

TELECONFERENCE  
BOARD OF MARINE PILOTS  
MINUTES OF MEETING  
MAY 3, 1985

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 via teleconference on May 3, 1985.

Present and constituting a quorum of the board were:

Harry Treager, Chairman (designated by Commissioner Lounsbury)  
William Barrington  
James Hodgman  
Donald Oldow  
William Ruddy  
Marvin Taylor

Judy Brady was unable to attend the teleconference.

Also present from the Department of Commerce & Economic Development were:

Nancy Ferguson, Licensing Examiner  
Kevin Henderson, Regulations Specialist  
Dick Long, Chief Investigator  
Chuck Ward, Investigations, Anchorage

From the Department of Law, Pete Froehlich, Assistant Attorney General, was also present.

Guests present were:

Bob Bradley, President, S. W. A. P. A.  
Andy Santos, S. P. C. Shipping

The board meeting was called to order at 9:00 a.m.

Committee Report: Committee Chairman Jim Hodgman spoke to the board regarding the definitions of the inside waters of Alaska. The committee was formed approximately a year ago and consisted of Bill Barrington, Captain Tony Joselyn, and Captain Harley Clough; Captain Oldow also worked with the committee.

Captain Hodgman discussed the two problems facing the committee:

1. Inadequate specific boundaries out to the southwest;
2. The general rule for determining the inside waters for areas where no specific waters are designated only dealt with buoyed entrances. In Alaska, The great bulk of entrances are not buoyed.

The solution of the committee was a compromise. Broaden the general rule to include boundaries not buoyed. They eliminated the reference to Southeast and Southwest and defined the compulsory pilotage waters of Alaska.

Under the licensing section only, they defined Southeast as Dixon Entrance to Cape Spencer; and Southwest as Prince William Sound to the Canadian Arctic.

The committee also updated and clarified exclusion areas and pilot stations.

Captain Oldow worked with the committee and complimented them on a good job.

Captain Oldow referred to a possible typo on page 2, item 7, and advised that "southern" should be "western." Captain Hodgman agreed.

On a motion duly made by Captain Oldow, seconded by Mr. Taylor and approved unanimously (Mr. Treager did not vote), it was:

RESOLVED that we adopt the report dated March 21, 1985 by the subcommittee with one change; page 2, item 7, change the word "southern" to "western" tip of Nakchamik Island.

The chairman complimented and thanked the committee members Captain Hodgman, Captain Joselyn, Captain Clough, and Mr. Barrington for an excellent job well done.

The regulation project was given to Kevin Henderson for publication and a period of time to receive public comment.

Senate Bill 214: Exempting fish processing vessels from AS 08.62.  
The Pilot Board members do not support this bill.

The bill is being held in the Senate Labor and Commerce Committee as of March 6, 1985. The chairman advised that we do not have to worry about the bill at this time (someone has an excellent lobbyist). May route any comments for the committee through chairman Treager.

Captain Bradley was concerned because there was no response from the board during the teleconference.

It was noted that Captain Oldow attended the hearings in Juneau.

Captain Bradley advised that while he was in Dutch Harbor there were numerous violations of the Magnuson Act in the Bristol Bay/Dutch Harbor area. He felt that if the bill passes, there will be ships coming in all over the State of Alaska.

Captain Bradley was in contact with the U. S. Coast Guard. They advised that if the state relinquishes its jurisdiction, then the U. S. Coast Guard will take over the responsibility.

Mr. Treager advised that he and Dick Long were in contact with the Department of Public Safety. They will allow one of our investigators to go on board one of their boats if it can be done in a timely manner.

Captain Oldow and Captain Hodgman agreed that they have gone on record as opposing Senate Bill 214, and that nothing more can be done at this time. It will not go anywhere until next session. The board will hold a meeting before January.

On a motion duly made by Captain Hodgman, seconded by Mr. Taylor and approved unanimously (Mr. Treager did not vote), it was:

RESOLVED to table until the next meeting of the Pilot Board.

Marine Pilot Accident Report Form: Dick Long was present at the table.

One letter of opposition was received from James Gilmour (written to Captain Bob Bradley, dated February 15, 1985). Mr. Gilmour's letter was read into the record by the licensing examiner and is attached.

Mr. Ruddy mentioned that the FAA requires an accident report for airplanes, accident reports are required for motor vehicles, and the U.S. Coast Guard has a similar proceeding. He felt that the accident report form is within the sphere of the board's activity and does not violate the pilots' constitutional rights.

Captain Hodgman felt that the accident report form has not been out long enough for full responses. S. E. A. P. A. has not received a response from their lawyer. S. W. A. P. A. has not taken a position as yet. He liked the idea of contacting the U. S. Coast Guard and the West Coast states to see what they are requiring.

Captain Hodgman submitted the accident report form for a minor incident to see how the form worked. He advised that if it had been a serious accident, then he would have had a problem with some of the questions asked on the form. He suggested that a statement be added advising that the board is requesting the information, but the pilot is not obligated to incriminate himself.

Captain Oldow had a problem with attaching a chart indicating the location of the ship (longitude/latitude) and course of the ship. He also had some concerns regarding some of the questions on the form.

Mr. Treager advised that if the pilot does not complete the form then there is nothing the board can do. The pilot is required to make a report. If the pilot does not fully complete the form, the board does not have any statutory or regulatory authority over him. Questions formulated by Mr. Long were requested by the board at their last meeting with the idea that they would help to expedite the investigation. The report would be confidential once in the investigative mode.

The form is a starting point and is still open for discussion. The report is not binding at this time, but eventually will be part of the regulations. The report can be revised into any format the board desires.

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

RESOLVED to table until the next meeting and have the division write letters to Oregon, Washington, and California.

Proposed Legislation: Kevin Henderson discussed the draft dated April 24, 1985 concerning disciplinary actions which would authorize the board to send letters of reprimand to pilots found to be acting in a manner inconsistent with good piloting and also set a time limit on investigations per AS 08.62.150. Mr. Henderson advised the board that the draft is a starting point. He is open to suggestions, comments, and revisions to the draft. New legislation must be in to the Governor's Office no later than October 15, 1985. The board needs to obtain the statutory authority before beginning the regulation project which would define errors in judgement, inattention to duty, negligence, license suspension or revocation.

The board was concerned with the section that required the investigation to be completed within 90 days of the violation. If the 90 day time limit is not met, then the whole case may be thrown out. The board questioned whether 90 days was reasonable, realizing that staffing may be a problem in completing the investigation within 90 days.

Mr. Long advised that the District Attorney will refuse to prosecute if the violation is over 90 days old. The investigation may involve tracking witnesses to different countries and it may take time to pin down facts. Mr. Long felt that the 90 day requirement may not work out too well.

The chairman suggested that the hearing should begin within 120 days of the date the accusation is filed.

The chairman requested that each board member review the packet that Mr. Henderson mailed to them and note comments, suggestions, vocabulary corrections, etc. The chairman also requested that Mr. Henderson mail a copy of the proposed draft to S. W. A. P. A. and S. E. A. P. A. for comments from any of the pilots.

Mr. Henderson noted that this is not a simple project. It will require a lot of discussion and rewriting. He asked that the board members please give input so there is time to compile the proposed legislation.

Amendment to 12 AAC 56.060(c): Mr. Henderson mailed each board member a ballot for approving or disapproving the amendment to 12 AAC 56.060(c), allowing one board member to give the extension of route examination for temporary permits. Received two votes for approval; three votes in opposition; and Mrs. Brady and Mr. Ruddy have not responded.

Public comments in opposition were received from Captain O'Hara, Mr. Alexander of SOHIO, and Michael Watallia of Alaska Maritime Agencies.

Mr. Barrington felt that the subject can be dropped. He and Mrs. Brady have been able to collaborate on the proctoring of examinations.

Captain Oldow advised that he is willing to assist with the proctoring, and noted that he has traveled to Anchorage frequently in the past to assist with the examination process.

Status of Accidents and Investigations: Dick Long, Chief Investigator, spoke to the board. Both the Herring and Christy matters are in litigation and scheduled for hearings in June. Two accident reports are being worked on at this time. The one in Southeast is near completion and the one out in the Chain is complete.

Mr. Santos was very concerned because he was advised by Chuck Ward this morning that a case he is interested in has been rescheduled for September. It has been two years since the incident.

Mr. Long advised that they do not have any cases being held over until September or any other time.

Later in the meeting, Mr. Long advised Mr. Santos that he spoke to Chuck Ward. The hearings for both Captain Herring and Captain Christy have been rescheduled for September. He does not know the reason.

Mr. Long returned to the meeting and advised that Captain Christy's hearing is scheduled for June 4. Captain Herring's matter was re-scheduled until September by request of the attorney, and the hearing officer agreed.

Qualifications for Limited and Unlimited Pilot's License: Pete Froehlich spoke to the board regarding this regulation project. He received the regulation project just before Christmas, and put it aside until after the legislative session is over. He did review the project, but has serious concerns regarding anti-trust. He has not decided whether to reject or approve this project.

The board asked what recourse they had if the project was rejected.

Mr. Froehlich advised that there was no recourse if he rejected the project. He was willing to work with the board to put something together that would be acceptable. His concern was the possible restriction of entry into the profession and the upgrading of licenses by docking and undocking to be supervised by a small pool of people which could result in restraint of trade.

Mr. Taylor advised that this project was the result of two years of work by the board. The final version was their best compromise.

Mr. Ruddy asked Mr. Froehlich to do a written critique on the proposed regulations because the project involved two years of work by the board.

Mr. Froehlich was agreeable to doing a critique and will attach a memorandum. He should be able to take action within a month after the legislative session has ended.

Captain Hodgman noted that the U. S. Coast Guard does not require dockings or undockings to meet their qualifications. That is why it is so important on the state level. He also mentioned the safety record of pilots in Alaska.

Mr. Taylor is an agent and also a dock owner. He has no input on whether or not a pilot is qualified to dock a ship at his dock. He suggested holding the discussion until the board meets and can talk eye to eye.

Captain Oldow mentioned that the owner of a dock can require certain things before allowing a pilot to dock a ship; such as twelve dockings and twelve undockings under the supervision of a pilot cleared for the dock.

The chairman asked Mr. Froehlich to put a clarification in writing to the board and they will take the matter up at their next meeting.

This matter will be at the top of the list at the end of the legislative session.

Letter of Action: Captain Hodgman would like to see a copy of the letter that the board requested be sent to all Alaska high school counselors regarding reduced tuition fees at Cal Maritime.

Mr. Henderson advised that the letter was written and he had the labels for 200 counselors at rural and secondary schools throughout the state. The letters will be mailed upon receipt of the brochures from Cal Maritime.

Quarterly Reports: Captain Bradley suggested that agents should submit quarterly reports.

The chairman requested that Captain Bradley write a letter outlining his concerns. This item would require a regulation project.

Captain Oldow felt that some agents in Southwest are advising ships not to take a pilot.

Date of Next Board Meeting: On a motion duly made by Captain Oldow, seconded and approved unanimously, it was:

RESOLVED to repeal 12 AAC 56.020.

Mr. Henderson felt that this regulation could probably be repealed within a minimum of 60 days. It is a simple project and should be ready for a vote by the board following a 30 day comment period. Then it will go to the board for review by the Department of Law.

Captain Hodgman suggested a meeting in October or November and then a special meeting in April.

The board agreed on October 3 and 4, 1985 in Homer. Captain Bradley can set up a meeting room.

If the regulation is not repealed, then plan on December 5 and 6, 1985 in Anchorage.

Extension of Route/Tonnage Upgrades:

1. Gordon Terpenning - Tonnage Upgrade. The board reviewed the dockings (11) and undockings (12).

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

RESOLVED that his tonnage may increase to 20,000 gross tons for the waters shown on the limited license.

2. Fred Hicks - Tonnage Upgrade. The board reviewed the dockings (9) and undockings (11). They did not count the docking and undocking in Ikatan Bay witnessed by Captain Renwick because there is no dock.

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

RESOLVED to go back to Captain Renwick rather than Captain Hicks, verify in writing, describe whether it was a dock or a ship.

Captain Oldow will send the licensing examiner the correct wording for Captain Hicks' new license.

On a motion by Captain Oldow, seconded and approved unanimously, it was:

RESOLVED to grant the 40,000 gross ton upgrade to Captain Hicks with the restrictions placed on us by the previous motions.

3. Arnt Antonsen - Extension of Route. Captain Hodgman noted that all appropriate applications and examinations have been turned in.

On a motion duly made, seconded and approved unanimously, it was:

RESOLVED that he be issued a channel pilot's license for the additions of Icy Strait, Cross Sound, and port of Hoonah.

The teleconference adjourned at 11:42 a.m.

  
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Nancy Ferguson, Licensing Examiner

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Harry Treager, Chairman