be of no value if the tariff rate structure is, in fact, found to be unenforceable. The regulations now require anyone wishing to deviate from the published tariff to notify the board.

Mr. Amendola was asked if he had documentation for his opinion and he clarified that he had not done exhaustive research but this was his opinion at this time.

Captain Harley Clough addressed the board briefly giving a history of the procedure for establishing tariffs in Alaska.

Captains Homer and Baldry also made brief comments regarding tariffs.

The board stated its position that enforcement of tariffs should be a priority of the board, the Attorney General's office, and the department's investigative staff.

Dale Collins presented tariff rates for board approval which have been agreed upon between SEAPA and the shipping agent and are the customary and usual rates in effect but which are not presently in the published tariff rate schedule. (See Attachment 3)

On a motion made by Lorch, seconded by Sell and carried unanimously, it was

RESOLVED to amend Appendix A of the statutes and regulations booklet to include the tariffs submitted by Captain Collins.

On a motion made by Foster, seconded by Lorch and carried unanimously, it was

RESOLVED to table the discussion of the tariff in the Red Dog Mine area until the November meeting.

BE IT FURTHER RESOLVED to encourage the Department of Commerce and Economic Development to prosecute tariff violations to the fullest extent and consult with board members for expertise in tariff violation investigations.

Agenda Item 16

Reconsideration of Applications

William Bullard's letter to the board requesting reconsideration of his application for VLCC endorsement was reviewed. The board reiterated its position of rejecting dockings executed more than five years prior to the date of application. No action was taken on Captain Bullard's request.

Agenda Item 7

License Upgrades

The tabled discussion of Kurt Petrich's application to upgrade to Limited, Step 1, was resumed.

On a motion made by Foster, seconded by Lorch and carried unanimously, it was

RESOLVED to require Kurt Petrich to retake and pass an oral exam under the guidelines in 12 AAC 56.040(b) before receiving a limited license and that the exam be given at the earliest possible time.

On a motion made by Lorch, seconded by Sell and carried unanimously, it was

RESOLVED to write oral exam questions based on 12 AAC 56.070, including paragraph (b)(1)-(6), and skewed toward docking in the ports for which Captain Petrich is licensed.

Agenda Item 17

Renewal Procedures

Renewal applications submitted by Will Petrich and Michael Skovoth were reviewed. Will Petrich allowed his license to lapse for approximately 22 months before applying for renewal and supplied documentation of recency on his fishing vessel in lieu of quarterly reports showing piloting experience. Captain Skovoth submitted recency as an observer on the ferry system in lieu of quarterly reports showing piloting experience.

On a motion made by Lorch, seconded by O'Hara and carried unanimously, it was

RESOLVED to require Captain Will Petrich to pass a full written examination before renewal of his license.

BE IT FURTHER RESOLVED to require Captain Skovoth to pass a full written examination before renewal of his license.

Captain Elsensohn abstained from voting on Captain Skovoth's renewal application form.

Ann Boudreaux was excused from the meeting at 12:30 p.m.

Agenda Item 12

Proposed Legislation

On a motion made by Elsensohn, seconded by Sell and carried by unanimous consent, it was

RESOLVED to give Ann Boudreaux a letter of the board's commitment to the need for a new pilotage bill.

Agenda Item 18

Public Comment

Captain Antonsen addressed the board regarding the historical practice of using a channel pilot as the second pilot on a vessel rather than operating

with only two channel pilots on board. Difficulties may arise in an emergency when it becomes necessary to take the ship to a dock.

On a motion made by Foster, seconded by O'Hara and carried unanimously, it was

RESOLVED that the board chairman and a subcommittee of the board write a letter explaining the historical practice of using a channel pilot as the second pilot on vessels.

The chairman expressed the board's appreciation to Captain Elsensohn and Mr. Foster for their service to the board. Both of these members' terms expire in June.

Agenda Item 23

Adjourn

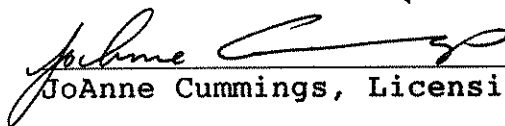
On a motion made by Elsensohn, seconded by Foster and carried unanimously it was

RESOLVED to adjourn at 12:42 p.m.

Respectfully submitted,

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M. Paul Taylor, Chairman

  
JoAnne Cummings, Licensing Examiner

Approved on 10/1/91