

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

**SUMMARY OF MOTIONS
MEETING
December 6-8, 1993
Anchorage, Alaska**

By authority of AS 08.01.070(2) and AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Marine Pilots was held on December 6-8, 1993, in Anchorage, Alaska.

Monday, December 6, 1993

Agenda Item Call to Order/Roll Call

The meeting was called to order at 1000 by Mr. Bob Watt, Chairman. Those present and constituting a quorum of the board were:

Mr. Bob Watt
Captain Dale Collins
Mr. John Klepper
Ms. Donna Bumgardner
Captain Mike O'Hara
Mr. Glenn Reed

Mr. Mark Springer was present by telephone from Hooper Bay, Alaska.

Also present were:

Mr. Karl Luck, representing the Division of Occupational Licensing

Gayle Horetski, Assistant Attorney General

Captain Dan Twohig, Marine Pilot Coordinator

Agenda Item 1 Approve Minutes of Previous Meeting

September 25, 1993 Teleconference Meeting

On a motion made by Ms. Bumgardner, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to adopt the minutes.

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Agenda Item 2 Review/Set Agenda

The agenda was amended by inserting ,D], XXX, and XX between items 3 and 4, and removing item 21.

On a motion made by Ms. Bumgardner, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to adopt the agenda as amended.

Agenda Item 3 Election/New Chairman

The Chairman discussed the needs of the chair, personal costs that have gone unpaid during his tenure, and the continuing issue of ethics complaints. The Chairman decided to cancel the election and maintain the chair until the next meeting.

The board discussed the need for members to be insured for legal action taken against the board stemming from ethics complaints.

On a motion made by Mr. Reed, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED for the department to purchase "Director's and Officer's insurance" for all board members.

Agenda Item 3a 12 AAC 56.022

Discussion was held concerning the ability of the Region 4 pilot organizations to meet the needs of industry in serving the port of Dutch Harbor. Questions were asked of Captain Tom Dundas and Captain Mike Stone.

On a motion made by Captain O'Hara, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to allow Training Pilot Endorsements for Region 3 issued under the authority of 12 AAC 56.022 to expire on December 31, 1993.

Agenda Item 3b. Extension of Route Endorsements

- a. Captain Kellogg - West Coast of Prince of Wales Is./Yakutat

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On a motion made by Mr. Reed, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to accept Captain Kellogg's application for examination.

- b. Captain McPherson - West Coast of Prince of Wales Is.

On a motion made by Mr. Klepper, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to accept Captain McPherson's application for examination.

- c. Captain Charles - Sitka Sound, Port of Sitka

On a motion made by Mr. Reed, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to accept Captain Charles' application for examination.

Agenda Item 3c VLCC Endorsement - Captain Tillion

On a motion made by Mr. Reed, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to grant Captain Tillion a VLCC Endorsement.

Discussion was held concerning Captain Tillion's requirement to gain an endorsement for Icy Bay within two years of the date of issuance of his unlimited license.

On a motion made by Mr. Klepper, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to extend the date of the requirement to complete the route extension to Icy Bay for one year.

Agenda Item 4 Investigative Report

The board went into executive session at 11:32 a.m. to hear the CONFIDENTIAL investigative report.

The board returned to public session at 11:47 a.m.

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On a motion made by Mr. Klepper, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to accept the Memorandum of Agreement signed by Captain Hawker concerning Case No. 1900-93-016.

Agenda Item 5 Hearing Officer's Report

Captain Homer - Case No. 1950-93-003

On a motion made by Captain O'Hara, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to accept Option 3 of the Hearing Officer's Proposed decision and remand Case No. 1950-93-003 to the same Hearing Officer for additional consideration.

Agenda Item 6 Correspondence to the Board

The board reviewed all correspondence that was included in the meeting packet. No correspondence required action.

Agenda Item 7 Public Comment Period

- a. Captain Mike Spence (ACP) - Paraphrased his letter of reply to the Director regarding his allegations of widespread alcohol abuse among pilots and the personal interests of board members. He claimed that his comments were general in nature, that he believed his comments were not libelous. He stated that there is a conflict of interest problem with the board and suggested administrative changes to improve the situation.

He also discussed the BMP end-of-the-year report. The Chairman told Captain Spence that if he did not intend his comments to be accusatory, he needs to retract his statements. Captain Spence refused to retract his statements. Captain O'Hara asked Captain Spence for names of pilots involved in alcohol abuse. Captain Spence refused to give names. Mr. Reed stated that he was concerned that if the board is notified that there is a problem and does not investigate, the board can be held liable in the accident and that Captain Spence needs to bring forth his information in a timely manner as opposed to post accident.

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- b. Ken Castner (Cook Inlet RCAC) - Mr. Castner stated that SWAPA pilots have the highest sense of responsibility concerning the topic of alcohol use/abuse. He stated that he has no information that any SWAPA pilot has a problem with alcohol.

Examinations should be subjective as opposed to objective. The pilot members of the board are there to provide their expertise.

Mr. Castner discussed the Human Factors in Shipping Committee.

- c. Joe Kyle (Pacific Associates-ASA) stated that quarterly reports should be more useful as a management tool. He suggested changing the pilot response time for SE Alaska to 24 hours.
- d. Bill Sharp (SE Stevedoring) suggested changing the response time for SE Alaska to 24 hours. He also stated that the board should amend regulations so that agents can provide billing services to pilot organizations.
- e. Captain Mike Stone (SWAPA) was concerned that Captain Spence's letter was addressed to a citizen's group in his area of operation and reflected directly on his organization.
- f. Captain Jim Drahos (SWAPA) spoke on regionally excluded licenses, 12 AAC 56.035 and 18 AAC 75, Responsibilities of Pilots in regard to 18 AAC 75, Training Pilot Endorsements and Continuing Education Requirements. Captain Drahos commented on Captain Spence's letter and public testimony. He stated that the research which Captain Spence used (USCG studies) was flawed. He also stated that Captain Spence should not make statements about alcohol abuse among pilots without substantiation.
- g. Captain Hans Antonsen (SEAPA) spoke on fatigue standards, medical standards, draft regulations, and training pilot endorsements.
- i. Joe Kyle (ASA) discussed the ARCO letter. He also stated that he did not approve of Captain Spence's letter concerning alcohol abuse among pilots.

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Agenda Item 8 Fatigue Standards

A discussion was held concerning the adoption of fatigue standards for marine pilots. Captain Luck discussed fatigue as a contributing factor in marine incidents currently undergoing investigation.

On a motion made by Ms. Bumgardner, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator draft a fatigue standard regulation for public comment that paralleled the OPA-90 fatigue standards.

Agenda Item 9 Medical Standards

A discussion was held concerning the adoption of medical standards for pilots. The question came up of whether medical standards would have to meet the requirements of the Americans with Disabilities Act.

On a motion made by Mr. Klepper, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator draft a medical standard regulation for public comment using the Americans with Disabilities Act check list as a guideline.

Agenda Item 10 Drug and Alcohol Testing

A discussion was held concerning the merits of various forms of drug and alcohol testing procedures available for implementation. The discussion led to a consensus of the board that the state requiring post-accident drug/alcohol testing would be helpful in the investigation of maritime incidents when federal testing was untimely or not required.

On a motion made by Mr. Klepper, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator draft a regulation for public comment requiring pilots to submit to drug/alcohol testing in a post-accident investigation.

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Discussion continued on the merits of state mandated random drug/alcohol testing of pilots. Various methods of sample collection were considered.

On a motion made by Mr. Springer, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator draft an amendment to 12 AAC 56.940 for public comment requiring pilot organizations to include a provision for random alcohol testing to be included in their random drug testing program. This program will include a mechanism for immediate notification of the Marine Pilot Coordinator should a pilot test positive for alcohol or illegal drugs.

Agenda Item 11 Status of Board-Approved Regulations

On a motion made by Mr. Springer, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.940(e) amended to read "The board shall revoke the license of a pilot who has, since the date of initial licensure, received a second criminal conviction or disciplinary sanction for a drug or alcohol-related incident as described in this section."

The meeting was recessed at 1735.

Tuesday, December 7, 1993

The meeting was called to order at 0800, December 7, 1993. All board members were present with Mr. Springer attending by telephone.

On a motion made by Mr. Klepper, seconded by Captain Collins and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.012 to address underway sea time only.

On a motion made by Mr. Springer, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.013.

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On a motion made by Mr. Springer, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to adopt the amendments to 12 AAC 56.080.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.205 as amended to read: "24 Hours."

On a motion made by Mr. Reed, seconded by Ms. Bumgardner and carried unanimously it was

RESOLVED to amend 12 AAC 56.030(t) to read: "June 30, 1994."

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.400(a)(1) as amended to read: "... during the five-year period immediately preceding the license period for which renewal is sought." And (a)(2) to read: "a manned model course or a bridge simulator that is region specific and/or emphasizing the pilot's role during one of the three biennial license periods preceding the period for which license renewal is sought." And adding (b): "... Completion of this course shall concurrently satisfy the requirements of (a)(2) above."

A motion made was by Ms. Bumgardner to adopt 12 AAC 56.962, seconded by Mr. Klepper was

REJECTED unanimously.

On a motion made by Mr. Springer, seconded by Mr. Klepper and carried 6 YES, 1 No (Captain Collins), it was

RESOLVED to adopt 12 AAC 56.016 (b) and (c) as written.

On a motion made by Captain O'Hara, seconded by Mr. Klepper and carried unanimously it was,

RESOLVED to have the Marine Pilot Coordinator draft for public comment an amendment to 12 ACC 56.016 to

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require a training pilot to have five years experience operating on an unlimited state pilot license within the region he will be training in, and to add (d) to read: No pilot holding a training pilot endorsement shall be compelled to accept a trainee.

Agenda Item 12 Public Comment

Captain Tom Dundas (AMP) spoke on the 60,000gt endorsement and training pilot endorsements. He also stated that he has no knowledge of alcohol abuse among pilots and that Captain Spence should name names if he has them, or not waste the board's time.

Bernie Smith (TESORO)/Captain Stone (SWAPA) announced a three-year agreement on tariffs for Region 2. They also discussed arbitration to resolve differences between industry and pilots.

Dave Millen (AMP) spoke on training pilot qualifications, 12 AAC 56.962 comments by APL were not discussed before the regulation was rejected.

Joe Kyle (ASA) spoke on tariff discussions between Region 3 associations and industry. He objected to the Governor's briefing paper for his rural trip.

Dan Grauze (Holland America) spoke on industry/pilot negotiations, the Governor's briefing paper, the BMP annual report, and negotiation/arbitration.

Captain Jim Drahos spoke on training pilot endorsement criteria, training pilot responsibilities, 60,000gt endorsements. He also stated that he had no knowledge of alcohol abuse among pilots in Region 3.

Captain Hans Antonsen (SEAPA) objected to Captain Spence's comments regarding alcohol abuse among pilots. He stated that he was not satisfied with Captain Spence's reply to the board regarding his comments. He also spoke on the 60,000gt endorsement, training pilot criteria, binding arbitration. He stated that this did not apply in regions where there is competition. He stated that SEAPA is negotiating with industry on tariff issues.

Captain Spence (ACPA) spoke on the Governor's briefing paper, and the Florida audit.

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Agenda Item 30a Board of Marine Pilots Budget Report

Discussion was held on the status of the budget for fiscal year 1994. It was decided that the meeting in February in Juneau would probably be the last face-to-face meeting of the fiscal year.

Agenda Item 23 Conflict of Interest/Ethics

Mr. Neil Slotnick from the State Attorney General's office addressed the board concerning the issues of ethics and conflicts of interest.

Agenda Item 13 Exam Preparation and Administration

Discussion was held concerning the preparation of examinations for Deputy Marine Pilot and extension of route. It was decided that the examination for Deputy Marine Pilot, Southeast Alaska, would include 100 multiple choice questions written by the Marine Pilot Coordinator and approved by the board. The core examination would include a new module consisting of a 20-question multiple choice examination on the provisions of 18 AAC 75. The examination for extension of route for West Coast of Prince of Wales Island would consist of drawing the charts of Warren Channel, Bocas de Finas, San Christoval Channel, Tlevak Narrows, and Hyderburg in accordance with the procedures set forth for federal pilotage and a 20-question multiple choice examination. Oral examinations will include the topics listed in the regulations only.

Agenda Item 14 60,000gt Endorsements

Discussion was held concerning the need for a 60,000gt endorsement for marine pilot licenses. It was decided that the Marine Pilot Coordinator would write to the pilot organizations (cc RCAC) requesting a written training/dispatch provisions for pilots working on vessels over 60,000gt.

Agenda Item 15 60,000gt Exemptions

No discussion.

Agenda Item 16 Tariff Issue - Western Region

Ms. Bumgardner suggested a meeting between industry and pilot organizations to continue the dialog on setting tariffs

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Agenda Item 17 Department/Division/Board Relationships

Mr. Reed discussed this topic briefly to allay concerns of the public regarding comments made by department staff that were taken out of context.

Agenda Item 19 Pilot Available But Does Not Dispatch

Ms. Bumgardner discussed this topic with the weight put on pilot fatigue.

Agenda Item 22 Public Comment

- a. Captain Antonsen spoke on training programs and Training Pilot Endorsements.

Agenda Item 18 Legislative Audit Report

At 1515, the board entered executive session to discuss the draft of the legislative audit report.

At 1515, the board returned from executive session and resumed an open meeting with Agenda Item 22, Public Comment.

Agenda Item 22 Public Comment

- b. Dave Millen (AMP) spoke on Agenda Item 26, Training Pilot Endorsement Criteria.
- c. Captain Tom Dundas (AMP) spoke on training pilot endorsement.
- d. Captain Spence (ACPA) spoke on training pilot endorsements, training evaluation forms, and the BMP annual report in regard to HB 237.
- e. Captain Jim Drahos (SWAPA) spoke on the NTSB recommendations concerning master/pilot briefings, training evaluation forms, training pilot incentives, conflict of interest among board members, oral examinations, and state examinations in Hawaii.
- f. Captain Ron Sumstad spoke on tugs and tows on the North Slope.

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- g. Joe Kyle (ASA) spoke on the conflict of interest, HB 237, and the BMP annual report.

Agenda Item 29 NTSB Recommendation for Master/Pilot Briefing

Discussion was held on the value of master/pilot briefings in the prevention of maritime accidents, i.e., the grounding of the HMS Queen Elizabeth II.

On a motion made by Mr. Klepper, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED for the Marine Pilot Coordinator to draft a regulation for public comment requiring Master/Pilot Briefings paralleling the NTSB safety recommendation M-93-34.

Agenda Item 25 Training Evaluation Forms

Discussion was held concerning the merits of evaluation forms submitted by the various pilot organizations. It was decided that the Marine Pilot Coordinator would develop a standard training evaluation form for the state allowing for regional addendum.

Agenda Item 25a Training Pilot Incentives

Captain O'Hara discussed the additional liability incumbent in becoming a training pilot. Pilot association bonuses, insurance benefits, etc. No board action was taken.

1800 - Meeting recessed

Wednesday, December 8, 1993

At 0700, the was meeting called to order.

Ms. Bumgardner is absent.

At 0714, Ms. Bumgardner arrived.

At 0800, Senator Drue Pierce arrived.

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Agenda Items
20/24

Pending Legislation/Arbitration

Discussion was held concerning the board's support of HB 237, and the use of binding arbitration to solve problems between industry and pilot organizations.

On a motion made by Mr. Reed, seconded by Ms. Bumgardner and carried - 5 YES, 2 NO (Captain Collins and Mr. Springer voted NO), it was

RESOLVED to take no position on HB 237 in its present form.

Agenda Item 22

Public Comment

Captain Steve Orr (Crowley Maritime) spoke on the issue of Canadian tugs on the North Slope. Captain Orr answered questions from the board regarding what occurred last year.

Agenda Item 28

Canadian Tugs on the North Slope

Discussion was held on the North Slope situation. Questions were answered by Captain Orr, Captain Luck, Captain Peter Garay, and Tom Rueter. The department was directed to investigate the possibility of a violation of the statutes.

Agenda Items
26/27

Criteria for Training Pilot Endorsements

Discussion was held on the intent of the board to issue training pilot endorsements based on a five-year level experience as a pilot operating on an unlimited state license. The chairman asked the AG if there was a potential conflict of interest in looking at training pilot applications.

0927 - Captain Collins stated that he would depart the meeting until Agenda Item 27 was completed.

0940 - Captain Collins returned.

On a motion made by Captain O'hara, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator review the files of prospective training pilots in Region 1 for eligibility under the proposed five-year rule.

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Agenda Item 30 Set Agenda For the February Meeting

a. **Letter from Commander Powers concerning Entry Level Requirements for Deputy Marine Pilots**

On a motion made by Mr. Reed, seconded by Mr. Klepper and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator write a letter to Commander Powers inviting him to address the board on pilotage issues at the next meeting in Juneau.

b. **Training Evaluation Forms**

Discussion was held on the Marine Pilot Coordinator gathering input from the pilot organizations and taking familiarization rides with the pilots to facilitate the creation of a standard training evaluation form.

c. **Cleaning up Statute Contradictions (Luck)**

d. **Summary of Operations from the Pilot Organizations (Springer)**

e. **Legislative Audit Report (Reed)**

f. **Status of Tariff Negotiations (Bumgardner)**

g. **Make-Up of the Board/Legislative Change (Klepper)**

h. **Funding the Board/Breakdown of Expenses (Klepper/Springer)**

1012 Motion to Recess

On a motion made by Mr. Reed, seconded by Mr. Springer and carried unanimously, it was

RESOLVED to recess the meeting until 0800 Friday, December 10, 1993.

0807, December 10, 1993

Meeting called to order by teleconference. Members present and constituting a quorum were:

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**Mark Springer (Hooper Bay)
Donna Bumgardner (Valdez)
Mike O'Hara (Valdez)
Bob Watt (Ketchikan)
Glenn Reed (Anchorage)**

Also present were:

**Dan Twohig, Marine Pilot Coordinator
Gayle Horetski, Assistant Attorney General
Dick Monkman (ACP) (Juneau)
Mike Spence (ACP) Ketchikan**

Agenda Item 27 Training Pilot Endorsements

Gayle Horetski addressed the board concerning the inadvisability of the pilot board applying standards that are not yet in regulation even if it is the intent of the board to issue licenses in the future based upon these proposed regulations. The board discussed letting training continued as it had without issuing training endorsements and decided to take no action to issue training pilot endorsements.

0825 - Adjourn

On a motion made by Mr. Springer, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to adjourn.

Respectfully submitted:

Dan Twohig, Marine Pilot Coordinator

Approved:

Bob Watt, Chairman

Date