

STATE OF ALASKA
Board of Marine Pilots

Mintues of Meeting
May 10-11, 1984

By authority of AS 08.01.070(2) and AS 08.40.040, and in compliance with the provisions of AS 44.62., Article 6 and AS 44.62.310, a scheduled meeting of the Board of Marine Pilots was held at the City Hall & Utilities Building, Assembly Chambers, 334 Front Street, Ketchikan, Alaska.

Present and constituting a quorum of the board were:

Harry D. Treager, Chairman (designated by Commissioner Lyon)
William Barrington
Captain James Hodgman
Marvin Taylor

Absent:

Judith Brady
David George
Captain Donald Oldow

Also present from the Department of Commerce and Economic Development, Division of Occupational Licensing was:

Nancy Ferguson, Licensing Examiner

Guests present were:

Bob Berto, SE Stevedoring
Captain Bob Bradley, SWAPA President
Captain Harley Clough, SEAPA
Captain Barney Eisensohn, SEAPA
Captain Anthony Joselyn, SWAPA
Captain William Lyons, SEAPA
Captain Jack Maroni, SEAPA
Captain George McReynolds, President SEAPA
Captain Andy Santos, Port Captain SOHIO

The board meeting was called to order at 2:00 p.m. on May 10, 1984. The approval to hold the special meeting was signed by Governor Sheffield on May 4, 1984 as required by AS 08.62.030 and read into the record. A delegation of authority memorandum from Commissioner Lyon was read into the record by the licensing examiner. Commissioner Lyon appointed Harry D. Treager, Director of the Division of Occupational Licensing, as his designee to chair the meeting.

Examination Results:

Chairman Treager noted that the board had administered exams that morning and exams were graded and orals given.

On a motion duly made by Captain Hodgman, seconded and approved unanimously, it was

RESOLVED, that we grant to Captain John Larsen permanent channel pilots license any gross tons upon the waters of Southeast Alaska from Dixon Entrance to Cape Spencer with the exception of Klawock.

RESOLVED, to grant Captain Robert Nerup permanent unlimited pilots license upon the waters of Southeast Alaska from Dixon Entrance to Cape Spencer and Yakutat, except Klawock. Also Klawock for vessels of 1,000 gross tons or less.

RESOLVED, to grant to Captain William Lyons permanent channel pilot of any gross tons upon the Southeast Alaska waters of Tongass Narrows, Clarence Straits, Sumner Straits, Chatham Straits, Frederick Sound, Stephens Passage, Lynn Canal to Skagway, and Glacier Bay including the ports of Wrangell, Haines, Ketchikan and Skagway.

FURTHER RESOLVED, to grant to Captain Leslie Taylor permanent channel pilot license of any gross tons upon the waters of Southeast Alaska from Dixon Entrance to Cape Spencer excluding Klawock, Snow Pass, Cross Sound and West Coast of Prince of Wales Island.

The chairman asked Captain John Bradley, President of SWAPA, to assist in the grading of exams for Western Alaska with board members Captain Hodgman and Bill Barrington.

Investigative Report: The chairman gave each board member a copy of the investigator's report. An investigator was not present at this meeting.

On a motion duly made by Mr. Taylor, seconded and approved unanimously, it was:

RESOLVED, that the investigator's report be accepted as received with the following exceptions: MP 84-803 do not close because staff feels there is enough evidence to go to prosecution; MP 84-071 and MP 84-126 that are still open, that the Attorney General's Office be notified that the board desires these accusations to be carried out in a timely manner.

The board was in agreement with the investigator to close MP 84-804, MP 84-805, MP 84-170 and MP 84-180.

Mr. Ward noted in his report that the minutes from December 5-6, 1983 reflect that MP 84-804 is pending. This is incorrect and should read MP 84-071.

Presentation by Andy Santos: Captain Santos is the SOHIO port captain in Valdez. He holds a federal license for unlimited master of oceans and first class pilots license for Southwest Alaska.

SOHIO has the largest charter of U.S. flag vessels. They have 13 to 14 tankers in the Valdez trade. The smallest tanker is 80,000 dead weight tons and the largest is 225,000 dead weight tons. The breaking point for VLCCs is 60,000 gross tons.

The marine department located in Ohio has noted that in the future the Valdez trade (pilot station to the SOHIO docks at the terminal) will use State licensed unlimited pilots and will require these pilots to hold a federal license for master of any gross tons upon oceans. Captain Santos noted that many members of SWAPA are very well qualified and proven proficient, but only hold a master license of 1,000 gross tons for freight and towing. In cases where pilots have proven proficient, SOHIO will accept them under a grandfather clause. In the future, SOHIO would like the pilots to hold the same license as the master of the vessel they are docking.

Captain Santos noted that in December 1983, the B.T. ALASKA had a casualty at the Valdez terminal. The tanker was piloted by a SWAPA pilot. The vessel was taken off the charter and is being repaired in Portland, Oregon, at approximately \$4,000 an hour. The U.S. Coast Guard has no jurisdiction because the vessel is from the Republic of Panama. Neither SOHIO nor the owner has heard anything further.

The chairman asked Captain Santos to contact Dick Long, Chief Investigator for Occupational Licensing. The chairman noted that action is progressing on this matter and the accusation is in the Attorney General's Office.

Captain Harley Clough's Presentation: Captain Clough discussed the pilotage water boundaries and gave a brief history going back fifty years. The lines of demarcation indicate the pilotage waters of Alaska. Captain Clough felt that the proposed regulation 12 AAC 56.100(b)(4) for discussion tomorrow has missed the point. The published demarcation lines for the inside waters extends from Dixon Entrance and stops west of Cape Spencer. The board has drawn some lines of demarcation for Cook Inlet and Prince William Sound for the

Valdez trade. The remainder of the State does not have demarcation lines. Captain Clough felt that a committee could draw a set of lines to delineate the pilotage waters of Alaska.

Captain Hodgman suggested that the committee should address 12 AAC 56.100 Established Boundaries of Inside Waters of Alaska, 12 AAC 56.110 Exclusions for Entering Inside Waters of Alaska; and 12 AAC 56.120 Pilot Stations or Pickup Points. He suggested eliminating the reference to Southeast and Southwest and lining out the areas in these three regulations.

Captain John Bradley agreed that all the inside waters of Alaska should be defined and that there should not be a division between Southeast and Southwest Alaska. The problem in Southwest Alaska is the demarcation lines are drawn for Prince William Sound and Cook Inlet only. In the remainder of Southwest Alaska, some ships anchor outside the pilot station because they do not want to pick up a pilot and run a crew boat to the ship, etc. Captain Bradley indicated that he was willing to sit on the committee.

The chairman appointed a committee of Captain Hodgman, as chairman; Mr. Barrington; Captain Clough and Captain Joselyn. The committee may call on Occupational Licensing for typing or other assistance. The chairman requested that the draft of proposed regulations be ready for the board's review at the next meeting indicating the lines of demarcation with reference to 12 AAC 56.100, 12 AAC 56.110 and 12 AAC 56.120.

Captain William Lyons Presentation: Captain Lyons assisted in preparing the course material for a ship simulator training school in Maryland. There is one action base with two simulators and a \$22,000,000.00 computer for ship handling. He noted that this is a wonderful training aid and testing aid, but may not be able to adapt it for the smaller ports. A lot may be learned by a pilot during the simulation of a VLCC and ULCC.

The Maritime Administration and academic director of the school met with the Coast Guard and discussed the possibility of giving three months of seetime credit for a two week course at the simulator. The school is run by the master and mates pilot union.

Minutes of December 5-6, 1983: The board reviewed the minutes from the previous meeting:

On a motion duly made by Mr. Taylor, seconded and approved unanimously, it was:

RESOLVED, to approve the minutes as presented to us.

The licensing examiner noted that the case number MP 84-804 is incorrect and should read MP 84-071.

Goals and Objectives: Four of the five goals were accomplished by the board. The fifth goal concerning requirements for limited and unlimited licensure under 12 AAC 56.030 and 12 AAC 56.040 was scheduled for a regulation hearing the following day.

The chairman suggested that the board go with a clean slate on goals and objectives for FY '85.

1. Revise the following regulations to include the lines of demarcation for the inside waters of Alaska.
 - a. 12 AAC 56.100 Establishing Boundaries of Inside Waters of Alaska.
 - b. 12 AAC 56.110 Exclusions for Entering Inside Waters of Alaska.
 - c. 12 AAC 56.120 Pilot Stations or Pickup Points.
2. Amendments to the requirements of 12 AAC 56.030 and 12 AAC 56.040 qualifications for marine pilot license. (Held over from FY '84)
3. Investigation of violations and complaints. The individual making the complaint never receives word back on the outcome of the complaint/violation.
4. A program to make the public more aware of pilotage.
 - a. Encourage more Alaskan sailors.
 - b. Contact counselors at high schools.
5. Pilot liability - continuing problem for pilots.

The meeting adjourned at 4:40 p.m.

May 11, 1984

The board met at the Heckman Building, Room #217, at the corner of Dock and Main. The grading of exams for Southwest Alaska began at 7:15 a.m. The meeting was called to order to 8:00 a.m.

Extension of Routes: On a motion duly made by Mr. Barrington, seconded and approved unanimously, it was:

RESOLVED, to grant Captain Calvin Cary unlimited pilot license for the waters of Resurrection Bay, Nushagak Bay and River, Sand Point, King Cove, Cold Bay and Prince William Sound excluding Hinchinbrook Entrance and western entrances.

RESOLVED, to grant Captain Robert Smith unlimited pilot license for Cook Inlet, ports of Port Graham, Homer and Seldovia; also Womans Bay, Sand Point, Cold Bay and King Cove.

RESOLVED, to grant to Captain Stephen Hunnicutt unlimited pilot license for False Pass, Adak, Sand Point and Cold Bay.

RESOLVED, that David Renwick's license be upgraded to 60,000 gross tons adding Cold Bay, False Pass, Kodiak and St. Paul Harbors.

RESOLVED, that Mike O'Hara have Port Moller added to his permanent license.

The chairman noted that the board appreciated Captain Bradley's assistance in helping the members with the exam review, definitions of areas for Southwest Alaska, and the wording of licenses for the western end of the State.

Correspondence: A letter was received from Josephine Harris, Cartographer, Marine Chart Branch. It was noted that SWAPA and SEAPA had each received the same letter.

The chairman will draft a letter and copy the board. The board is concerned because shoals change in bays due to earthquakes and accurate charts are very important because the pilots are responsible. A question was raised as to whether they have the intention to contract these services out to a private company with no experience in nautical cartography.

Accusations: The chairman advised the board that case MP 84-126 and MP 84-071 were returned by the Attorney General's Office, to Mr. Treager, for signature on the Accusation.

The hearing officer is appointed by the Governor and must be a member of the bar (lawyer) and a two-year resident of Alaska.

The board was concerned that the hearing officer should have maritime law experience.

The chairman asked if the board wished to sit with the hearing officer or have the hearing officer sit alone. The Division of Occupational Licensing would prefer that the hearing officer sit alone because there

may be a problem getting all the board members together for a hearing. It was noted that the final decision goes to the board after the hearing is completed. The hearing is open to the public. The chairman noted that funding is available to hire experts in maritime law to assist the hearing officer and it is possible to go outside the State for this.

On a motion duly made by Mr. Barrington, seconded and approved unanimously, it was:

RESOLVED, that the hearing officer sit alone, on both matters.

Nushagak Bay and River Exclusion: Captains Hicks and Terpening received temporary permits for their upgrade from limited to unlimited with exclusions.

Captain Terpening wrote the board and advised that he originally held Nushagak Bay and River on his limited license and he did not feel that he should have to take an exam for that area to receive it on his permit. The permit shows Nushagak Bay and River as an exclusion.

The board reviewed a copy of the letter that Captain Terpening wrote along with a memo that the licensing examiner sent to Captain Oldow and his response.

It was noted that Captain Terpening and Captain Hicks each received their initial limited licenses in 1981. Both licenses were read into the record and were identical. The Nushagak Bay exam was dated April 1983. It was verified that they do hold Nushagak on their limited licenses.

On a motion duly made by Mr. Taylor, seconded and approved unanimously, it was:

RESOLVED, that a new temporary license be issued to Captain Terpening to reflect the Nushagak Bay addition and do the same for Captain Hicks after we receive written communication from him concerning the exclusion of Nushagak Bay.

The record should reflect that the gentlemen from Western Alaska have made efforts through correspondence with Captains Hicks and Terpening to arrange for the dockings and undockings to be accomplished.

Administering Examinations: A letter from board member Don Oldow was read into the record. The letter was dated April 30, 1984. Captain Oldow was opposed to the recent decision to allow a magistrate to administer exams for the Marine Pilot Board in various outports and felt that this policy should be discontinued before a precedent was

set. Captain Oldow quoted 12 AAC 56.010 which requires two board members to administer the temporary exam. A copy of his letter is attached.

Mr. Barrington noted that it has become very difficult to get two board members together to administer temporary and extension of route exams in Anchorage since Mr. Peaveyhouse is no longer on the board. Mr. Barrington would like to see 12 AAC 56.060(c) rewritten to read "appear before one board member and take a written examination for the requested area."

The board concurred and asked that this revision be published for the next regulation hearing.

Captain Hodgman had no objection to changing the regulation to read one board member, but felt that a board member ought to be present during the exam.

The chairman realized that using the magistrate for proctoring is what led to this discussion and was in violation of our own rules. He will take as board decision/policy and will discuss with the Attorney General to see if we did violate the regulations. He felt that it was another effort that the board has made to accommodate these people.

Regulation Public Hearing: Began at 9:10 a.m. The board received written responses from:

1. Captain Donald Oldow - draft of suggested changes.
2. Captain Gale, SOHIO.
3. Captain Larsen, American President Lines Ltd.
4. Captain George McReynolds, President, SEAPA.
5. Captain Vernon Wyatt, SEAPA.
6. Captain Edward Creasey, SEAPA.
7. Captain Michael Spence, SEAPA.

The public notice was dated April 6, 1984 and signed by Commissioner Lyon.

Individuals testified on the following regulation amendments or new sections:

12 AAC 56.030, 12 AAC 56.040, 12 AAC 56.050, 12 AAC 56.060,

12 AAC 56.065, 12 AAC 56.066, 12 AAC 56.067, 12 AAC 56.100 (b),
and 12 AAC 56.190.

The following individuals testified at the hearing:

1. Captain Andy Santos, SOHIO
2. Captain Barney Elsensohn, individual
3. Captain Harley Clough, SEAPA (worked up proposed regulations along with John Bradley).
4. Captain John Bradley, SWAPA, President (worked up proposed regulations with Captain Clough).
5. Captain Anthony Joselyn, individual.

The regulation testimony closed at 10:50 a.m. A transcript of the regulation hearing testimony is available upon request.

Regulation Discussion: The proposed regulations are attached with revisions as indicated below:

12 AAC 56.100(b) - A committee was appointed the previous day to establish new boundaries for the inside waters of Alaska. Delete this section of the regulation project.

12 AAC 56.030 - The board reviewed Captain Oldow's proposed changes and agreed to add under (2) . . . as first class pilot of vessels of any gross tons upon the waters

Reword (4) submit the names of three currently licensed master mariners who will be contacted for a recommendation [three notarized letters of recommendation signed by licensed master mariners] attesting to

Under (5) . . . certificates and letters where

Under (6) . . . repeat convictions of [or] minor offenses

Add under (8) submit evidence satisfactory to the board of:
delete [have met the following requirements:]

Under (8)(B) line 3 . . . State of Alaska pilot license while the application is holding a . . . under line 6, add . . . vessels of 1,000 gross tons or greater. Under line 8, change [Alaka] to Alaska. Under line 11 . . . training at a state Board of Marine Pilot [an] approved simulator

12 AAC 56.040 - Step 2 (3), line 3 . . . 1,000 gross tons or greater including . . . (7) submit the names of three licensed master mariners who will be contacted for a recommendation attesting to Delete [three notarized letters of recommendation signed by]. Under (10)(A), line 4, add . . . an unlimited State of Alaska pilot license . . . Line 6 add . . . while the applicant is holding a Line 10 change [better] to greater. Page 6, line 3 add . . . gross tons; or. (10)(C), line 5 . . . or greater [better]. 10(D), line 1 . . . training [at an approved] at a facility approved by the State Board of Marine Pilots in lieu of three dockings (10)(E), line 4 . . . dockings and seven undockings

12 AAC 56.060(4) submit the names of three [three notarized letters of recommendations signed by] licensed master mariners who will be contacted for a recommendation attesting to

12 AAC 56.065(1)(B), line 1 . . . from not more than [under] 20,000 gross tons to not more than [under] 40,000 Line 4 . . . ships over [of] 10,000 gross tons [to 20,000 gross tons] and in addition seven observer trips on vessels of over 15,000 gross tons.

(1)(C), line 1 . . . from not more than [under] 40,000 Line 4 . . . ships of over 20,000 gross tons [to 40,000 gross tons] and in addition four observer trips on vessels of over 30,000 gross tons.

12 AAC 56.190(7) "VLCC Class Vessel" means very large crude carrier of 60,000 gross tons or greater.

The board requested that the regulations specialist retype the amended regulations and circulate to the board members. The board will take final action via teleconference. The chairman asked that copies be sent to everyone who testified and Bob Berto. The chairman noted that a motion was not necessary at this time.

The chairman thanked Captain Clough, Captain Bradley and all the people who worked on the regulation project. He felt that it was a positive step in the right direction.

Meeting Dates: The board discussed meeting dates for the upcoming year: December 3 and 4, 1984 in Juneau; and April 11 and 12, 1985 in Homer.

Peter Froehlich Letter: Mr. Froehlich's letter was dated February 21, 1984 and was written to James Gilmour. The letter addressed pilot liability. A copy of the letter is attached.

Captain Hodgman would like the board to continue the liability question as a goal. He suggested contacting other states to discover how they handled the liability question.

It was noted that the oil companies are very concerned about pilot liability.

Meeting adjourned: There was no further business, and on a motion duly made, seconded and passed unanimously, the meeting adjourned at 12:00.

Submitted by,

Nancy Ferguson, Licensing Examiner

Approved by:

Harry D. Treager, Acting Chairman

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