

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

MINUTES OF MEETING  
APRIL 14-16, 1992

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 14-16, 1992 at the Centennial Hall, 101 Egan Drive, Juneau, Alaska.

TUESDAY, APRIL 14, 1992

Agenda Item 1      Call to Order/Roll Call

The meeting was called to order at 1:10 p.m. by Bob Watt, Chairman. Those present and constituting a quorum of the board were:

Mr. Bob Watt  
Mr Russel Sell  
Captain Dale Collins  
Captain Michael O'Hara  
Mr. Bill Lorch  
Mr. Keith Greba  
Mr. Larry Galloway

Also present and representing the Division of Occupational Licensing was:

Karl Luck, Marine Pilot Coordinator

Agenda Item 2      Oral Examination

Cancelled.

Agenda Item 3      The board went into executive session to receive the confidential investigative report.

Agenda Item 4      The board returned to open session at 2:20 p.m.

Agenda Item 10     Skipped to Agenda Item 10 since the investigators were making their report via teleconference and they were still on the line.

Mr Lorch moved to accept closure on Cases 1900-90-09, 1900-90-10, and 1900-90-11. Mr. Galloway seconded the motion. Motion carried 6-0 with one abstention, Captain O'Hara, it was

RESOLVED to close Cases 1900-09-09, 1900-09-10, and 1900-09-11.

Mr. Sell made the motion to accept for closure Case 900-92-01. Mr. Galloway seconded the motion. The motion carried unanimously, it was

RESOLVED to close Case 1900-92-01

The Litigation Report was submitted.

Case 1900-91-08 - Against Captain Robert Nerup is scheduled for a hearing before Hearing Officer Frank Flavin on October 13, 1992.

Case 1950-92-01 - Captain William Petrich's request for reinstatement as a channel pilot has not been scheduled.

Case 1950-92-04 - Captain Victor Engstrom's request for hearing on the denial of his license was scheduled for April 14, 1992.

Mr. Watt requested to know why it took so long to schedule Nerup's case. Case delayed until the U.S.C.G. completed their investigation and the scheduling after that was a function of a common time for all involved.

Probation Report given on Captain Robert Smith. No questions were asked. This terminated the teleconference.

Agenda Item 5

Review of Minutes

Mr. Greba moved to accept the minutes of the meetings as submitted; Captain O'Hara seconded the motion.

Under discussion of the motion, the Minutes of the March 27, 1992 Teleconference were amended to include

Mr. Lorch's considerable concern about the process of handling this type of decision via a teleconference process.

Mr. Greba's departure from the teleconference at 3:45 p.m.

Under Agenda Item 1, subparagraph E, Mr. Lorch made the motion to defer this agenda item to Juneau's meeting and Mr. Sell seconded the motion.

Captain O'Hara questioned a phrase the Attorney General's office inserted into 12 AAC 56.021 regulation. This article was not accepted into regulation and was deferred to this meeting. By a unanimous vote of the board, it was

RESOLVED to approve the minutes of the meeting held January 22-24, 1992 as presented, and to approve the minutes of the meeting held March 27, 1992 by teleconference as amended.

Agenda Item 6

Review/Set Agenda

Captain Calvin Cary's request for upgrade and Captain Ted Kellogg's request for reconsideration were added under Agenda Item 9 and/or Agenda Item 15a.

Agenda Item 48a was added titled "Additions to 12 AAC 56.027(b)."

Captain O'Hara made the motion to accept the agenda as amended and Mr. Sell seconded the motion. The motion carried unanimously, it was

RESOLVED to accept the agenda as amended.

Agenda Items 7  
and 8

Report on Examination Results

Captain Collins reported on the results of the examinations given this morning. No new licenses were taken. The extension of route successfully passed is as follows:

Captain Michael Clinkscales - Petersburg and Wrangell Narrows.

Captain Collins made the motion to endorse Clinkscales' license for Petersburg and Wrangell Narrows. Mr. Sell seconded the motion. Motion carried unanimously, it was

RESOLVED to add Petersburg and Wrangell Narrows to Captain Clinkscales' license.

Captain Collins made a motion to endorse Captain Jeffery Baken's license to include Nichols Passage, Metlakatla, and Sitka after successfully passing the examination for the same. Mr. Greba seconded the motion. The motion carried unanimously, it was

RESOLVED to add Nichols Passage, Metlakatla, and Sitka to Captain Baken's license.

Captain Collins made a motion to endorse Captain Douglas MacPherson's license to include Yakutat, Icy Strait, Cross Sound, Nichols Passage, and Metlakatla. He has successfully passed the examinations for these areas. Mr. Greba seconded the motion. The motion carried unanimously, it was

RESOLVED to add Yakutat, Icy Strait, Cross Sound, Nichols Passage, and Metlakatla to Captain MacPherson's license.

Captain Collins made a motion that Captain Donald Charles' license be endorsed for Yakutat Bay, and the Port of Klawock. He successfully passed the examinations for these areas. Mr. Greba seconded the motion. The motion carried unanimously, it was

RESOLVED to add Yakutat Bay and the Port of Klawock to Captain Charles' license.

Captain O'Hara reported that Captain Will Anderson passed the examination for Sand Point,

King Cove, and False Pass and made the motion to amend his license accordingly. Mr. Sell seconded the motion. The motion carried unanimously, it was

RESOLVED to add Sand Point, King Cove, and False Pass to Captain Anderson's license.

Captain O'Hara reported that Captain Steve Hunnicutt passed the examination for Kupreanof Strait, Whale Pass, Quzinkie Narrows, Alitak Bay, Uganik Bay, and Uyak Bay and made the motion to amend his license accordingly. Mr. Sell seconded the motion. The motion carried unanimously, it was

RESOLVED to add Kupreanof Strait, Whale Pass, Quzinikie Narrows, Alitak Bay, Uganik Bay, and Uyak Bay to Captain Hunnicutt's license.

Captain O'Hara reported that Captain James Drahos passed the examinations for Prince William Sound Western Entrances, Prince William Sound General and Drift River in Cook Inlet and made the motion to amend his license accordingly. Mr. Sell seconded the motion. Motion carried unanimously, it was

RESOLVED to add Prince William Sound and Drift River to Captain Drahos' license.

Captain O'Hara reported that Captain Peter Garay passed the examination for Adak, False Pass, and Aleutian Islands General and made a motion to amend his license accordingly. Mr. Sell seconded the motion. The motion carries unanimously, it was

RESOLVED to add Adak, False Pass and the Aleutian Islands to Captain Garay's license.

Captain O'Hara reported that Captain Stuart Mork passed the examination for Adak and Iliasik Passage and made the motion to amend his license

accordingly. Mr. Greba seconded the motion. The motion carried unanimously, it was

RESOLVED to add Adak and Iliasik Passage to Captain Mork's license.

Captain O'Hara reported that Captain Stephen Moreno has passed the examination for Bristol Bay and made a motion to amend his license accordingly. Mr. Greba seconded the motion. The motion passed unanimously, it was

RESOLVED to add Bristol Bay to Captain Moreno's license.

Captain O'Hara reported that Captain James Hannuksela passed the examinations for Adak, Aleutian Islands General, Nushagak Bay and River, Togiak Bay, Nunavachak, False Pass, and Port Moller and made the motion to amend his license accordingly. Mr. Sell seconded the motion. The motion carried unanimously, it was

RESOLVED to add Bristol Bay and the Aleutian Islands to Captain Hannuksela's license.

Agenda Item 9

License Upgrades

The Marine Pilot Coordinator briefed the record of Captain JOE HOMER and his request for an unlimited license. Mr. Watt questioned the previous agreement about a disinterested third-party observer as was agreed by the Hearing Officer and Captain Homer and that this application has taken a different direction. Mr. Lorch and Mr. Greba concur with Mr. Watt's question. Captain Collins abstained from the discussion and the vote. Mr. Galloway was not a board member at the time of the last mail vote which was not a quorum responses. The issue was presented to the board as to what to do.

Captain Homer addressed the board as to the Hearing Officer's agreement. Mr. Richard D. Pennington, Captain Homer's lawyer, addressed the board concerning the third-party observer. The Marine

Pilot Coordinator answered Mr. Sell's question as to the completeness of Captain Homer's application and that all requirements for an unlimited license have been met. The fact that Captain Homer will be licensed in two regions is not an issue at this time since this license is grandfather under the old law.

Mr. Amendola responded to Mr. Lorch's question that all the requirements of the hearing officer's stipulations have been met.

Mr. Galloway made the motion to grant Captain Homer an unlimited license. Mr. Sell seconded the motion. The motion carried unanimously, with Captain Collins abstaining, it was

RESOLVED to grant Captain Homer an unlimited Marine Pilot license under 12 AAC 56.030.

Marine pilot coordinator briefed Captain ROBERT WINTER's application for an unlimited any gross tonnage license. Captain Collins discussed the new law old regulations perdictment that Captain Winter is in. Mr. Lorch added that the AG had counselled the board in the past on this issue. Mr. Amendola added that the applicant must comply with the statutory requirements of the new law once you change your license. Captain Collins responded that we didn't use that logic on the last ones, specifically, the changing of a channel license to a 40,000-gross ton license directly. All other pilots in the same situation now want to do the same thing. The case in question is Captain Terry Bennett. Captain Bennett addressed the board that the board gave him his license under the old law and that he had shown wide area experience and sufficient high tonnage dockings. Captain Collins questioned the relevance of Captain Bennett's old law theory when the board actually made the decision to grant this license after the new law was in effect after having repeatedly denied this license under the old law - wants the board to be consistent.

Captain Collins made a motion to grant Captain Winter an unlimited any gross ton license. Mr. Greba

seconded the motion. Under discussion of the motion, Captain Collins again compared the qualification requirements under the new law versus old law and the similarities of Captain Winter's case with Captain Bennett's case. Those who bring their attorneys to the table seem to get preferential treatment. This board hasn't resolved the conflict between the new versus the old law.

Mr. Watt pointed out that Captain Winter still doesn't have three years' experience as a pilot regardless of the type of license he holds. Mr. Galloway questioned if the issue wasn't that the first application was submitted under the old law and this one is under the new law. Mr. Watt concurred. Captain Collins disagreed and stated that application last time was under the new law using the old regulations. Mr. Lorch interjected that the AG has advised that we are to use the old regulations where they apply, except in those cases where they are clearly contradicted by the statute. Mr. Amendola agreed.

Captain Collins stated that 90% of our regulations conflict with the new statute and, therefore, do not apply. Mr. Lorch concurred.

Question was called by roll call vote. Motion failed 2-5, with Captain Collins and Mr. Greba voting for adoption, it was

RESOLVED to deny the application of Captain Robert Winter for an unlimited license under AS 08.62.100.

Captain Collins made a motion that Captain Robert Winter be granted a deputy marine pilot license of 20,000 gross tons. Mr. Watt requested that the motion be clarified to be either a deputy marine license or a 20,000-gross ton license since it was redundant to use both phrases.

Captain Collins modified the motion to be for a deputy marine license. Mr. Lorch seconded the motion. Captain O'Hara asked if Captain Winter has



federal pilotage for the entire Southeastern region, excluding the west side of Prince of Whale Island. Captain Collins responded "No." Captain Winter addressed the board. Captain O'Hara asked Captain Winter if he had federal pilotage license for the entire Southeast Alaska, excluding the west side of Prince of Whale Island. Captain Winter responded: "No, I do not."

Captain Collins interjected that he can't progress under the old law without the new law coming into effect. "So what you are telling him is that we don't have regulations to fit the old that of the deputy license. He can't get there from here now."

A discussion of the board's inactivity and inability to get new regulations in effect followed, with many of the members sharing their views. Captain O'Hara addressed a question to Mr. Amendola that he would accept a 20,000-ton license under the old law and would that be possible. Mr. Amendola responded that his reading of the law was that it was intended that upgrades be dealt with under the new law. All licenses are to be renewed next January and, at that time, everybody needs to comply with the new law. Everybody who has a grandfather license will have to comply with the standards of the new law. His recollection of the legislative hearings - upgrades had to comply with the new law.

Mr. Lorch commented that the most logical thing to do is to give them all a deputy license. Captain Collins stated that, under existing regulations, he is entitled to a 20,000-ton license and we are trying to shoehorn existing situations into the new law format.

Captain Winter added that, when he first got the temporary license under a temporary test, he was given an unlimited tonnage channel license. Six months later, after running all summer on an unlimited tonnage license, you take the test and are told by the board that it is an unlimited channel license. "Three months later, I got a letter in the mail which stated that this falls under the new

regulations and that we will now let you drive only 20,000-ton ships and reduce the license to a 20,000-ton channel license. Going from the new rules to the old rules, I'm not sure what applies anymore. I documented all of my movements and dockings. I didn't do any cheap dockings. It seems to me the board has several problems: one, the docking license; two, the 20,000-ton channel license. Under the present law, you are limited to a 20,000-ton channel license but you have an unlimited docking license. You are limiting people to driving little ships and all of a sudden giving them a license to drive the largest ships."

Captain O'Hara responded that this will be addressed in the training program regulation. In the training regulations, it stipulates that a deputy pilot had have coverage of an entire region. "If Captain Winter does not meet that regulation, then I can't support this license. The training program is the crux of safety."

Captain Collins discussed the merits of not issuing any deputy licenses until we have the program in place and continue to grant step one and two licenses under the old system. The question was called and failed 1-6 with Mr. Greba voting for adoption, it was

RESOLVED to deny Captain Winter a deputy marine license under AS 08.62.093 (c).

Captain Collins made a motion to grant Captain Robert Winter a 40,000-ton step two license. Mr. Greba seconded the motion.

Mr. Watt requested advise from Mr. Amendola inasmuch as that license is under the old regulation and not addressed under the new law. Does this board have the power to issue such a license? Mr. Amendola responded that the board could set up new categories if it wants. It is not inconsistent to have half steps like that.

A short recess was taken. The question was called and failed 3-4, with Captain Collins, Mr. Greba, and Mr. Lorch voting for adoption, it was

RESOLVED to deny Captain Winter's request for a 40,000-gross ton license since there is no provision for such a license under the new law.

Captain O'Hara asked Mr. Amendola if we can grant a step one license under the old law and old regulations.

Mr. Amendola responded with all the disclaimers before hand that "what I believe is correct is that the legislation enacted in '91 . . . set up a system whereby the deputy pilots were able to perform what was used to be a step one license and the marine pilot license could do everything else. What you are asking me is that if Captain Winter does not qualify for a deputy marine license, can you give him a license exactly what a deputy can do but he doesn't qualify for? I think the answer is no. The Legislature intended that, when you upgrade, you upgrade in accordance with the new law. This doesn't fit well with the old way but the answer is no."

Captain Collins: "Then you don't even recommend a step one license."

Mr. Amendola: "That a step one and a deputy perform the same duties and it would be inconsistent with the law to do so."

Captain Winter asked: ". . . a minute ago when asked if I could get a step two, you said that the board had the authority to grant that but now the opinion is that you can't grant a step one. This doesn't make sense."

Mr. Amendola explained that a step two wasn't inconsistent with the law. I didn't say that you were qualified or not."

There is no motion on the floor and no new motion was forthcoming.

Marine Pilot Coordinator was asked to brief Captain Anthony Chadwick's application for either a step two of not more than 40,000 or an unlimited license

inasmuch as he has asked for one or the other. The same issues apply as the one we just addressed. A discussion followed that the board had already issued a step two license at the November meeting, but that it wasn't effective until April 3, 1992. Mr. Watt viewed the application as an appeal for reconsideration of the unlimited license. The board did not entertain a motion to reconsider the application.

Mr. Galloway made a motion to deny the appeal by Captain Chadwick. The motion was seconded by Mr. Sell and carried unanimously, it was

RESOLVED to deny Captain Cahdwick's request for an unlimited license under AS 08.62.100(a)(3) and 12 AAC 56.045 (b)(1).

The Marine Pilot Coordinator briefed the record of Captain David Grobschmit and his application for a step two license.

Mr. Galloway made a motion to deny the application and Mr. Lorch seconded the motion. The motion to deny was carried unanimously, is was

RESOLVED to deny Captain Grobschmit's application for a step two license inasmuch as there is no provision for such a license under the new law.

Marine Pilot Coordinator briefed the applications of Captain Donald Charles for either a step one or an unlimited license. Captain O'Hara requested to know what his federal license read. TAPE RECORDER FAILED TO RECORD THE SIDE OF THIS TAPE. THE FOLLOWING MINUTES ARE TAKEN FROM HAND WRITTEN NOTES.

Captain O'Hara made a motion to deny Captain Charles an unlimited marine pilot license. Mr. Galloway seconded the motion. The motion carried unanimously. it was

RESOLVED to deny Captain Charles an unlimited license under AS 08.62.100(a)(3).

Captain O'Hara made a motion to grant Captain Charles a 40,000-gross ton step two license. Mr. Sell seconded the motion. The motion failed unanimously, it was

RESOLVED to deny Captain Charles a 40,000 gross ton license inasmuch as there is no provision for such a license under the new law.

The Marine Pilot Coordinator briefed the request for Captain Calvin Cary for an unlimited license. Mr. Galloway made the motion to deny Captain Cary's request and Mr. Sell seconded the motion. The motion to deny carried unanimously, it was

RESOLVED to deny Captain Cary's request for an unlimited marine pilot license under 12 AAC 56.027, 12 AAC 56.030, and 12 AAC 56.045(b)(1).

The application of Captain Kellogg was deferred.

Agenda Item 11

Report on Governor's Task Force on Boards and Commissions.

Ms. Ann Boudreaux addressed the board and briefed the board on the progress of the Task Force. In summary, the Board of Marine Pilots may not be affected by this legislation, but it is the intent of the Legislature that each board must be self-sufficient and pay their own way. Some boards that service a large population of professionals have been carrying the boards like the Board of Marine Pilots that only service a small number of professionals. We are trying to level out.

Agenda Item 12

Assessment Fee and Licensing fees.

Ms. Ann Boudreaux addressed the board and briefed them on the rationale of the amount of the special assessment.

TAPE RECORDER RESUMED RECORDING.

Previous estimate, based on the total number of professional licensed under AS 08.62, was somewhere between \$800.00 and \$1,000.00. This would be needed to cover the cost of this board. Two prior meeting had bumped this from the agenda. Therefore, we needed to go ahead and send out the letters based on what we estimated. We were counting the agents in with the pilots in our estimates. Several agents have questioned this.

In researching this further, we do have an apparent conflict. Agents are not licensed but are registered under this statute. Under regulations 12 ACC, there it talks about license fees for agents. If we leave the agents out, the pilot fee will increase to \$1,000.00. But the agents have seats on the board, the same number as the pilots, and, therefore, share in the board's decisions. We want to be fair and not embroil the board in yet another issue. What was your understanding: should the pilots and the agents be paying the same thing? Two-thirds of the existing agents do not currently have business licenses. Mr. Sell asked how the division arrived at the number of 123 licenses? Ms. Boudreaux responded that that is the number of agents and pilots on the records. The language about agents being licensed versus registered was picked up for the old law. Jennifer Strickler responded that we now have 135 licenses; therefore, the numbers are different.

Mr. Galloway requested to hear from some of the agents. Mr. Watt indicated that the notice talked about pilots and not agents, and your letter was a real surprise to me since it included agents. Ms. Bourdeaux indicated that "the calculations included agents and it was our fault for not making it clearer."

Mr. Watt suggested that the pilot's one-time assessment be in the \$900.00 to \$1,000.00 range and not to include the agents because you can depend upon 105 pilots. Ms. Boudreaux indicated that the figures were off a little because the Marine Pilot Coordinator was not brought on board until February.

Mr. Lorch stated that agents are not tested; there are no state standards, no schools, no requirements of continuing education. What public service we might be performing may be interesting, but it is beyond the purview of this board to handle. It began in 1978, the last time we had an audit. Pilots and agents were fighting over tariff. Agents were registered because pilots were.

Mr. Galloway declared a conflict of issue because he is too close to the budget issues. Mr. Watt responded that the statute puts the commissioner or his designee on the board and disagrees with any conflict. Captain Collins stated that he should be able to discuss and vote. Captain O'Hara questioned if agents were bonded. Mr. Watt responded not for any purposes of the state. Captain O'Hara stated that agents order pilots for ships and, if an agent gets around the compulsory pilotage act, what is the recourse of this board. Mr. Lorch responded that any action would go against the owners. Mr. Lorch described the record keeping requirements of an agent but they answer to the owners.

Ms. Boudreaux stated that we have no means to take the registration away from an agent. Mr. Watt asked about the employees and owner of a business and who needs a license. To be discussed later.

Captain O'Hara asked what was the agent's current fee. Ms. Boudreaux responded that it was \$60.00. Captain O'Hara said it was the ship owner to pay for this board. Mr. Lorch said pilots have a tariff, but agents absorbed the overhead costs. Captain Collins quoted the law that "a person is the entity that is licensed and not the corporation and every person that goes out on ships should pay the agent business license."

Mr. Bill Sharp, on behalf of Southeast Stevedoring, addressed the board: "Anyway you look at it, industry will be looked as a cheapskate. There never was an indication that agents would pay an assessment fee. This is the Board of Marine Pilots. Agents are not regulated; while we may benefit from the industry

they serve, the pilots should pay the fee. Southeast Stevedoring would be willing to pay a lesser amount, but not in the realm of \$800.00."

Mr. Lorch asked if his company spends a lot of money attending these meetings. The response was: "Yes and by law, I can't pass these on as an expense to our customers."

Mr. James Blackmore of Alaska Maritime addressed the board: "Do you turn vessels away if the agent is not registered? No, not once the ship is enroute. The economy of agents fees would not cover a large assessment."

Mr. Galloway made a motion that we continue with \$805.00 assessed to the marine pilots and that the Division of Occupational Licensing would absorb the shortfall. Mr. Greba seconded the motion. Ms. Boudreaux indicated that it would be a \$14,000.00 shortfall or we would rebalance that the division would own up to making the error. The motion carried with Captain O'Hara opposed, it was

RESOLVED to not assess the agents and to keep the pilot one-time assessment at \$805.00.

Ms. Strickler asked for guidance from the board if pilots refuse to pay the one-time assessment. Captain Collins stated that this board has not done its legislative mandate and the pilots are wondering why they are paying \$805.00 for and the board better put some teeth into this.

Mr. Galloway commented that, when you change a statute and it leads one law to a new law, it does not go as smoothly as it looks on paper. "My examination of what this board is doing is that everybody wants to move forward and, as long as we bring up what we haven't done, it takes time away from doing. The board will be better served and Alaska will be better served if we move forward. If any pilot doesn't understand the necessity of the board and doesn't want to pay, is saying that he doesn't want to be a pilot."



Mr. Galloway made the motion that, any pilot who has not complied with the request of the board for this one-time assessment by June 30, 1992 of \$805.00, his license would be suspended until he does comply. Captain Collins seconded the motion.

Captain Collins wanted interest and penalties. It was decided that there would be no additional monetary penalty assessed for late payment of the assessment.

The Marine Pilot Coordinator requested guidance on the process to suspend licenses on July 1, 1992. Mr. Galloway responded that the intent of the motion is to advert protest of the pilots. Mr. Lorch doesn't think we need a regulation. The motion passed unanimously, it was

RESOLVED that pilots who do not pay the one-time assessment fee of \$805.00 by June 30, 1992 will have their license suspended as of that date until such time as they do pay the fee.

Captain Collins made a motion that, if the assessment fee was not paid by December 31, 1992, the license would not be renewed. Captain O'Hara seconded the motion. The motion carried unanimously, it was

RESOLVED that pilot licenses would not be renewed on December 31, 1992 for pilots who did not pay the one-time assessment fee.

It was decided that the agent issue should be addressed before the biannual renewal period to insure that all agents were registered and had business licenses. Ms. Boudreaux asked for the board to make a decision on the annual fees for pilots and agents. Ms. Strickler addressed the spread sheets and the logic for the numbers. The fees for testing and upgrade fees were discussed and addressed by the Marine Pilot Coordinator. Mr. Galloway recommended that the subject be deferred until Mr. Amendola can address the issue. Mr. Watt tabled the issue.

Agenda Item 21      Recessed

The board recessed at 4:30 p.m. until 8:00 a.m.,  
Wednesday morning.

WEDNESDAY, APRIL 15, 1992

Agenda Item 22      Reconvene/Roll Call

At 8:03 a.m., Mr. Watt called the meeting to order.  
All were present, with the exception of Mr. Sell.  
Mr. Sell arrived during the discussion on how public  
comment would be conducted.

Agenda Item 24      Public Comment

Captain Robert Winter addressed the board. Captain  
Winter requested reconsideration on yesterday's  
decision to deny his 20,000 gross tonnage license.  
Only three people are caught in this catch 22 - AG's  
office opinion was that the deputy pilot license was  
the same as the 20,000 gross ton license; therefore,  
you couldn't issue one. "My understanding is that a  
deputy pilot license requires you to have a marine  
pilot on board with you for three years. I think  
there is a difference. I would like to know what the  
rules are. It is very expensive to get these  
dockings in. The dockings are only good for a  
two-year program and the deputy program is a  
three-year program."

Mr Jim Wright, SWAPA. "Wanted to review the SWAPA  
tariff increase purposal. Pilot station changed  
after the EXXON VALDEZ situation. We renegotiated  
the tariff upon that occasion. We used Valdez as the  
base. Used computer to generate times, included  
preparation time. We have worked this out with  
industry. Want parity between the regions. This  
process that we have been forced into has actually  
worked out very well. We have worked with industry  
and come to agreement on a working tariff. We  
probably will not reach the maximum tariff by the end  
of this period and we will not be receiving the  
maximum tariff."

Mr. Wright was joined at the table by his counsel, Mr. Steve Yoshida. Mr. Galloway questioned if the SWAPA had provided the IRS information that the marine pilot coordinator had requested. Mr. Wright indicated that they had not since they were having a problem with target income. Want to know what the board was going to do with the information.

Mr. Yoshida indicated that "the right of privacy in Alaska is protected unless there is no other less obtrusive manner to get the information. Still want to know what the purpose is for. Would like to cooperate as much as possible. Pilots work different schedules and length of times, individual information may not give you what you want. The pilots have, in the past, requested that this information not be released by the association."

Mr. Galloway responded that the information was to be used to compare salaries with other ports so that Alaska pilots are compensated equal to or more than others. The confidentiality will be kept. Mr. Yoshida commented that revealing pilots income gives away one side of the argument in a price negotiating system. Competition is the safety valve in this system.

Mr. George Plenekoff, representing the City of Saint Paul, gave a history of Saint Paul and the Aleuts and the fur seals. He discussed the federal regulations pertaining to the fur seal and the subsistence taking of them. "After 1985, the federal government of the United States shall assist the islanders with an economy that was not dependent on fur sealing. Put all their resources toward the development of a boat harbor. This transition involved two or three generations in our attempt to become competitive. None of our people own any boats there nor do we have any licenses. It is impossible to subsist off this island that is why we did not live there before the Russians transported us there. Now the Alaska Marine Pilots define the Pribilof Island weather conditions and its extremes. We protect this environment and spend our own money to do this. Reading from AMP memo that economics cannot enter into the decision of

compulsory pilotage. If this is the case, then you may have to designate all waters within three miles of the coast in Alaska compulsory pilotage area. There is already a pilotage area in the bay and the vessels are parking outside that line to avoid the expense. They want you to make their yard larger. We need the industry to be there. Many people work in the fishery related industries. AMP is threatening that the federal government has the authority to do this if the state does not. We never benefited from this industry because it is too expensive. Only benefit so far is to be gas station attendants. The state pumped in \$60 million into this harbor. The chances we are taking are too great. There are no navigational hazards. There is only one foreign hull on our beaches. We rescued the people of that vessel and we continue to risk our lives to support this industry. The added expense could push industry out of the area. Saint Paul hires about 60 people in this business. Presented three options that there be no pilot zone, with the zone already in place, that there be no additional designation, that the state needs to do a cost analysis before designating."

Mr. David Millen, AMP's lawyer. Pribilof Islands. "Economic considerations that this board can take into consideration, there will always be an economic impact. Safety is the only issue to base such a decision. Having a port has economic impacts. If all they are coming to tell you is that it will cost money to have pilots, it is inappropriate. We are considering the proposal of having a three-mile compulsory pilotage zone around all the islands but will address at a later date. Weather information was presented by the U.S. weather service. The people out here may know their waters but the foreign master that come into these water do not. We suspect that the three miles is the correct limit. It depends on the depth of the water. We know there will be an economic impact but the fleet is experiencing hazards of docking and undockings."

Captain Anderson joined at the table. "The business that takes place here is the same in all these bays, but there is only compulsory pilotage in one of

them. There is a significantly amount of traffic in these areas. Several weeks ago we had the most recent accident where a vessel almost sank and, if it did, the state would have to answer. A large percentage of last year's revenue went elsewhere this year for other reasons. If Saint George can have the option of having pilotage or not why can't another port to make their port more attractive. Trampers will stay there for a month load and unloading. The vessels have little or no experience in these waters."

Mr. Watt asked if it were possible for a Pribilovian to become a pilot. Captain Anderson said, "Yes, they would welcome that, but it is a long process."

Mr. Millen addressed emergency licensing regulations. The board may want to make an emergency regulation which states that, until there is a new regulation, the board continues to issue license under the old regulations. 12 AAC 56.230 amendments, as discussed in the March meeting, were discussed. The changes were noted and added to the regulation: 12 AAC 56.990, Definitions discussed.

Captain Mork presented definitions for "stand-by" and "on duty." A discussion pursued about stand-by waiting for a ship in a port away from your dispatch station. To be resolved in the public comment on the regulations. AS 08.62.157(a) states that a person licensed under this area has the primary duty to safely navigate vessels under the pilot's direction and control - legal principal developed states that the master always has control of the vessel but the statute states that the vessel is under the pilot's direction and control. "I think this is a grey area, this is not assisting. You are either directing and controlling or you are not."

Mr. Lorch suggested that AG take a look at this because, if so, the pilots should be servants of the state and the state takes liability and there is a large area since this will be without the master's consent. Captain Collins added that direction and control means you have the conn, and you have it only as long as the master lets you have it.

12 AAC 56.021(b) omissions from the original language. Language changed to the original language. Discussed the disagreement with the AG's office on the interpretation: anti-trust definition and application to 12 AAC 56.021(c). There has been no analysis from the AG's office on the anti-trust. Mr. Watt deferred until Mr. Amendola was present.

Mr. Douglas Donegan, Trident Seafoods. "No compelling case has been presented to support the need for compulsory pilotage in Pribilof Islands. We have operated there for over six years and only minor scrapes on occasion. You may not be able to factor an economic impact but they can be used to require a higher standard of proof that pilotage is needed. You need a thorough analysis - processors have a choice to relocate and fishermen will have to make a longer run and vessels will be lost and communities will suffer. Our vessels have limited capability to hold products. Must off load product efficiently without obstacles or we can't operate there. Adding pilotage will complicate this and cause delays plus produce economic disincentives. If imposed, we will relocate our vessels; if this happens, then the government has gone too far. The agreement that we agreed to last time now is being again reviewed."

Captain Douglas MacPherson, ACP. Qualifications for pilots. "Systems of the past created what we are today. They are well-understood. Keep pilots under the same rules that they started with. Upgrading licensing would be under the same rules giving clear direction to all. This would clean up the transition phase and then we can proceed to the deputy marine licenses with clear understanding."

Mr. Elwood Peterson, ISS, Pribilof Pilotage Issue. "I thought we had a deal last time and we compromise last time and we were asked to live with it. How long do we live with it this time? Is it possible to come to some decision that will last for some time? I want to reiterate what was said in January. You are running all over the place. They already pay \$40.00 per ton more because it takes a long time to get a full load. Can't stay alongside because of the

weather. It is already a logistical nightmare. Economic impact is a byproduct of all this and it is a matter of survival in the marketplace that we would have to move. If the pilots get their three miles, I guarantee there will be no work for them there."

Mr. Watt answered that it was not possible to give a length of time on the agreement. Discussed \$5-6,000.00 per movement if a larger tug was there. Have to go up a class in tug because existing tug is too small. Right now, it is \$1250.00 per movement in the bay for the tug, plus running time and tug assist. That will go up. There is no win here.

Mr. Mike Stone, SWAPA. Cross Licensing. "The Cowper study said that the pilots were covering too wide an area. At this time we seem to be ignoring this. Most pilots are opposed to cross region work. We take pride in the fact that, when we train a pilot, he has seen everything that happens in our area. They may think the training is too long, but I can assure you they have seen everything in our area."

Mr. Richard Garay, SEAPA. Proposed Maximum Tariff for Southeast. "This correctly reflects compensation for the vessels that we pilot. It is comparable with other westcoast tariff; it is simple and hope the board will consider it. On regionalization, any crossover allowed will cause all pilots to cross over to compete. My pilotage area is already greater than another place in the world. Do you really want me to undercut the year round service with seasonal work? This was tried immediately prior to statehood; it didn't work then and will not will not work now."

Mr. Bill Swan, SEAPA. Requested reconsideration of the decision of the people that requested upgrade yesterday.. A severe injustice to them to change the system; it needs to be rectified.

Mr. Dan Grausz, General Counsel for Holland American Line. International Organization of Master Mates and Pilot's letter to deck officer of the AMHS. "We have had to sit through two years of competition and it has been very ugly. This letter stunned us. For

state employee to get involved in the matter. SEAPA statement that they are not involved is hard to believe. These letters just do not get written. I don't think the unions go around writing these letters unless requested."

A follow-up letter from Captain Scheppe was read in its entirety. Captain Collins owes the board an explanation. I believe the SEAPA needs to explain to the board how threatening state employees with their jobs promote pilotage. The ultimate need of this board is to promote safety.

Captain Jeff Pierce, SWAPA. Tariff Proposal. "SWAPA isn't entitled to reveal its member's K-1 forms. These are private privileged information. Statute states that the board can audit pilots, but it doesn't state income. Pilot's share income has no bearing on pilot compensation. Pilots work different numbers of months there; their income will vary. Maximum tariff is based on based tariff, this is what we have given you. Maximum tariff isn't based on total income. The only audit authority this board has is to audit to determine if a pilot or pilot organization is gauging or charging more than the authorized tariff. Non-SWAPA pilots make vessel movements in our area; therefore, there is competition. Why is the department asking for private income information from one licensed sector and not another? We are asking for a 9.7% increase across the board, increase for all areas, except Cook Inlet which is out or cynic with the entire westcoast. To use a gross income comparison isn't appropriate. We will still be below Puget Sound or equal to if accepted as is."

Mr. Bernie Smith, Tesoro Petroleum. "We would like to hear the AG comments on cross-region pilotage. We need competition and not a monopoly. On SWAPA's tariff increase first off, they are asking for a 9.7% increase in cost of living. From 1980 to 1990, the CPI in Anchorage only rose 3.9%. I feel their increase is out of wack. The Cook Inlet increase is almost 300% for 1991; we have already had a 50% increase last year. They say this is a maximum



tariff and they will only charge a working tariff but in our talks with them they say the maximum tariff is the tariff. Therefore, we feel the maximum tariff is the working tariff and it is not competitive. We would welcome other pilot organizations coming into our area. We would ask the board to ask for an audit review; it is due for the pilot associations."

Captain Jim Drahos representing himself. "Came across a memo that alarms me. Each region has unique characteristics. If standard means the same training for every region, we are in trouble if it means minimum for all that is less alarming. Pilot organizations should be the ones to determine the needed training in their area. Familiarization rides being required will be on top of federal requirements and supervised docking. Pilots advising master on pollution laws. If pilots want to be lawyers, they would have been lawyers. I don't think the pilots should be put into that situation of advising master what the pollutions law are; I don't think there will be any pilots. If you are going to do this, then you better give the pilots authority to correct the situations that exist. Cross regions and cross-overs. I don't think this is in the state's best interest to restrict an individual's license. We will be throwing away years of experience."

Captain Bill Swain, SEAPA. "Distress and embarrassed about the ferry situation. SEAPA has no involvement as an association in this matter. I don't know any of these men and never talked to them. I can't deny that we are union members, but there has been no covert or overt action by us. We are criticized by our competitor for everything we do, but, if they do something, it is OK. I don't think there is any apology necessary. There are enough licensed pilots in the SE to take care of the vessels without the use of the ferry personnel. In the past, we have used them to ease the load. But they are state employees and subsidized by the state and federal governments and you wonder why they are involved in the state pilotage. We may have to say that the ferry people stay on the ferries and the pilots do the piloting.

Question asked as to when the ferry people were doing this piloting on their off time, on their vacation time. Isn't that time to relieve their stress, etc." Captain Swain couldn't address. Mr. Sell asked to get this out into the open and would like to know more about this.

Captian Creasey, SEAPA. "I find it very distressing to have someone get up at this meeting who represents the cheapest kind of foreign labor and attacking a well-established American system and chastising American labor rules somehow that is unamerican and foul."

Mr. David Millen - to resume the discussion on cross regionalization. Mr Amendola has returned. "But, first, on the Pribilof, we did not reach a compromise last time but simply determined what is already pilotage water, no new pilotage was created. As for a deadline on issues, the answer to that is no conditions change and it is the board's job to respond to these changes. I am distress that the people who oppose this haven't had time to put together factual arguments. I have a copy of a letter of the attorney who represents the City of Saint Paul dated March 19 that deals with this issue. They have had ample time to put together their arguments. I suggest that the Marine Pilot Coordinator go out there to gather information. Cross regionalization - the AG's office argument that section 021(c) is anticompetitive. The statute is very clear on this. There must be a violation in the board's action in the anti-trust laws. There has been no indication as to what that violation has been. If, in fact, there is no legal basis that the regulation is anticompetitive, then the argument fall apart. There is nothing about the AG's opinion that binds the board. We'll go and talk to the Lieutenant Governor about it. I urge the board to let this regulation go forward. It is the state's interest to be served to let a pilot pilot in more than one region? - and it is a determination that is to be made on a case-by-case basis and not by adding another licensing scheme. If you do that, you are not changing the law. The language of the statute

sets up a presumption against cross regionalization. Pilots shall not be licensed in more than one region unless - and then the exception comes into place. The pilots will cherry pick between the two regions and it will be only the interest of the few pilots and industry that will be served and not the state's. The Governor's commission made it clear that the regions were too large. To spread pilotage over two region will dilute this exprience. The board has broad authority in this matter and it is my opinion that the board alone can make the determination that cross regionalization is not necessary. This whole act is anticompetitive. We can't pretend that pilotage if a free market enterprise. It is not. We want the pilots to serve the out-ports all year whether they are profitable or not. They will set their tariff so that there is compensation for this. If we allow cherry picking, I believe there is serious consequence to safety. It must be in the state's interest to allow a pilot to work in two regions.. This board must make the decision on a case-by-case basis."

Mr. Bill Sharp, Southeast Stevedoring. "This previous subject was a very heatedly debated subject at the time of the legislation. I sugest that Mr. Amendola spend some time and educate the board on the committee hearings. If there was not specific language expressing anti-trust, something like this would happen. It was the intent to allow pilots in certain circumstance to not be restrained from piloting in a second region just because there was someone else piloting there."

Captain Larsen, AMHS. "The history of the SEAPA has been to utilize the Alaska Ferry officers to supplement the seasonal influx of vessels. This was never a problem until ACP's inception; now, it is a problem. The fact is most the SE pilots got their training on the ferries. This is good. It seems to me it would be bad to destroy this. We want to maintain that relationship. We go around here 365 days a year to all the ports in Alaska. It is essential for a well-rounded pilot to do this. You can't buy this kind of experience. I have been told

that there isn't enough pilots to handle the work. We do take our vacations and do rest but use this to make an extra buck. Working at a state job isn't that much. I would like to see our relationship continue on an even keel."

Agenda Item 13

Reviewing Bylaws and Articles

Mr. Watt asked Mr. Amendola if all the pilots' organizations have submitted their bylaws, articles, and operating instructions and if there were any legal problems with them.

Mr. Amendola states: "For the most part, there are only a few small problems and I would like to take them one at a time. AMP in all respects conforms to the statutes and standards that will be affective. SWAPA also conforms. ACP also conforms. SEAPA's needs some minor changes. I have met with them and they will make the necessary changes. Because the regulations regulating this do not become effective until May 14, 1992, I propose that a motion-approved recognition of each pilot organization and the approval be effective when the regulation are effective. A teleconference to ratify this can be held at that time."

Mr. Amendola suggest that a motion for each organization must read: "The board approves the recognition of the pilot organization effective date of the approval to be the effective date of the regulation May 14, 1992."

Captain O'Hara moved the motion for AMP. Mr. Sell seconded the motion. The motion passed unanimously, it was

RESOLVED to accept Alaska Marine Pilots & Dispatching Service's bylaws and articles as submitted.

Mr. Lorch moved to accept SWAPA's bylaws and articles as submitted. Mr. Sell seconded the motion. The motion carried unanimously, it was

RESOLVED to accept Southwest Pilot Association's bylaws and articles as submitted.

Mr. Watt suggested that the board go into executive session to discuss the involvement of Captain Collins, and the union versus the Alaskan Ferry situation and resulting letters.

Mr. Lorch moved to go into executive session and Mr. Sell seconded it.

Mr. Monkman interjected that the Ethics Act prohibits Captain Collins from participating because of his financial interest.

Mr. Amendola invokes client lawyer privileges and needs to hear for his client before he can provide advice. Captain Collins is opposed to doing this in executive session. "Am I going to get written accusation and they are to be dealt with in executive session? It is getting hard to deal on a professional level; I cooperate to my fullest extent."

Captain O'Hara asked why we need to be in executive session. Mr. Amendola said that, once he has heard what this is about, it can then be addressed openly.

Mr. Lorch made the point that, of all the issues, this one action is important; a pilot trainee is no longer training because of this. The why and wherefore of all of this is very important.

The motion passed 6-1, with Captain Collins opposed. The board went into executive session.

The board reconvened at 1:00 p.m. to resume discussion on Agenda Item 13.

All members, with the exception of Mr. Sell, were in attendance.

Mr. Watt suggested that Captain Collins abstain from the discussion and vote on the Southeast Region associations.

Captain O'Hara moved and Mr. Greba seconded to accept Alaska Coastwise Pilot Association's bylaws and articles. The motion passed 5-0, with Captain Collins abstaining and Mr. Sell absent, it was

RESOLVED to accept the Alaska Coastwise Pilot Association's bylaws and articles as submitted.

Captain O'Hara made the motion to accept SEAPA's bylaws and articles. Mr. Galloway seconded the motion.

Mr. Watt asked Mr. Amendola if there were any reason for not accepting SEAPA's bylaws. Mr. Amendola responded that, with the amendments when submitted, there would be no problems. The motion passed 5-0, with Captain Collins abstaining and Mr. Sell absent, it was

RESOLVED to accept Southeast Pilot Association's bylaws and articles as amended.

Agenda Item 15

Proposed Changes to Existing Regulations to Comply with the New Marine Pilot Act.

Captain Collins letter addressed many different regulations. Agenda Item 14 was deleted inasmuch as it is all inclusive with Agenda Items 15 through 20a.

Mr. Sell returned.

Captain Collins addressed qualification for a deputy marine pilot. AS 08.62.093. "A mistake was made in the drafting of the law. It says 'not more than' or 'not less than'. We were looking for Coast Guard language on the licenses."

Mr. Amendola responded at 093(b)(5) - there is a similar reference to a towing vessel of not more than 1,600 gross tons. You're suggesting that, in b2, the license should read not more than 1,600. You close the door to the tug boats and ferries. This change would then make it consistent with paragraph five.. Mr. Amendola will look at but if it is a Legislature's error, then it will have to be revisor's bill.

Agenda Item 16,  
44

Renewal Procedures/60-Day Rule

Captain Collins proposes that it was always intended not that you are available for piloting but that you are on board, engaged in piloting vessels subject to this chapter. The definition should be engaged in piloting, can I be engaged sitting in the office, no. The Legislature indicated that thirty days wasn't enough and dictated sixty days.

Mr. Watt clarified the statement - that the recommendation was in AS 08.62.120(4)(a), you add on board and (b) is a total rewrite.

Captain Collins responded: "The board will have to spell out if you fail to get 60 days, the number of familiarization trips required. This needs to be spelled out in regulations. There are areas in this state that a pilot must see at least once a year to be current. Want to use the Marine Pilot Coordinator to work this and give him some direction as to where we want to go. The rest of the board agreed. The board reviewed the suggested language and had no problem with it. Directed Marine Pilot Coordinator to contact the four pilot organizations by region and to give input on the number of the familiarization trips specific by waterway. Come back with port specific number of trips."

Agenda Item 17

Lapsed Licenses

Captain Collins would like to see a specific trip requirement for renewal of lapsed licenses. "AS 08.62.130 will exclude many people from the AMHS because the 60 will drop them out of the program if you don't get 60 days on foreign registered ships to be eligible to pilot. They run the same area I do but would not be qualified. The suggestion is to allow federal pilotage time to account for the requirement of 60 days. The board needs to discuss this. Do you want federal trips to account for state pilotage? The draft language provided by the Marine Pilot Coordinator with Captain Collins' idea inserted for licenses that lapse for less than one year is acceptable."

Captain O'Hara added a concern of the applicability of this lapse license qualifications versus getting an original license and the cross region qualifications.

Captain Collins asked Mr. Amendola if this would circumvent the 60-day requirement. Mr. Amendola responded that he didn't think so because AS 08.62.120(a)(4)(A) and (B) are in the alternative. (A) if you pilot for 60 days you get a renewal, (B) have to prove familiarization trips as an alternative to (A).

Captain Collins suggested that there is another side which says you need area familiarization trips in areas you haven't seen. Direction to marine pilot coordinator to merge Captain Collins' idea and suggested language and solicit public comment.

Agenda Item 18,  
45

Mandatory Employment of a Pilot

Captain Collins suggested that some of the compulsory pilotage lines need to be redrawn - direction to Marine Pilot Coordinator to solicit comment from pilot organizations and agents/industry for comments on compulsory pilotage waters and pilot stations.

Agenda Item 19

Penalties

Captain Collins commented that you need to define when a pilot is available in each of the regions. Regions 3 and 2 have definitions but is missing from region 1. One definition for the state. Need to know the lead time necessary for pilot notification. Direction to Marine Pilot Coordinator to come up with one definition for the entire state - something along the line of what Regions 2 and 3 definition.

A discussion concerning fatigue standards pursued. Direction was given to Marine Pilot Coordinator to look at the OPA-90 standard for fatigue and include it in the regulation package. A discussion on how to get from one type of license to another pursued.



Agenda Item 32

Types of Licenses and Endorsements

Referred to Marine Pilot Coordinator as a future project to be developed.

Agenda Item 33,  
34

Deletion of or Modification of Obsolete Regulations

Referred to Marine Pilot Coordinator to develop as a project. Delete the requirements for references on all but the original application. Concur with the application process as submitted.

Mr. Lorch added that the medical requirements need to be upgraded. The requirement of requiring a drug test for a license upgrade or endorsement is not in regulation. A discussion pursued on what the drug program should be.

Mr. Watt does not have a problem with the state requiring a drug test when a license is changed. Mr. Lorch indicated that a person in a program must have two tests a year and another test will require at least three, speaking statistically.

Mr. Watt polled the board and directed that the requirement to have a drug free certificate for any license change be added to regulation.

Agenda Items 35,  
48a

Dockings and Undockings

Captain Collins recommended a rewrite of 12 AAC 56.027. Wants to add the areas that are not currently tested for by the Coast Guard to this list. Project given to the Marine Pilot Coordinator to develop.

Agenda Items 36,  
37, 38, 39,  
40, 41, 42,

Direction given to the Marine Pilot Coordinator to draft regulations for the board review to in effect have steps within the deputy marine pilot license and the marine pilot license - a 20,000 gross ton license is equal to a deputy license, and the 60,000 gross

ton is the unlimited license. Between these, a step of 40,000 and/or 50,000 in the western region needs to be created. Only allowed one hole in each applicant's federal license before he gets an state license, therefore, you will not have a lot of endorsements.

Captain O'Hara questioned if the 75% passing score is adequate of the state test. This is in regulations and can be changed. Marine Pilot Coordinator to make a recommendation as to a more appropriate passing grade for exams: 80-85.

Agenda Item 43 Waiver of License Requirements

Captain Collins suggested that this needs to be deleted.

Agenda Item 48 Pilot Stations

Captain Collins: "Point Retreat and Sitka pilot stations need to be discussed and relocated. Sitka station was moved because of the limited capability of the pilot boat."

Pilot coordinator directed to draft regulations for the board review to relocate the Sitka pilot station. Mr. Lorch questioned the wisdom of moving this station once again. Captain Collins spoke to the hazards in the area. Mr. Sell asked about the run time to the dock.

Agenda Item 20 Pilotage in More Than One Region

12 AAC 56.021 was rejected by the Attorney General's office. Mr. Watt gave a summary of the history of this article. Mr. Amendola discussed the background. Recommend that (b) reads: "or does not seek licensure."

Captain Collins made a motion to delete 12 AAC 56.021(b) in its entirety. Captain O'Hara seconded the motion. The motion failed 3-4, with Captain Collins, Mr. Galloway, and Captain O'Hara voting in the affirmative, it was

RESOLVED to not delete 12 AAC 56.021(b).

Captain O'Hara made a motion to go back to the original language which will be "each exemption addition or endorsement to a marine pilot license must be identified on the license." Mr. Sell seconded the motion. The motion passed 6-1 with Captain Collins opposed, it was

RESOLVED to amend the language of 12 AAC 56.021(b) to read: "Each exemption, addition or endorsement to a marine pilot license must be identified on the license."

Mr. Amendola commented on 12 AAC 56.021(c): "My opinion and the AG's office is that this language will inhibit pilotage in more than one region, and does not conform to the statute and, if the board does approve it, it will be disapproved by the AG's office. The reason given to allow pilotage in more than one region is that there is not enough pilots in the other region. Therefore, you will not license anyone under this scheme. If you did need someone in another region, it would take so long to get someone qualified that there will be in effect no one available to pilot. The AG's office is not in favor that anyone can pilot anywhere. We feel that the board can set up a closely regulated circumstances whereby this can be accomplished. The Legislature was clear on this."

Captain O'Hara made a motion to submit 12 AAC 56.021(c) as written. Mr. Amendola suggested that it must be readopted here because it was deferred to this meeting. Captain Collins seconded the motion.

Mr. Galloway suggested they may be licensed in more than one region at a time if the board determines that there are insufficient pilots, etc.

Captain Collins suggested that (c) can then be circumvented if this is approved because he would have to be under an organization approved to be there.

Mr. Lorch: "The regulation has to be read in its entirety. If there is only one recognized organization in an area, then a monopoly in an area is OK."

Captain O'Hara responded that, if a pilot organization refuses to accept an individual and to train, they can lose their recognition. It takes ten months to train a pilot who already had a VLCC endorsement on his license from another area.

Mr. Amendola insured that the Deputy Attorney General and may be the Attorney General to personally review this.

Captain Collins offered an amendment to the motion to read: "A pilot may not be licensed in more than one region at a time unless the board determines that members of the marine pilot organization or organizations of that region recognized by the board under AS 08.62.175 do not have or the board anticipates that they will not have a sufficient number of qualified pilots to provide the kind of pilotage in the region that will . . . ."

The vote to include this phrase passed 6-1, with Mr. Lorch opposed, it was

RESOLVED to include the phrase "or the board anticipates that they will not have" into the existing article 12 AAC 56.021(c).

The vote on the main motion to pass 12 AAC 56.021(c) as now amended to the Attorney General's office. The motion carried 6-1, with Mr. Lorch opposed, it was

RESOLVED to approve 12 AAC 56.021(c) as amended.

Captain Collins made the motion to adopt 12 AAC 56.021(a) as submitted. Captain O'Hara seconded the motion. The motion carried unanimously, it was

RESOLVED to accept 12 AAC 56.021(a) as drafted.

Agenda Item 31      Pribilof Islands Pilotage

The City Administrator of St. George, Mr. Richard Wilson, addressed the board via speakerphone. Restated the position of the City of St. George that was presented to the January board meeting. "New Harbor at St. George has placed the island under an economic transitional period - remote site with additional cost to industry - harbor is not in a natural harbor location, weather is a significant consideration; is not a permanent port yet; always facing new competitive challenges; must be cost competitive to survive; present proposal is not called for; can't get planes in or boats out to ships with reliable schedule; not convinced as to the need of pilotage. Without a demonstrated need, we cannot support this proposal at this time."

Mr. Wilson remained on the speaker phone for the remainder of the discussion. Correspondence on the subject was reviewed by the board.

Captain O'Hara made a motion to extend the compulsory pilotage water to three miles around the Pribilof Islands, St. George, St. Matthew, and St. Paul. Captain Collins seconded the motion.

Captain O'Hara commented: "The fishing industry, as a whole, operates in an unsafe manner throughout Alaska. Given their safety record, I don't think we can rely on them to guarantee safety. It is incumbent on the board to make that decision."

Mr. Galloway added: "Two fishing companies have stated that they would no longer go into this area if this is passed because it would be cost prohibited. Given the comments of those who live in the area that I must personally consider the economic impact."

Captain Collins is not satisfied how the logistics of moving the pilots to and from the vessels will be accomplished.

Mr. Sell added that the pilots would stay on board the vessel for the season but, basically, you are in an open ocean environment.

Mr. Lorch referred to Senator Zharoff's letter as addressing all the points, plus the fact that processing vessels are exempt from pilotage. "I have personal doubts that the state regulates dockings."

Mr. Galloway added: "Comparing this area to other other areas of Alaska is impossible. Given that and the economic constraints, I personally urge everybody to think real carefully."

Mr. Sell added: "When weather is up, you don't come close in - you are not going to do this when you have significant weather."

The motion was called and failed 2-5 with Captain Collins and Captain O'Hara voting for. Mr. Wilson terminated his phone call. Mr. Galloway departed for another commitment, it was

RESOLVED not to extend the compulsory pilotage waters around the Pribilof Islands.

Agenda Item 20a

12 AAC 56.990 Definitions

"Laying to"- Mr. Lorch commented that the definitions had not had public comment submitted.

Mr. Watt replied that the public had the opportunity to comment earlier in the board meeting.

Mr. Amendola remarked that we were working under the assumption that the meanings were clear and not debatable but, if that is not the case, then them must go through the public comment process.

Mr. Watt read the definition: "Laying to means the temporary interruption of a vessel's transit for some special purpose that stops, but does not anchor or moor the vessel." The board was polled and there was no dissent concerning the definition.

"Movement"- Captain Collins was concerned that the definition was too broad and Captain O'Hara concurred.

Captain Collins suggested "Movement is a docking or undocking, a transit to or from a pilot station, coming alongside an anchored vessel, or anchoring a vessel."

Captain O'Hara wanted to add after vessel "or hauling ship."

Mr. Lorch questioned hauling ship as an item not under pilotage.

Captain Collins moved to include "hauling ship" in the definition. Captain O'Hara seconded the motion. Mr. Lorch suggested that these definitions go out to public comment. All agreed.

"On duty"- Captain Collins has a problem with "on the bridge." Mr. Sell wanted it to be simply "having the conn." A discussion ensued as to case law and the relationship between the master and the pilot.

Mr. Watt suggested that the definition read: "On duty means on the navigation bridge of the vessel and having control of the vessel, or assisting the master or navigation officer."

Mr. Amendola suggested "on duty means being on the navigating bridge of the vessel and having control of the vessel, or being on the navigating bridge of the vessel and assisting the master or navigational officer."

Mr. Lorch still wants this to go to public comment. Captain So moved, Mr. Sell seconded, all in favor indicated by voice vote. No dissent.

"Standing by" - Mr Watt read the definition as submitted: "Standing by means the time during which a pilot is dispatched to a vessel and is waiting to go on duty to perform pilotage service; stand by time may be accumulated on board the vessel or on shore if the vessel's owner, master, or agent has scheduled a pilot to be available for pilotage duty."

Voice vote carried unanimously, it was

RESOLVED to accept the definitions of "laying to," "Movement," "on duty," and "standing by" as amended.

Agenda item 24a 1992 Maximum Tariff for Southcentral Alaska Region

Captain O'Hara made the motion to accept 12 AAC 56.220, Maximum Tariff for South Central Alaska. Captain Collins seconded the motion.

Captain O'Hara suggested that subparagraph (r) be deleted. Subparagraph (u) was amended - if notice is not given as required. Once passed, these regulations will go to the Lieutenant Governor's Office for signature.

Mr. Watt called for the motion as amended by voice vote. The motion carried with one dissent, Mr. Lorch. Mr. Galloway returned, it was

RESOLVED to accept 12 AAC 56.220, Maximum Tariff for Southcentral Alaska, as submitted.

Agenda Item 24b 12 AAC 56.230 1992 Maximum Tariff for Western Region

Mr. Watt reviewed the changes that were suggested earlier in the meeting. Mr. Sell made the motion to accept and Captain O'Hara seconded the motion.

Mr. Galloway asked if AMP had provided the information requested by the board on IRS K-1's. Marine Pilot Coordinator responded that they had.

Mr. Watt called for a voice vote and the motion carried 6-1, with Mr. Lorch dissenting, it was

RESOLVED to accept the South Central Region Tariff as amended.

Captain Collins moved that a new regulation be inserted under general provisions "that it is the pilots prerogative to use or not to use a tug boat(s)." Mr. Galloway seconded the motion.



Mr. Lorch and Captain Collins discussed the need for this language and the problems of competition between pilot organizations that is the driving force of the economics that requires this language.

Mr. Millen addressed the board with the logic and necessity of having this language in the regulations since it was taken out of the tariff regulation.

A discussion followed as to the consistency of passing 12 AAC 56.220(o), which is a tariff for not using a tug if one is available, and 12 AAC 56.230(n), which has similar language and the spirit of the proposed motion.

Captain Jeff Pierce addressed the board and stated that this language has been in effect since day one but it has never been charged. It is just another house cleaning thing.

A voice vote was called for and the motion carried unanimously, it was

RESOLVED to insert a regulation that states: "It is the pilot's prerogative to use or not to use a tug boat(s)."

Captain Collins made a motion to delete subparagraph (o) under 12 AAC 56.220. Captain O'Hara seconded the motion. Motion called by voice vote and carried unanimously, it was

RESOLVED to delete subparagraph (o) under 12 AAC 56.220 from the draft.

Mr. Amendola requested that the board readopt 12 AAC 56.022 transition language now that there is an article that it refers to.

Captain Collins made the motion, Mr. Greba seconded the motion. Mr. Watt called for a voice vote which was unanimously in favor, it was

RESOLVED to approve 12 AAC 56.022 as drafted.

Captain Collins made the motion to delete 12 AAC 56.230(n). Mr. Sell seconded the motion. Mr. Watt called for a voice vote which was unanimously in favor of the motion, it was

RESOLVED to delete 12 AAC 56.230(n) from the draft article.

Agenda Item 25,  
26, 27

Report from the Tariff Panel and 1993 Tariffs

Mr. Lorch reviewed the concept of the panel and the result of the requested information. "Only received one complete answer from the State of Washington and an incomplete answer from the State of Oregon. Everybody has his/her own files, but it was agreed that only information provided by the Marine Pilot Voordinator would be used. The letter requesting the gross income as reported to the IRS was a side note. We waited to receive those results but have not seen them. Therefore, in terms of information, we have little to work with. The discussion drifted off into the medical requirements of other states - 1978 there was an audit and that is a good thing. An example of other licensed professions is the guides in Denali Park whose primary concern is safety and environment . . . the job is to enforce all the regulations without their authority and you pay 2% of your gross income as your license fee . . . there is an audit every year and an evaluation every year . . . if you fail, you lose your license . . . they also control how much work you do . . . this should be considered by this board."

Mr. Galloway moved that, until we have more information from our pilot groups and industry, the 1993 tariff will have to be deferred. Mr. Sell seconded the motion.

Captain Collins objected to the delay since there was information available. "Maximum tariff was just to protect price gauging and most organizations are below that. We have set a price capping and is not relevant since we are not fixing a tariff - just a maximum tariff. There is no requirement that we

respond to all the calls out there . . . I don't see industry coming in with figures that shows the figures were wrong. I think you must move forward now or we will not have enough time because of the process a tariff will not be ready by January 1993."

Mr. Lorch stated that the maximum is the working tariff as stated by the industry members in public comments. It is the board's responsibility to set.

Mr. Galloway stated that this protected industry could and would reach the maximum as in other industries. "How could I vote a 300% increase without more information? I just couldn't do that - we have the right to examine this and I would like to put teeth into the request, to the pilots to show their Kl's. I would vote against the regions that have not supplied the information."

Captain O'Hara stated that the working tariff is well below the maximum tariff.

Mr. Amendola wanted to address the Kl issue: "There are legitimate legal concerns on this matter. One is the privacy right even though I think we can protect that information. Secondly, if the information was provided to the board, you would be held to the same standard of confidentiality, but there are members of the panel that are not under that same constraint and this is a concern; this information probably will not come quickly."

Mr. Watt suggested that the information could be sanitized. "Would the Marine Pilot Coordinator have time to get the information from the pilot organizations and other ports as the panel was attempting to do and coordinate the whole thing and come back with this to the board?"

The Marine Pilot Coordinator responded that he couldn't control getting the information requested from the pilot organizations. The board can audit the organization if so desired. In the information package, there is already tariff schedules for Delaware Bay, Byscane Bay, Sandy Hook, Coos Bay,

Willamett, Columbia River, San Francisco, Puget Sound, Louisiana, Long Beach, and the State of Washington. These are the ones that responded and it is a sampling of around the country, predominantly the west coast. "I don't know what more information I can acquire to satisfy the need for information that would make a difference."

Captain O'Hara stated that his concern was what the board should tell the associations what it want, where it wants to go, and how it is going to get there - and what criteria it is going to use to get there. "If I turn over my K1 and I have no problem doing so, I would like to know the criteria that this information is going to be used against, if we had that information, I'm sure that pilots would comply. Mr. Galloway would like the information because numbers don't lie, liars use numbers and I would like a comparison of the mean, high and the low, and establish a mean for each region and compare that with the mean of other regions. I disagree with the confidentiality of one's employment when they are regulated so closely by the state and the state requires industry to use these people. Any state employee's salary is public knowledge. If we do away with the panel and Captain Luck sanitizes the information and to factor in, how many years do you expect this tariff to last? And factor in cost of living adjustments that are required, I would feel like an idiot if their incomes were already above the standard of the industry and we made this type of an increase."

Captain Collins stated that audits are in the Pilot Act. "Many places have target income for pilots - under a fixed tariff may be somewhere we may want to go. I feel that the board can enforce this chapter. If the other organizations don't give theirs, I request SEAPA's be shredded."

Mr. Amendola: "None of these factors are under the tariff regulations."

Captain O'Hara asked if Mr. Galloway had his K1 tomorrow, how it would be used.

Mr. Galloway: "Not my intent to let Alaskan pilots make less than other pilots."

Captain O'Hara said: "We will not get Kl's from other state's pilot groups - there we have to compare what they give us. There are many expenses that differ between my Kl and a figure given by out-of-state groups."

Mr. Galloway said: "This is a board decision and not any blue ribbon committee. Your sitting on the board can assure it happens."

Captain O'Hara stated the he would personally turn in his Kl but "I can't speak for other pilots."

Mr. Galloway: "When you are regulated as this industry is, you give up some of those rights. You must declare everything you make and own if you are in the exempt core of state government. This is not to embarrass one person or to hurt anybody. How can we make a decision without the information? We owe it to the people of Alaska to know this."

Mr Watt: "Will it be possible to have the specific information or formula for what you want, how you want it, and what the end result will be within 30 days?"

Mr. Galloway responded that it would. The accountants who will be doing this don't need a name.

Captain Collins stated: "The number of months a pilot works are all different, but I still think that the process is a good one. SEAPA gave the information unconditionally, but the information must be sanitized. The Columbia River Bar and Puget Sound are good places to start - the average pilot works five and one-half months and he makes a \$140,000.00 gross, but there some benefits in some programs and not in others."

Mr. Galloway: "To my knowledge, nobody but Captain Luck has seen this information and nobody needs to see it until we have all of it and can compile it."

Mr. Watt directed that the Marine Pilot Coordinator sanitize the information that he has and shred the originals.

Mr. Galloway stated that it was unfair to deal with only two groups. It is a fair request of the Department of Commerce and Economic Development.

Mr. Watt asked Mr. Galloway if he would have this information before the next meeting or teleconference, whichever came first. Mr. Galloway agreed that he could.

The Marine Pilot Coordinator agreed that nothing would be done until the memo was out and direction given.

Mr. Watt stated that the panel was now dead and the Marine Pilot Coordinator was taking over in this matter.

Mr. Galloway stated that he would have his administrative officer and his fiscal officer tell him how they would run a comparison and, if anybody wanted to give him ideas, they were more than welcome. "I may even go to another department to do this."

Captain Collins asked that the department go to departments in other states for the information. Captain Collins called for the question. The motion carried unanimously, it was

RESOLVED to defer this subject and move on.

Agenda Item 49      Recess

The board recessed until 8:00 a.m., Thursday.

THURSDAY, APRIL 16, 1992

Agenda Item 50      Reconvene/Roll call

8:00 a.m.: The board reconvened all members present.

Agenda Item 52      Public Comment

Captain Jeff Pierce, SWAPA, addressed the board concerning drug testing: "Wanted associations to conduct drug testing approved by a federal agency - leary of a separate program created by the state; doesn't want a duplicit effort; already must comply with separate company programs which differ."

Mr. Watt asked of BP, ARCO, EXXON test results could be made available for board use and if he had a problem with that.

Captain Pierce responded that he would have a problem making these results available because they are mandated by law to participate. "I suggest that all the associations should have to do is to prove that they are in a program."

Mr. Watt, Mr. Greba, and Captain Collins departed for confirmation hearings. Mr. Sell became acting chairman.

CDR Rome, U.S.C.G., COTP/MSO Juneau. The Coast Guard requires employers to test people in sensitive positions . . . to be tested randomly. "Half of crew gets tested yearly. At licenses issuing and renewal of license, we do not require testing if you can prove that you are in a random testing program for at least one year. If lapsed, you have to go ahead and get tested, plus, in an accident, you have to get post-accident tested. We look at people in charge of the vessel or on watch at the time."

Mr. Galloway asked if medication people take is a problem.

CDR Rome answered that only designated drugs were tested for all of which are illegal. The system is that it is the marine employer's responsibility to test; lab does analysis, and the individual must list what prescription drugs he is using at the time of the sample taking. CDR Rome explained how the medical review officer, who is in the testing results loop, handles the positive results of a test.

Mr. Lorch explained that he operates a drug testing company and that there is no medical prescription for the drugs that they test for; no known medical use for these drugs with the exception of THC for people going blind and couldn't pilot anyway. Companies test beyond federal requirements, drug testers never receive the comments of the sample giver because they don't want that information in the lab; blood pressure medicine is not a problem.

Captain O'Hara asked if post-accident testing was for both drugs and alcohol. CDR Rome answered "yes."

Mr. Galloway asked if it were blood or breath. CDR Rome answered that it was breath for alcohol and urine for drugs.

Captain O'Hara asked what was the time frame for sampling?

Rome said: "It was a weak part of the regs and we use the 33 CFR Part 95 regs; a law enforcement officer can go on board and get the test; master on large vessels are required to have breathalizers."

Mr. Sell asked: "What authority do you have in a place like Dutch Harbor and on foreign vessels?"

Rome answered: "On foreign vessel, we have no authority, but we provide the information to the host country to take action. If they have a pilot on board a foreign vessel, we will do an investigation because he has a federal license even though he may not be operating under his federal license."

Mr. Sell asked the time it takes to do this.

Rome answered: "The C.G. investigation of a death investigation then the Commandant of the C.G. must approve the file but, if it is not, then the OCMI can approve it. It depends upon the staff and the priorities you have. We have 250-300 investigations a year for each investigator. They get the statements within the first week; we don't hold the vessels up for this. The rest is administrative."



Mr. Sell asked if the Marine Pilot Coordinator had discussed his role with the Coast Guard. He responded that he had and in particular the drug program but not any specific program.

Mr. Galloway asked for data on how long drugs stay in the system.

Mr. Lorch answered that there are companies that can give this information. Urine is as good as blood for these drugs. They can find it in a urine sample if someone has used it in two or three weeks. The limits are what people are willing to spend for the testing equipment. The point is the test will cost \$500.00 instead of \$90.00 and you haven't accomplished anything more.

Mr. Galloway stated that he has received reports of a pilot who is a known drinker and there is no way to monitor that because, at the time he gets off, he is OK.

Mr. Lorch added that alcohol is a food or sugar and can't be distinguished easily; it's .02 an hour. In order to get to 0.10, you have to consume six ounces of alcohol in 60 minutes. So you can have three beers and three shots in an hour and, to stay there, you only have to have one shot an hour because you are losing .02 and then you gain .02. There are all sorts of way to delay the alcohol by foods and then you get a spike, so, when you are breathalyzer trained, you wait if you think that some will spike and then take the test when he does. I think that breath test are excellent, if they are really competent."

CDR Rome stated that the federal lever is .04 but also the law enforcement officer's observations carry as much weight in determining intoxication. If C.G. law enforcement officer request a sample and it is refused, it is just like the state troopers on the highway. If the employer asks and the employee refuses, we never know. Under drugs, we could use that information for suspension and revocation.

Mr. Lorch: The system is pretty full proof.

Mr. Galloway asked how we are going to do this in Juneau and other ports.

CDR Rome: "An important part of this is the random portion. U.S.C.G. does care what you do on your own time since your life style may determine your conduct on the vessel."

Captain O'Hara discussed hangovers and alcohol and the effect on ship handling and asked if there was any long-term effect of THC or coke?

Mr. Galloway responded that it didn't matter they were illegal, but the first thing alcohol does is to impair judgement.

Mr. Lorch and Mr. Galloway discussed the pro and con of testing.

CDR Rome: "I have directed two pilots in the last year to submit to post accident testing and they didn't have a clue how to do it. I look at the associations to provide this direction. The dispatcher should know what to tell the pilot and where to go to give a sample."

Mr. Lorch: "You should avoid medical clinics because their chain of custody is poor. With us, it is our primary purpose."

CDR Rome: "When we send out an investigator, we take sampling kits."

Captain O'Hara suggested that the pilots provide a sample as soon as they go on board.

Mr. Lorch said there was a problem with that and that was human nature because, if you want to cheat, you can cheat.

Captain Pierce advised that requiring any thing more than the required compliance with the U.S.C.G. system is stepping on a limb.

The board disagreed. Mr. Galloway wanted a state-run random testing program. Captain O'hara suggested that the Marine Pilot Coordinator do the random sampling. Mr. Lorch suggested a contract with someone to do this. Captain Pierce stated that we are already spending a lot of money on this and industry will cry if more requirements are added.

Mr. Galloway moved that we should be in compliance with federal regulations, and DOT drug testing and this board proceed to write regulations and determine how we pay for random sample breath tests and do a committee of three or two with the Marine Pilot Coordinator to examine how to put these regulations together.

Captain O'Hara seconded the motion. Mr. Galloway and Captain O'Hara volunteered to be the committee with Captain Luck. The carried 3-0 with one abstention, Mr. Lorch, it was

RESOLVED to adopt DOT, and Federal Regulation drug testing and to develop regulations for random breathalyzer testing.

Agenda Item 54

Physical Fitness

Mr. Lorch stated that the application and medical form need to be reviewed and that there needs to some minimum standards for physical fitness.

Mr. Amendola arrived.

Mr. Lorch: "Our medical form compared to the State of Washington is significantly different. The USN standard is a good state. There are many different ways to get to where you want to go. We should ask the pilots what they want and the state should not mandate down. What should your percent of body fat be?"

Marine Pilot Coordinator: "Get a package from each organization plus other standards. We should also look at the requirements that the doctor attest to?"

Mr. Galloway said we have a state public health agency that could assist in this.

Mr. Watt, Mr. Greba, and Captain Collins returned.

Mr. Galloway made a motion to get physical fitness information and present it to the four pilot associations and get their input on next board meeting. Letter is for Mr. Watt's signature. Mr. Lorch seconded it. The motion carried unanimously, it was

RESOLVED that the Marine Pilot Coordinator would coordinate with the four pilot organizations to provide input to a draft regulation for the board to review at the next meeting concerning physical fitness requirements. The information to be included is the USN standard, Alaska Trooper standards, Washington State requirements, U.S.C.G. requirements, etc.

Agenda Item 52

Public Comment Resumed

Mr. Watt assumed the chair.

Mr. Yoshida was asked to comment on item 55:  
"Liability of supervising pilot who is supervising a trainee not sure under the normal insurance if the pilot is covered if the trainee has an accident. The board needs to look at the supervising pilot who volunteered to train the new pilot."

Captain O'Hara: "In the past, pilots have trained pilots that is how we make pilots. Has this new act changed any of that?"

Mr. Yoshida: "There is a limitation of liability in the statute and that is another question if the trainee has the accident. I'm not sure if that requires a regulation or not."

Marine Pilot Coordinator responded: "There was a conflict in the law in that the law says no one can pilot a vessel unless he is licensed to do so and possibly the law should be modified to include a

trainee but, as of today, the pilot is the only one who can navigate that vessel and, if he is training someone, he doesn't relinquish that responsibility as the person on board who has the authority and, if there is an accident, it is the pilot's responsibility."

Captain O'Hara added: "The training pilot and the trainee are close together and the trainee is being watched like a hawk."

Mr. Watt wants some proof of insurance of the required \$250,000.00.

Captain Collins said: "As a trainee, he never felt as if he had control of the vessel and if there was an accident it was the pilot's. We have pilots right now who do not have 25K and do not have insurance."

Captain Bennett, ACP, commented on audit information: "We want to make sure that the board knows that we will assist and are only concerned with the confidentiality of the information and we will prepare the information now that our questions have been answered. On page 6, #5, experience is required for acceptance. I propose to the board that some identification be made of the Alaska Marine Highway System (AMHS) masters and mates and pilots and designate them officially as a professional pilot organization. They are, in fact, the trainers for new people in Alaska. Most of us get our start there on their nickle. They have always taken an interest in this. I believe we need them and owe them. Cross region - it is our view that the statute does provide for less than an entire region qualification to be able to do cross-region licensing. In access to SWAPA training program, we do not accept this and do not have to go through their training program in order to operate in region two. We will have our own training program for region two and our own training people to do the training. We would like to work with SWAPA. We reserve the right to receive recognition in region two at a later date. Don't think that you can exclude people for economic reasons."

Captain Jim Drahos: "Registered a concern with the board about the pilots submitting their financial information. Just a simple sailor. My income will bring the average down. I'm sure that everybody has the highest principles and everything, but there are leaks in government and we never know who. Don't want the pilots exempt but fairness in competition necessitates industry must be involved. Any comparison of pilot income must be carefully looked at and the pilots should be able to look at this."

Mr. Galloway of the Department of Commerce and Economic Development simply wants information in the same form from everybody. "We want the raw data to work the numbers; do not want names. The people of Alaska will pay the difference. We want the information to make correct decisions. You may see in the papers that pilots make this much because that is public information."

Drahos said the public also has the right to see the other side of the information.

Captain Mareno commented that he sees an increased burden on his income as a pilot because of continuing education, licensing, insurance, drug testing, fees. "They are all good but the impact is substantial and I want the board to keep that in mind when they make decisions on these and other areas."

Mr. Lou Picton - holds a state pilot license:.  
"Everybody needs to work their way through this. It is time to get rational and serve the state's interest. I think we have a real high caliber pilots, not like some other places. The residency requirement is going to be a real chore. I put in six-month sea time without pay to get my license. Anybody who has a federal license is above average. On Tuesday, a number of men were blockaded on technicalities but, an hour before, a man got a license for a port in Alaska that he has never been to and it was valid because it is in the interests of the state to have these licenses after only drawing the chart. But then say to somebody that you need every dog hole in Southeast Alaska in order to get

your license; you are not servicing the state equally. In one hand, you give a guy a free ride on a port and, on the other, you make them jump through every hoop even if you may grow old and weary waiting for a ship to go in there. The state has not done me a favor giving me a license... I am available 24 hours a day to service the state's commerce because I hold a license... I dock ships in the ice at 20-30 below in Cook Inlet and have not nicked the paint once, but you have these regulations that will regulate me out of the business... I'm the guy you want to be licensed. We have had a political fight and now it is time to cooperate; we have churned up this pilotage act because of the EXXON VALDEZ and the accident didn't happen because of poor pilotage."

Mr. Galloway reminded the audience: "When something was in the statute, we are allowed no common sense. That is the way it is. When the legislative body passes a bill and the Governor signs that, we are given parallel lines to walk between. When they get out of these lines, they are in violation of the law. We have no options. Mr. Amendola is here to keep us in the lines."

Captian Pierce, SWAPA: "I just got done hearing a man say he would have his own training program within another region. Is this man's training going to be of a lesser training of the tanker pilots in that region? He could go on the tankers and pilot them. Are we going to issue cruise ship licenses? I really question the fact that, within the regions, you have to know what is happening and the training programs must be set up for what is going on."

Captain Garay questioned the statute and that there must be a human factor in these regulations.

Agenda Item 12

Assessment Fee and Biannual fees

Ms Ann Boudreaux addressed the board: "Concerning the assessment of the pilots, we asked for a resolution from the board as to what to do if a pilot does not pay the assessment. We decided that we would not have penalty and interest on late

payments. If you don't pay it, your license would be suspended until you did pay it, but, if it wasn't paid by the end of the year, the division would not renew the license. I had a question after the meeting on the authority to make that stick, a question for you to consider."

Ms. Boudreaux went over the number and the option of the financial situation in the goal of a conceptual direction since we must go through public comment. "Our next renewal period is January 1993 and it takes six months for a regulation. Is it the intent that the marine pilots and the deputy marine pilots pay the same fee?"

Captain O'Hara suggested that we use the term limited and unlimited pilots.

Ms. Boudreaux: "Do we want to increase the fees for vessel agents?"

Mr. Galloway asked if the Division of Occupational Licensing can set agent fees.

Ms Boudreaux responded: "Yes. It is black and white. A discussion pursued as to agents, corporations, and individuals and their relation to a fee. It looks like individuals to me and not cooperations."

Mr. Amendola responded: "For the purposes of the definition of agent a person includes agents, you may work for and perform the function and the individual may pay the fee."

Captain O'Hara suggested that the agent fees should be raised.

Ms. Boudreaux: "We were trying for consistency between the boards. We are inclined to agree on the examination fee since they should reflect the actual cost of doing it."

Mr. Watt suggested that we change the application fee to \$100.00, the temporary permit to \$100.00, the



extension upgrade to \$100.00, the vessel agent to \$100.00, marine pilot license as is on the form \$2,000.00, and the deputy pilot license at \$1,600.00.

Captain Collins suggested that deputy marine pilots will be getting a 95% share and the \$400.00 difference in the fee is too great a difference.

Captain O'Hara disagreed with that since, in region two, they only get paid what they make.

Marine Pilot Coordinator reminded the board that there were not temporary licenses, and that application fee covered many items such as route extensions, tonnage upgrade and initial licensing. Route extension examinations fees have not been collected in the past.

Mr. Amendola advised that the fees are to cover cost and not sure the cost would be any different between pilots and deputy marine pilots.

Captain Collins said that the agents have equal access to the Marine Pilot Coordinator as do the pilots and the pilots are paying the bill.

Captain Collins made the motion to make the fee \$2,000.00 and other fees \$100.00 each. Mr. Sell seconded it. The motion passed unanimously, it was

RESOLVED to change the marine pilot and deputy marine pilot fees to \$2,000.00 biannually and the application fee to \$100.00, the examination fee to \$100.00 for all examinations, the extension of route and upgrade fees to \$100.00 and the agent fee to \$100.00.

Agenda Item 15a

License Upgrades

Captain Stuart Mork addressed the board with a proposal on how to resolve the dilemma: to reword step one and step two licenses to deputy marine licenses.

Mr. Amendola responded that there still is a problem. "This suggestion would still, in my opinion, require the applicant to meet the requirements for a deputy marine license and at the end of the year where the people who have converted their license having to meet the requirements of the new law to be qualified. I don't think this will solve the problem. Others in my department have been involved in this decision. Only solution that we find so far is to ask the Legislature to change the transition section of the legislation on grandfather licenses."

Mr. Watt asked if a one-line amendment was possible.

Mr. Amendola responded that someone would have to approach a legislator.

Mr. Galloway asked Mr. Amendola if, in his opinion, there was no way to get these people out of limbo without violating the statute.

Mr. Amendola responded that that is correct.

Captain Collins asked if it were an error in the year that the grandfather clause extended to.

Mr. Amendola responded: "I have not had the opportunity to determine when the date was changed and whatever happen is now the law."

Captain Monk stated that the board has the authority to write regulations, to do this under the renewal of deputy marine pilot license.

Mr. Amendola said: "The Legislature provided for the transitional period. My interpretation is that they have this year to comply."

Mr. Watt stated that it will be hard to convince this board to do something that is opposed to what our counsel advises.

Captain Mork indicated that the only hang-up is the three years experience requirement of being a pilot trainee as the entry level qualification.

Mr. Amendola advises that there will be a lot of discussion of this and it is a significant issue. "If I change my mind, you still have time for an emergency regulation."

Captain Collins: "This is a pig in a poke. It may be very difficult. As soon as you open this can of worms, everybody else that wants to reargue the issues will jump in with you. Guys that want to get to deputy program and the step increase in license - two problems."

The discussion continued until such time that the board asked for volunteers to assist in the drafting of the one liner. Ms. Boudreaux said that this is her preferred method of addressing this.

Agenda Item 53

Training Standards

Marine Pilot Coordinator was asked to address the issue. "Suggest that there is more to be done on the training program. We have passed a training program for entry level people to become deputy marine pilots. We need a program for deputy marine pilots to become marine pilots, for continuing education, for requirement or training for lapsed licenses, and may be one more category. All inclusive would be one program and not patch work method."

Captain O'Hara suggested that we continue on with each of these and build upon the deputy marine pilot training program. "What I have is a generic program. I did not have the benefit of the cross connection of the regionalization concept. There are several requirements of the law that the training program be approved. Once we have the regulation, we still do not have a training program approved."

Captain O'Hara commented that the organization of the draft program was excellent and gives direction as to where to go. "We have already approved a deputy

marine pilot program and the training requirement of the associations will meet the minimum standards. The process of continued education, etc., is addressed here. If the state establishes a minimum standard, every organization will have to meet that standard."

Captain Bennett interjected that they have a different understanding of the meeting.

Captain O'Hara stated that we have to establish the difference between a hands-on simulator and there are two of them in the world and the value of recientcy trips.

Mr. Watt asked Captain O'Hara to work with Captain Luck to make some draft regulations.

Mr. Lorch stated that specific requirement of one industry should not be imposed on the entire region.

Marine Pilot Coordinator added that the Department of Environmental Conservation had input into the law that, where tanker vessels were concerned, they wanted to be consulted and had input into training programs. This piece of paper is their input. They may have developed the idea more. Their concept is that masters of U.S. vessels are regulated in this area. Foreign vessels do not have this. DEC would like someone on board the vessel to advise the master, namely the pilot, to notify and call DEC. What they have submitted is quite involved, but they do have under the statute have input.

Mr. Sell: "How many pilots will have an interpreter? The operator's representative is the master."

Captain O'Hara: "It would be more the agent's responsibility to notify the master of the pollution laws. If they are required to carry a letter, that may be OK. I wouldn't want the pilots to be held responsible for the discharge or the notification of something he didn't see. In Puget Sound, they do something similar."

Marine Pilot Coordinator: "Whatever we draft, DEC needs to chop on. The Pilot Board must cooperate in the review and approval of training programs. To what limit does the board want the pilot's responsibility to be?"

Mr. Amendola advised that "the board shall cooperate; it doesn't mean the DEC has veto power. You are the ones to decide."

Mr. Lorch added that "all tankers that come are required to have oil spill contingency plans and as a part of that is notification, so they already have the information and this is not appropriate."

Mr. Amendola recalled that the reason this was put in the law is that pilots become familiar with oil spill and cleanups.

Captain Collins and Captain O'Hara will provide input to Captain Luck on the continuing education recommendations.

Agenda Item 15a

Upgrading of Licenses

Captain Collins made the motion to approve the one line proposal. Mr. Greba seconded it.

The Marine Pilot Coordinator questioned that the grandfathered licenses would not be required to pay the just approved new fee. "I will have to issue a new license also."

Mr. Watt asked Mr. Amendola to draft some kind of transition regulation to cover the fee problem and Mr. Amendola agreed he would. The question was called and carried by unanimous consent, it was

RESOLVED to submit for change of the law to read "Repeal and Reenact Sec. 30, 1991, SLA Ch. 89, to read: "Notwithstanding AS 08.01.100(a), AS 08.62.120, and 12 AAC 56.080(a), a marine pilot license issued under AS 08.62.100 before the effective date of Sec. 12 of this Act is valid until January 1, 1995."

Captain Collins referred to the January meeting and how licenses were upgraded. Capt O'Hara asked what is the effective date of the opinion of upgrading licenses. Mr. Amendola did not know the circumstances of the previous case.

Agenda Item 55      Liability Insurance as a Prerequisite to Licensure

Mr. Watt directed the Marine Pilot Coordinator to draft regulations for the board's comment on pilots demonstrating proof of insurance with the State of Alaska being the beneficiary. This would be required for renewal and new licenses. This should be in effect by December 31, 1992. Question was asked by Captain Winter if the insurance was to be required year round when some pilots only work in the summer. Answer to be given by public comment.

Agenda Item 56      Disciplinary Grounds

Marine Pilot Coordinator: "As a result of the SLA which required me to comment on this and some previous board deferring this, we have a law on incompetence but no regulation for the lesser included event of negligence. I have also included the Florida regulation on this."

Mr. Watt thought that it could be sent on as is. All agreed on it: send it to the Marine Pilot Coordinator to get consensus and to draft regulations. A discussion ensued as to negligence and the reasonable man concept.

Agenda Item 58      Board Members and Marine Pilot Coordinator to Ride Vessels for Experience

Captain O'Hara suggested that the board and Marine Pilot Coordinator to ride ships because we are making regulations on this. "It is a useful experience for anybody on this board."

Mr. Watt suggested the Marine Pilot Coordinator contact companies to arrange this.

Mr. Lorch suggested we wait until the situation arises. "Each company has different policies."

Mr. Watt asked Mr. Amendola if this was a problem to the state if an injury occurred and to look into the liability issue.

Mr. Galloway asked to make the decision now.

Captain Luck to check with the various agents before the next board.

Agenda Item 59

Investigative Requirements

Marine Pilot Coordinator briefed the past and current processes of investigating accidents. Temporary Special Act, Ch. 89, required a report from the Marine Pilot Coordinator on the development of guidelines for a system of timely, thorough, and fair investigations of marine accidents involving death or injury to a person or damage of property or the marine environment. "The enclosed report is submitted to the board for its concurrence and, should the board disagree with any of this, I would like a sense of direction that the board would like me to pursue."

Captain Collins concurred with the submission. Mr. Lorch said he read this with interest and that experience will modify it. Mr. Watt asked if anybody had a problem with it. There being none, the report will go forward as submitted.

Agenda Item 62

Fulfillment of Audit Requirement

This subject has been discussed throughout the meeting and decision made for the Department of Commerce and Economic Development will provide a letter to the board as to the intended use of the K1 information.

Agenda Item 15a

License Upgrades

Captain Collins lead a discussion of the past upgrade actions of the board under the new law/old regulations. Captain Chadwick's upgrade was used as the example.

Mr. Galloway asked: "If we made a mistake in the past, are we required to go back and correct that mistake?"

Captain Collins always felt that there were two parts to this problem: one, upgrades, and the other, keeping people onboard. The board called for the record of Captain Chadwick to review their past action. Captain Collins reviewed the record.

Captain Collins reported that Chadwick got his 20 before the law changed; wanted his 40 on October 10 and we acted on it in November. "I don't want Chadwick's license and I don't want the others. I believe we acted correctly and I still believe on page 7, on .097, that a person can change his license since we never took this out. At some time, the board may want to throw all these guys with step licenses into the deputy marine license at some level - and run them out the other end... I think we set a course in November that would allow people in the step system to continue with it and the new guys to start with the deputy program."

Mr. Lorch and Mr. Galloway agreed that made sense.

Mr. Amendola asked: "If this meant that a step one pilot could become a marine pilot without complying with the statutory requirements. I agree that that is what the law says, but the regulations can't avoid what the qualification of the statute are and they apply and are effective. I can't get to buy that."

Captain Collins: "I respect that we have some error we have made in the past then. Therefore, everybody froze or died."

Mr. Lorch added that the statute states that they are allowed to receive a renewable license. "It allows these licenses to continue until they be a marine pilot license."

Mr. Amendola questioned then the grandfathered people never have to comply with the statutory provisions.



Mr. Lorch responded: "This is a statute. If you enter the scheme under the old system, you could go and progress to a marine pilot license under the old system. That is the argument we made last summer and that is what we have done."

Mr. Galloway: "I agree with Mr. Amendola because it says notwithstanding (a)."

Marine Pilot Coordinator interjected that that requirement is for a marine pilot. "I think our problem is granting deputy marine pilot licenses. We are asking someone who has already entered the program to go back and qualify for entry level stuff and he can't get there from here if the individual is piloting. He would have to quit piloting and go back and get another job as a master, etc., to get the entry level requirements."

Mr. Amendola stated that he can if the renewal period were adequate. "Even if we could give deputy marine licenses today as discussed come January 1993, they will have to meet the full pilotage requirement or they are out. The renewal of licenses absolutely requires they conform with the requirements of this act."

Captain Collins: "We have to get them to January and we have the authority to do this under 100. That was our transition language and I do agree that, on January 1, 1993, if they don't meet this, they are in deep trouble without the one liner."

Mr. Amendola understands how the board reads the language. "I don't want this board to do something against the advice of counsel and I, therefore, withdraw my categorical advice that, to do so, would be improper. I will tell you that I have reservations as to how the statute reads and I am not going to tell you that it is illegal under the law and you can proceed as you interpret the law. I feel that I am getting in the way with what the board is trying to do. Perhaps my interpretation is too strident and I don't want to do that. I am no longer saying to do so is a violation of the law."

Captain Collins moved that we act on Captain Winter's request for a 40,000 gross ton license. Mr. Greba seconded it.

Mr. Watt asked what license he has now. Answer is a channel license and this is how Terry Bennett got there.

Captain O'Hara: "I reviewed the objections I had last time. The dockings are not sufficient enough to warrant the jump from a channel license to a 40,000 gross ton license. He has seven or eight dockings in the winter time in Skagway and all the rest are on cruise ships with twin screw and bow thruster. I would accept a 20,000 gross ton license. When we have jumped licenses we had many more qualification than this candidate has. Captain Collins stated that normally he would agree with you but the last license we jumped in a similar fashion was all done in the summer and all done on a 30,000 gross ton vessel.

The question was called and failed 3-4 with Captain Collins, Mr. Greba, and Mr. Watt voting for the motion, it was

RESOLVED not to grant Captain R. Winter a 40,000 gross ton license.

Captain Collins made the motion to grant Captain Winter a 20,000 gross ton license. Mr. Galloway seconded the motion. Captain Collins can respect the way the board voted but we are not being consistent. The question was called by voice vote and the motion passed unanimously, it was

RESOLVED to grant Captain R. Winter a 20,000 gross ton license.

Captain Collins discussed Captain Chadwick's case. He was granted a 40,000 gross ton license to be effective on April 3, 1992 and now as for reconsideration for an unlimited.

Mr. Galloway added: "We are here to look at safety. If we are issuing a license because we are running out of time, this is inappropriate."

Captain Collins disagreed that Captain Chadwick was qualified and he could qualify for the unlimited license. "He is one of the few that has applied that even comes close."

Mr. Galloway: "I would only feel comfortable doing what we have done now. You don't go from step one to step three right or do you? If we have, then we need to revisit that."

Captain O'Hara said we can't. Mr. Galloway asked why.

Captain O'Hara said: "We were ordered by the court. We were told by the hearing officer. Captain Collins said that that is not my argument - you stepped a channel license to an unlimited with no threat of a court - and Captain Winter comes to you and you deny - very similar cases. Is it personalities or what?"

Mr. Galloway suggested personality be removed. "What court orders you to break the law?"

Captain O'Hara added that the case in question is Captain Bennett at the last meeting where he was jumped from channel to unlimited; vote was 4-3 for - we have a similar case with Winter. The vote was 5-2 against.

Mr. Galloway: "I don't think Mr. Amendola withdrew his objections lightly and I am saying you can't do that; we have to correct that."

Captain Collins: "You have given a license and the man has operated on it. In the federal government, if they make a mistake, they have to live with it. Under municipal law, they can revisit it. All I am saying is we have to be consistent."

Mr. Galloway: "To have this consistency, you must remember we were advised to vote against this and then counsel changed his mind and we could vote for it. If we can change our minds that way, we should be able to say, "Oops, sorry!" But to be consistent, we are going to have to back you down."

Captain Collins said: "We have already done that with Captain Winter. He had an unlimited channel license and the board took this away from him after he sailed. Captain Chadwick and Charles gave them all a 20,000 channel license. The law was just newly implemented. One summer, he worked on a 60,000 gross ton license as a second pilot and, this summer, limited to 20,000.

Mr. Galloway would like to back down the guy we did a two step on. "Wanted to know if we could put this on the teleconference in May."

Captain Bennett interjected to not even think about it doing it on the telephone. Directed the Marine Pilot Coordinator to get the file and we do it now.

Captain O'Hara stated that Captain Grobschmit had fulfilled the requirements for a single step upgrade and so moved. Mr. Galloway seconded the motion. Captain Collins agreed that he was qualified. The question was called and passed unanimously by voice vote, it was

RESOLVED to grant Captain D. Grobschmit a 40,000 gross ton license.

Captain Collins made a motion to accept Captain Charles' application for a 20,000 gross ton, step one license, going from a channel license. Mr. Galloway seconded the motion. Captain Collins stated that he was qualified under the old regulations and Captain O'Hara agreed. The motion was called and passed unanimously by voice vote, it was

RESOLVED to grant Captain D. Charles a 20,000 gross ton license.

Captain Collins commented that, if the board was not going to go away from step jumps, there is no action required on Captain Chadwick.

Agenda Item 63

Official Business

The correspondence to the board was reviewed. The next meeting date was set on May 15, 1992 for a teleconference for the ratification of the approval of the four pilot organizations since the regulations governing this become effective on the May 14, 1992. Mr. Greba will not be available.

The next regular scheduled board meeting will be September 22-24, 1992 in Juneau, Alaska. The next examination date was set for 8:00 a.m., September 22, 1992.

Agenda Item 52

Public Comment

In view of the fact that Mr. Millen was sick during the regular scheduled public comment period, the board made time available for him to be heard.

Mr. Millen, attorney for AMP, addressed the board. "We will be giving the board a written presentation on the Kl's. The other issue is the Pribilof Island issue. We are very much concerned because at least from appearances two or three board members made their decision from economic factors and these considerations are prohibited to be considered under the statute. We request this board to reconsider that decision and ask Mr. Amendola to research the issue of what are the proper criteria for the board to consider. We are clear on record as to what we feel the criteria are and postpone the decision until the Marine Pilot Coordinator looks into the issue and to specifically invite a member of industry to provide comment on the specific issues that Mr. Amendola says are acceptable to make the decision on so that this is available at the September meeting. If he tells you that you are able to consider economic data and then we ask that industry

submit some data that shows where pilot fees fit in terms of their overall expenses. I don't know if the board can make a decision without some specific data."

Mr. Galloway responded that he did not make his decision on economics. He makes it on the fact that they were not comparable with anything else, and there will be four or five boats tied up at one time. "The decision I made is that it will take three or four hundred pilots on a given day to control what is there."

Mr. Millen reported that logistic problems may not be an appropriate issue either if there is a safety need for pilotage. "In every other place where pilotage is needed, the logistical problems are solved. Flying people places and establishing residences solve these problems. I don't agree that it will take hundreds of people. The sole criteria in my view is safety and I didn't hear any discussions about that this was not a safety issue. What I heard was that there were logistic problems and economic problems. I don't know that these are appropriate criteria. If the board is going to establish a precedent that they are going to rely on economic consideration and problems with logistics, then every place around the state industry based on that precedence will come back to this board for reconsideration because the cost in a particular port is too much to bear or the economics is too marginal. We are very concerned that, unless safety is the sole criteria, we will see an erosion of compulsory pilotage in this state. I don't think the board can ignore the safety issue."

Mr. Watt suggested: "It was unnecessary to make a motion now since you can bring the issue up again in September. It is unfair to the others who are involved in the issue to decide anything now and inappropriate to reconsider today."

Mr. Millen: "We are not asking you to reverse your decision; we are asking you to withdraw the 'no' vote and get more data."

Mr. Lorch concurs: "It will be inappropriate to reconsider it now... I have no problem looking at the issue from the safety point of view."

Marine Pilot Coordinator to notify everybody that it will be back on the agenda in September. Captain Collins is concerned that there is a perception that we are making decisions on economic considerations. Mr. Galloway added that he stands corrected making the statement that economics should be considered and apologize to the board and the members for making that statement but it would not change the way I voted.

Captain Collins would like to see the issue brought back up in September. Captain O'Hara would like to see the leaders of the fishing industry to bring their numbers forward. Mr. Sell made his decision on safety. "Would be willing to go along with the board but don't think my vote will change."

Captain Luck to write a letter to the industry and Captain Anderson to provide the list of players.

Agenda Item 15a

License Upgrades

Captain Collins briefed Captain Bennett's record. He had a channel license and was applying for an unlimited license upon the waters of Southeast Alaska. At the November 12, 1991 meeting, the board reviewed and granted a limited step two license on vessel of not more than 40,000.

Mr. Monkman addressed the board: "If the board is reopening the issue of granting this license, I'm sure you know there are only limited grounds that a license can be revoked, limited, or suspended. There is a procedure which has to be followed. If there is anything else as Captain Bennett counsel, I would like to hear about it."

Mr. Lorch was swayed by the argument made that day. Being consistent is important, but the board must reconstruct the information.

Mr. Monkman added there was an administrative procedure that was involved.

Captain Bennett added: "Captain Collins had made a number of statements that lead Mr. Galloway to believe and then suggest revisiting this case on the basis that I had been given my license incorrectly and unfairly and perhaps illegally. Am I overstating your feeling?"

Mr. Galloway responded his opinion is if the history is to go from step A to step B to step C and you went from A to C then we do need to revisit it.

Captain Bennett responded that there is no legal impediment of skipping steps; it is in the book on page 17.

Mr. Sell was asked if there was a history of skipping steps and he responded: "No, we have been going step by step, except this last year."

Captain Collins added that the history has always been to go step by step. Recent history is that people have appealed these decisions and gone to a hearing officer and courts and having the board overruled.

Mr. Monkman inserted that the reason for this is the board was not conforming to the statute as written. This is the reason for the new act - there was concern that theory and practice match. Once again, the board does not have the authority to just open any license absent the procedures in the administrative procedures act."

Mr. Amendola agreed: "To take away Captain Bennett's license summarily will not last five seconds before a superior court judge of this state and I don't know what you are doing at this point. The matter was dropped."

Captain Collins: "Only wanted to show the inconsistencies of the board. If they can jump the steps, then they can jump the steps."



Captains Chadwick, Winter, and Charles want the same consideration. Mr. Galloway disagrees with Captain Collins.

Mr. Lorch added that the board has tried to stay in the one step rule other than compelling legal action and there were things that we don't have to bring up at this time in this case. Mr. Galloway is satisfied. Captain Collins is not satisfied but I will let the people who have had the injustice go to the administrative procedures act and do all the wonderful things."

Marine Pilot Coordinator briefed the background of Captain Kellogg's case. September 6, 1991: submitted license; October 10, 1991: application denied by board; January 22, 1992: application resubmitted and denied. The board cited AS 08.62.92(c) as the particular reason for denial. He states that the act does not require the entire region pilotage. He was also advised of this and the administrative procedure for him to follow if he disagrees. He has not availed himself of that procedure. Captain Collins stated that, if he meets the requirements, we have to consider his application. Captain O'Hara stated that we have established that federal pilotage for the entire area is not a prerequisite. The prerequisite for Southeast pilotage is for federal pilotage for most of the region and that is everything but the West Coast of Prince of Wales.

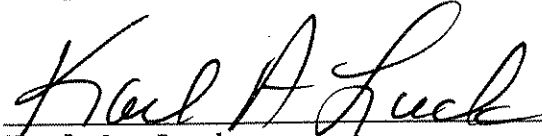
Captain Collins added that these are not regulations yet. Mr. Watt added that he hasn't followed the procedures in the letter. Mr. Amendola explained that, if you take action and reconsider his application, you allow him to appeal something that he didn't appeal before.

Captain Bennett added that he was at sea during the time that he could have appealed this. The issue was dropped.

Agenda Item 65      Adjourn

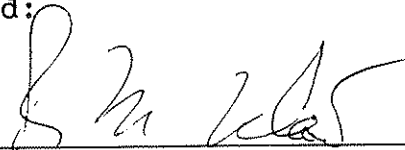
The board adjourned at 3:25 p.m.

Respectfully submitted:



Karl A. Luck  
Marine Pilot Coordinator

Approved:



Bob Watt, Chairman

Date:

9/22/92