

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

**TELECONFERENCE MEETING  
DECEMBER 5, 1996**

By authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held December 5, 1996.

**Call to Order/Roll Call**

Chairman Jeff Bush called the meeting to order at 9:00 a.m.  
Members present constituting a quorum were:

Captain Mike Spence (Ketchikan LIO)  
Mr. Bob Berto (Anchorage LIO)  
Mr. Bernie Smith (Anchorage Office)  
Mr. Jeff Bush (Juneau SOB)

Members absent were:

Captain Mike O'Hara  
Mr. Dan Hensley

Staff present was:

Peter Christensen, Marine Pilot Coordinator (MPC)  
Ken Truitt, Assistant Attorney General

Guests present at each LIO site are noted below. The results of the survey were as follows:

LIO Anchorage - Captain Thompson and LCDR Theriault of the  
U.S. Coast Guard

LIO Ketchikan - George Porter, Joe Homer, Ted Kellogg, Karl  
Luck, Carl Jones, John Baldry

LIO Dutch Harbor - Dave Sanders, Rick w/Northstar

Seattle - Steve Moreno

Coos Bay - Jim Drahos

State Office Building Site - Joe Kyle, Kari Preston, Dick  
Monkman, Dan Twohig, Frank Didier

**Agenda Item 1**

**Review/Set Agenda**

PC/BG/dgl/211.pc  
020497a

The agenda was accepted as written with the addition of an Item 6.a titled Kake Pilot Station and an item 16.a titled Quarterly Reports.

**Agenda Item 2**                    **Review/Approve Minutes**

Draft minutes for the October 1996 meeting were not available for review.

**Agenda Item 3**                    **Agenda Review for Potential Conflicts of Interest and  
Declarations of Recusal**

Following some discussion, no one was recused.

**Agenda Item 4**                    **Litigation and Investigation Update**

The Board was updated regarding the SEAPA Rate Hearing. Briefs have been filed by both parties and oral arguments in the case will occur in December. The Department of Law's position is stay out of the litigation as much as possible and let the other two parties in the case litigate the issues. The MPC stated that no new investigations had been opened.

**Agenda Item 5**                    **Public Comment**

Joe Kyle - Addressed the establishment of a pilot station in the vicinity of Kake and the establishment of compulsory pilotage waters in Region 3.

Captain O'Hara of the Board joined the meeting at this point.

Jim Drahos - Letter from SWAPA regarding measures to be implemented by ADEC following the T/V Kenai transit is no longer an issue. Mr. Chapple of ADEC has written a letter rescinding requirements. He also invited Chairman Bush to comment briefly regarding some remarks he made in an address at a NOAA workshop on Navigation. Chairman Bush responded briefly.

Captain Kellogg - Stated he would comment on Agenda Item 15 at a later time.

Karl Luck - Reserved comment on the agenda item regarding quarterly reports. He also commented upon the issue of when and under whose direction pilots will embark or disembark from a ship.

Captain Porter - Spoke against establishment of pilot station at Kake.

**Agenda Item 6**                    **Region 3, Establishment of Compulsory for Bering Sea Islands**

Captain Moreno - Stated that AMP could cover the additional work load.

Bob Berto - Mentioned that pilot transfers in the area are a problem.

Captain Moreno - Pilot transfers could be accomplished inside pilotage waters at a compulsory pilot station.

Chairman Bush - Asked whether the proposed regulation should be noticed.

Captain Spence - Stated that before the regulation is noticed, we should define the "3-mile territorial limit" as defined in federal regulations.

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

RESOLVED that the MPC is directed to notice the proposed region 3 Compulsory pilotage regulation with additions as necessary as discussed regarding the definition of the three mile territorial sea.

End of Side A, Tape 1.

**Agenda Item 6.a**

**Kake Pilot Station**

The Board discussed the establishment of a pilot station at Kake. Chairman Bush requested that Industry and the pilot associations in Southeast, AK, work together regarding the establishment of a pilot station at Kake and discuss why Chatham Strait is excluded from compulsory pilotage waters. Captain O'Hara concurred with Chairman Bush's request.

Additional public comment regarding establishment of the Kake Pilot Station was heard from Karl Luck, Captain Baldry, Captain Porter, and Bob Berto.

**Agenda Item 7**

**Update Regarding Simulator Project**

Simulator RFP Update - MPC updated the Board regarding the status of the Simulator Project and the drafting of an RFP. It was mentioned that the Evaluation Committee should have tanker industry input. Bill Deppe was mentioned as a prospective member.

End of Side B, Tape 1.

**Agenda Item 8**

**Update Regarding Terry Backen's Sea Service**

The MPC informed the Board that his subsequent review of Captain Backen's additional service brought the count up to 601 days. This computation leaves Captain Backen short 119 days or 79 - 12 hour days. Captain Backen was present during this portion of the teleconference and was asked if he agreed with this computation. He stated that he would have to review the figures, but that it was in the ballpark.

**Agenda Item 9**                      **Lapsed Channel Pilot Licenses**

The MPC asked for clarification regarding reactivation and conversion of a Channel Pilot License. The Channel License will be converted to Deputy Marine Pilot of any gross tons with geographical restrictions as appropriate from previous license. The Deputy Marine Pilot License will be issued with a docking restriction which can be lifted by completion of the appropriate dockings as listed in 12 AAC 56.040(c) for a step 1 (20,000 GT) docking license and comply with 12 AAC 56.045 to raise the docking restriction to a step 2 (40,000 GT) and further to an unlimited docking license.

**Agenda Item 10**                      **Observer Trips**

The MPC informed the Board that due to several inquiries, he had reviewed whether observer trips used to gain a pilot's federal pilotage endorsements could be counted towards the trips required by the state.

A quick review by the Department of Law elicited the opinion that there is nothing in the pilotage statutes or regulations to prevent the use of observer trips taken to procure federal pilotage endorsement from counting towards meeting the State of Alaska training requirements. The MPC stated that an observer trip taken to procure a federal pilotage endorsement could also be used to meet the State of Alaska training requirements. The MPC informed the Board that if the Board was not satisfied with the status quo, a regulation project would have to be initiated to make any changes. A review of past licensing actions indicates that it had been done in the past. The Board discussed the issue at some length. The MPC was directed to place this issue on the agenda for the February meeting.

**Agenda Item 11**                      **Frank Didier's Application and Request**

Frank Didier's requested the Board permit him to take the Regional Local Knowledge examination in February. He was unable to gather all the necessary trips needed to comply with the training requirements before the 60-day application deadline. He stated that there was a very good chance that he would have completed all the necessary trips by the date of the test. The Board discussed his request at some length.

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End of Side A, Tape 2. motion was not offered, nor was a decision reached. (See continued discussion of this item later during meeting.)

Bernie Smith left the meeting for an appointment.

**Agenda Item 12**                    **Farrell Brown's Application for Tonnage Upgrade**

This item was moved to the February meeting for action.

**Agenda Item 13**                    **Decision in Petrich Matter**

On a motion made by Captain O'Hara, seconded by Captain Spence and passed unanimously, it was

RESOLVED to adopt Option 1 of the Hearing Officer's Proposed Decision in the Petrich Matter.

The Board recessed for lunch at 12:05 pm.

The Board reconvened following the lunch break at 1:25 pm.

**Roll Call**

The following members were present:

Jeff Bush  
Mike O'Hara  
Michael Spence  
Bob Berto  
Bernie Smith

**Agenda Item 14**                    **Oral Comment Regarding the Proposed Regulation Package was Heard**

Captain Thompson - Commenting on the 48-hour rule regulation stated that the Coast Guard fully supports any attempt to ensure that there are qualified pilots aboard vessels operating in western Alaska.

Captain Homer - Spoke in favor of the proposed changes to the examination process.

Karl Luck - SEAPA is in favor of some changes. He noted a problem with the proposed changes to 12 ACC 56.070 regarding the examination process. Additionally, he raised some questions regarding public noticing of exam dates under the proposed revisions.

Joe Kyle - Stated that he desired that it be noted that any change to the 48 hour rule be recognized as an exception to the standard rule due to transportation concerns west of Seguam Pass. He stated it would drastically affect some of the operations out west.

Rick (of Northstar) - Addressing the proposed rescinding of the 48-hour rule in Western Alaska. He voiced a concern regarding how we ensure that pilotage needs are being met. He suggested pre-planning, better communication, raise current 48-hour standard to 72 hours or more, but that industry needed some sort of drop dead time.

Captain Moreno - Addressing the proposed rescinding of the 48-hour rule in Western Alaska. He said perhaps interim steps should be implemented first. The proposed regulation ensures a pilot will be on board the vessels in question. The 48-hour rule can be used to avoid having a pilot. Interim steps he heard suggested would only delay enacting a similar regulation. He stated cooperation is lacking, a proposed mid-November meeting with industry to discuss this issue never materialized.

### **Additional Public Comment Not Related to the Proposed Regulations**

Bill Sharp - Commenting regarding the issue of where pilots will be embarked and disembarked stated that he was not aware of any real problems or safety issues regarding pilot stations.

End of Side B, Tape 2. Ted Kellogg - Addressing Agenda Item 15; he agrees with items 1-4 of Mike Spence letter, but the signature page proposed with the exam question protocol is a problem.

Joe Kyle - Regarding the Cape Spencer pilot station issue, stated that the Board needs to weigh the conflicting need of pilots required on board and the need of industry to facilitate commerce. The state would be well advised to stay out of the discussion of when and how pilots get to their ships.

Captain Didier - Captain Didier asked what happened to his request for acceptance of his application for the Regional Local knowledge examination in February. He was told that since a motion was not made to accept his application, his request was denied. Captain Didier went on to say that if federal observer trips were not allowed to be counted toward the state training requirement it would take 41 weeks or two years of cruise ship seasons to meet the requirements. He compared his situation and request to a previous request put before the Board by Captain Rathgeber. He also stated that some allowance should be made for local expertise gathered before the training program. Chairman Bush clarified for Captain Didier that under the current regulations federal observer trips count towards the State training requirements as appropriate. Captain Spence commented that if the Board approved Captain Rathgeber's application after receiving bad or incomplete information it did not require that the Board make the same mistake again. Chairman Bush requested any suggestions

regarding how the Board could allow people with local expertise to receive a pilot license.

**Agenda Item 15**

**Examinations**

End of Side A, Tape 3.

The MPC stated that he had ordered the software to facilitate building an exam database and generating random selected tests. Captain Spence stated that our current system of examination is primitive and does not serve the interests of the state in having a real examination of pilots. He also stated that part of the MPC's job is to administer exams and to insulate the Board from administering exams. A lengthy discussion ensued. The major stumbling block was the signature page proposed for use when submitting examination questions. The draft signature page contained a statement that the undersigned would not show or share the questions with anyone. Chairman Bush stated that he felt that it was time for the MPC to draft a letter to solicit questions from the pilots. In response to a question from Captain Spence, Chairman Bush said that he felt that it was the will of the Board that the signature page be left in as a requirement.

**Agenda Item 16.a**

**Quarterly Reports**

Chairman Bush left the meeting to make an urgent phone call. Captain O'Hara assumed the position of Chairman until Mr. Bush's return. The MPC stated that it was his understanding that the Board had previously voted to have the association quarterly reports submitted electronically and have them stored in a database. Captain Spence asserted that without a reliable source of information regarding pilotage and shipping activity the Board is unable to effectively perform its function. The Board is unable to review facts, but must rely instead upon antidotal information as the basis for making many of the Boards decisions. Captain Spence has been told that the main stumbling block to electronic reporting is the unwillingness of some associations to have their activity easily viewed by competitors or other outside interests.

Mr. Luck commented that the proposed format contains information not currently required; that the current system serves the need for renewal of licenses; that the proposed database would have some validity for regulation making, but the agents also have all the traffic information of interest regarding tonnage, transits and port calls. Another problem is one of input since SEAPA's current report is drawn off of their billing database. The creation and electronic submission of the information suggested would require increased costs for the additional data input.

Captain Drahos commented that Region 2 also has a concern with making this association activity information readily available. He said that their current quarterly reports are also generated from their billing database and that they would also incur extra costs in providing this information.

Mr. Bush returned to the meeting.

On a motion made by Captain Spence, seconded by Mr. Smith and passed unanimously, it was

RESOLVED to have the MPC draft a regulation to require quarterly reports to contain standardized entries and be submitted in electronic and paper form.

Mr. Bush resumed Chairmanship of the meeting.

**Agenda Item 16**

**Dispatch of Pilots/ Cape Spencer Pilot Boat Station**

End of Side B, Tape 3.

Chairman Bush asked the Board "in the abstract, does a vessel have the right to go by a pilot station leaving mandatory pilotage waters and not disembark the pilot, if they choose to do so?". . . . "Basically does the board want to get into the question of mandating that pilots have to be disembarked at pilot stations when they go by, assuming weather permitting?" The Board held a general discussion of this issue without coming to any definitive answer. Chairman Bush concluded the discussion with the thought that the Board needs to continue to monitor the situation and he requested any parties that may have suggestions to please submit them to the MPC. He went on to say that he hoped the situation would resolve itself without the Board's intervention.

**Agenda Item 17**

**Review of Correspondence**

The MPC led the Board through the routine correspondence contained in the Board packet. It was suggested that the letter from the Master of the M/Y MARIDOME be sent to Stephanie Symanski so that she would be aware of the frustration some yacht owners have exhibited with the new statute.

**Agenda Item 18**

**New Business**

Captain Spence requested that the "yacht issue" be included on the next Board meeting agenda. Chairman Bush notified the Board that a third day may be added to the February meeting so that the Board may conduct a rate hearing. The next meeting date was set tentatively for April 16 and 17, 1997. The MPC was asked to coordinate with board members to set and confirm the next meeting date. Chairman Bush noted that examinations would be conducted the morning of the first day of the meeting, and possibly the afternoon of the second day. Rather than having the MPC absent, (proctoring examinations), during the afternoon of the second day of the meeting, Mr. Smith suggested



that since the next meeting was in Juneau that perhaps another state employee could proctor those examinations so that the MPC would be able to attend the Board meeting.

Chairman Bush called for other new business or comments regarding any other item. Hearing none, the meeting was adjourned at approximately 4:40 pm.

Respectfully submitted: \_\_\_\_\_  
Peter D. Christensen,  
Marine Pilot Coordinator

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

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Jeffrey W. Bush,  
Deputy Commissioner