

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

**MINUTES OF MEETING
January 29-30, 1998**

By the 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 held January 29-30, 1998, in Anchorage, Alaska.

1/29/98

Examinations were conducted from 0830 - 1200 as listed below:

Captain David Gray - Yakutat
Captain Bob Winter - West Coast of Prince of Wales Is.

Start Tape 1, Side A

Agenda Item 1 Call to Order/Roll Call

Chairman Bush called the meeting to order at 1319. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Mr. Jeff Bush	-	Commissioner's Designee
Captain Pete Garay	-	Pilot Member
Captain Michael Spence	-	Pilot Member
Mr. Bob Berto	-	Agent/Vessel Manager Member
Mr. Bernie Smith	-	Agent/Vessel Manager Member
Ms. Barbara Huff Tuckness	-	Public Member
Mr. Michael White	-	Public Member

Staff present were: Peter Christensen, (MPC)

Agenda Item 2 Review/Set Agenda

The agenda was accepted as written with the following amendments:
Agenda Item 9 "Marine Simulator Project Update" was moved to the beginning of the mornings session on the 30th; since it was expected that the rate hearings scheduled for the morning of the 30th would be short, the

audience was put on notice that the agenda items scheduled for the afternoon of the 30th would be begun in the morning session, immediately following the conclusion of the rate hearings. The MPC noted that he did not have a copy of the ethics video present, so the accomplishment of Agenda Item #11 was in doubt. He stated that he would try and see if he could get a copy from the local office during a break.

On a motion made by Mr. Berto, seconded by Ms. Huff Tuckness and carried unanimously, it was

RESOLVED to approve the agenda as amended.

Mr. Ken Truitt, AAG
Joined the meeting
via telephone

Agenda Item 3

Review Agenda for Potential Conflicts of Interest and Declarations of Recusal.

Mr. Berto referenced his standard disclosure regarding his interest in pilot stations. Chairman Bush referenced his standard response to that disclosure and requested Mr. Berto participate as a Board member in the discussion of pilot station issues. Mr. Berto did not expect to be present for the second day of the meeting, but if he happened to be, he voluntarily recused himself from either of the rate hearings scheduled to be heard by the Board on January 30, 1998.

Captain Spence voluntarily recused himself from participation or consideration of either of the rate hearings scheduled to be heard by the Board on January 30, 1998.

Agenda Item 4

Investigation/Litigation Update

Ken Truitt addressed litigation in process. The SEAPA Rate Hearing appeal to the Supreme Court has been withdrawn. In the Petrich Matter, the Board received the written decision of the Superior Court in which they affirmed the Board's action of denying the renewal of his license.

The MPC added that the Proteus litigation is currently in the discovery phase and that the plaintiff's counsel had requested to review some of our documents mid February.

Chairman Bush asked whether the Hendsch decision, which was included in the Board packet, had any effect on the Board. The MPC responded that the decision does not impact the Board, but that he thought it might be

of interest to all pilots and pilot associations, and for that reason he had included it in the Board packet.

Telephone connection to Mr. Ken Truitt ended. The MPC related that two new investigations had been opened and none closed since the last meeting of the Board.

Agenda Item 5 **Review/Approve Past Meeting Minutes**

The Board discussed whether any changes needed to be made to the minutes before their approval by the Board. Captain Spence requested that the paragraph carried over to page six needed to be clarified and quote marks inserted, if indeed the statements presented were quotes. He also requested that the statement attributed to him at the bottom of the first paragraph under Agenda Item 9 be corrected.

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

RESOLVED to adopt the October 1997 minutes as amended.

Agenda Item 6 **Public Comment**

Mr. Dennis Lodge spoke regarding establishment of a simulator in Seward.

Captain Michael O'Hara - passed

Mr. Case Deelstra summarized the Marine Safety Task Force (MSTF) meeting held earlier that morning. CDR Elly volunteered to publish the "Voluntary Marine Waterways Guide." The MSTF has now agreed to hold meetings twice yearly. Their next meeting will be April 1, 1998 in Juneau.

Captain Robert Winter spoke regarding the examination database; the need for the MPC to have a laptop computer; and accepting CG or STCW approval for ARPA courses.

End of Tape 1, Side A Captain Douglas MacPherson spoke regarding Captain George's request.

Begin Tape 1, Side B

Captain Joseph Homer - passed

Captain Hans Antonsen read SEAPA's Section 1.C of their Operating Rules re Fatigue that were approved by the Board October 1997.

Captain Jeff Baken read into the record a letter from Captain Terry Bennett regarding fatigue.

Mr. Ken Castner spoke regarding what he considered to be an inappropriate attitude of a pilot in attendance at the Ice Symposium. He also asked the Board to adopt some criteria for maintenance of Board records.

Captain Robert Pawlowski stated that the comments received during the Ice Symposium will be reviewed for possible use and/or implementation.

Agenda Item 7 **Captain Gray's License Upgrade**

End of Tape 1, Side B
Start Tape 2, Side A

The MPC summarized the memorandum he wrote at the Board's request regarding the history and use of the regulations contained in 12 AAC 56.030, 56.040, and 56.045. A general discussion among the Board ensued. Additionally, Captain Gray spoke on his own behalf, and public comment was received from Captain Collins. Ultimately, the Board declined to take any additional action on this issue. When a member of the audience asked what that meant, Chairman Bush stated that it meant that the MPC should proceed with the issuance of Mr. Gray's license as resolved by the Board at the last meeting.

1500 Break
1525 Back on Record

Ms Huff Tuckness left for the day.

Agenda Item 8 **Status of Performance Monitoring Project**

The MPC summarized the results of the committee that met to discuss the Pilot Performance Monitoring (PPM) Project. The MPC stated that the PPM committee agreed that the monitoring would be conducted at least annually, by check rides, and that the monitor would be at least a pilot holding an unlimited State pilot license, perhaps a pilot with a training pilot endorsement. The committee discussed what would be monitored and did not reach a definite answer. The items discussed by the committee included: decision making, local knowledge, ship handling skills, bridge resource management, and communication. The committee determined that the purpose of monitoring was to improve pilot performance. The committee discussed, but did not decide, whether the pilot associations would retain the forms or whether they should be sent to the MPC. Everything between sending the original form to the MPC to

sending a letter to the MPC stating that the following pilots had been monitored was mentioned. Lastly, the MPC mentioned that the committee had discussed what format the monitoring form should take. One view was that the form should list a general category with a lot of white space for comments, another was that it should be a comprehensive, specific checkoff list. The MPC concluded with the results of the committee's two work items. The committee had requested each pilot association to draft a PPM program and submit it to the committee for review and comment. So far, only SWAPA and SEAPA have submitted draft versions of a program. The other work item directed the MPC to ask the Brisbane and Washington pilots to provide copies of any monitoring forms they might have developed or have in use. The MPC stated that he had not yet heard from the Brisbane Pilots and that he had not contacted the Washington pilots yet. The Board heard public comment on this subject from Captain Homer, Mr. Castner, Captain O'Hara and Captain Kellogg. A discussion among Board members followed. Chairman Bush told the MPC that if possible, a draft regulation regarding a PPM project should be included in the regulation package the Board would consider the next day.

Agenda Item 10 **Request from Captain George**

Captain George read his letter to the Board into the record. A discussion among the Board ensued. Chairman Bush explained that the Board has no authority grant a waiver of the existing requirements. Chairman Bush stated that the Board had yet to set a teleconference for the summer, but it could include examinations and that might help the situation. Captain Kellogg of SEAPA stated "we did comply with three requests from Alaska Coastwise Pilots on behalf of Captain George, to accommodate him on three trips into Tracy Arm last year. Those were the only three requests we received from him, we did comply with those, and I don't see any reason why we can't assist them in the upcoming season. Thank-you."

End of Tape 2, Side A
Start Tape 2, Side B

Agenda Item 11 **Ethics Video**

The MPC had not had time to request a copy of the video from the local office. Agenda Item 11 was deleted, rather than take up Board time to show the Ethics video, it was decided to mail the video to the new Board members to view at their leisure.

Before moving on to Agenda Item 12, Chairman Bush recognized Mr. Ken Castner. Mr. Castner pointed out a potential problem with the current requirements of 12 AAC 56.016(a)(3)(A)(ii), "on or after March 1, 1996, five consecutive years of experience as a state marine pilot while holding

an unlimited tonnage state pilot license in the region for which a training pilot endorsement is sought.” Mr. Castner noted that a pilot holding a Training Pilot endorsement that subsequently received his VLCC license could immediately act as a training pilot on VLCC vessels. Upon review of the regulations it was noted that Mr. Castner was technically correct. However, after some discussion it was determined that SWAPA would not allow such a situation to occur.

Agenda Item 12 Exam Results/License Approval/Endorsements

The MPC reported to the Board that Captain Gray took and passed the Extension of Route Examination for Yakutat Bay.

On a motion made by Mr. Smith, seconded by Mr. White and carried unanimously, it was

RESOLVED to grant Captain Gray an extension of route endorsement for Yakutat.

The MPC reported to the Board that Captain Winter took and passed the Extension of Route Examination for the West Coast of P.O.W. Island.

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

RESOLVED to remove the exclusion from Captain Winter’s license regarding the West Coast of P.O.W. Island.

The MPC reported to the Board that Captain Gurry had applied for and was qualified to receive a VLCC endorsement.

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

RESOLVED to grant Captain Gurry a VLCC endorsement.

The MPC reported to the Board that Captain Tillion had applied for and was qualified to receive a Training Pilot endorsement.

On a motion made by Captain Spence, seconded by Captain Garay and carried unanimously, it was

RESOLVED to grant Captain Tillion a training pilot endorsement.

The MPC reported to the Board that Captain Hannuksela had applied for and was qualified to receive a Training Pilot endorsement.

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

RESOLVED to grant Captain Hannuksela a training pilot endorsement.

The MPC reported to the Board that Captain Ogilvy had applied for upgrade to unlimited using 12 AAC 56.030 and that he was qualified to receive a license upgrade to unlimited.

A motion to grant Captain Ogilvy an upgrade to unlimited was made by Mr. Smith, and seconded by Captain Spence. After discussion the motion was tabled until the Board could question Captain Ogilvy or until additional information was received from the MPC. The meeting recessed for the day.

Jan. 30, 1998

Call to Order/Roll Call

Begin Tape 3, Side A

Chairman Bush called the meeting to order at 0849. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Mr. Jeff Bush	-	Commissioner's Designee
Captain Garay	-	Pilot Member
Captain Spence	-	Pilot Member
Ms. Huff Tuckness	-	Public Member
Mr. Michael White	-	Public Member

Staff present were: - Peter Christensen (MPC)

Agenda Item 13 **Rate Hearing - SEAPA**

Captain Spence was recused from this agenda item. Chairman Bush conducted the hearing and read the following into the record:

“This hearing is being convened under the authority of AS 08.62.046(c). A written objection was filed within 60 day time frame following the public notice of SEAPA’s proposed rate, and a written response to the objection was received within the 15 day window following the 60 day period. Accordingly, the Board pursuant to prior decisions of the hearing officers in similar cases, the Board is obligated to hold a hearing to determine whether the proposed rate is reasonable.

Following the objection and response, the Board received word that the parties had negotiated new rates, but unfortunately, the newly agreed upon rates cannot be noticed unless the Board finds the original proposed rates, noticed October 10, 11 & 12th of 1997, to be unreasonable. For the sole purpose of facilitating the negotiated rates subsequently agreed to by the parties, do both parties agree with the Board’s intention to find the noticed rates unreasonable?”

Captain Ted Kellogg, representing SEAPA agreed and Mr. Joe Kyle, representing ASA agreed to the finding of unreasonableness.

“Let the record reflect that both parties have agreed. Then, under the authority of Alaska Statute 08.62.046(c) the Board rules that the pilotage rates noticed by SEAPA on October 10, 11 & 12 are unreasonable. This finding of unreasonableness is for the sole purpose of facilitating the notice of the newly negotiated rates and is not based upon the objection or the merits of the noticed rates. In accordance with AS 08.62.046(e), SEAPA now has 60 days to propose and notice new pilotage rates, and I presume that won’t be a problem. Those rates, properly noticed and lacking objection, will take effect retroactively to January 1, 1998.”

Chairman Bush then told both parties that they would receive copies of what he had just read for their records.

Agenda Item 14 **Rate Hearing - SWAPA**

Chairman Bush asked ASA to affirm that they had withdrawn their objection to SWAPA’s noticed pilotage rates. Mr. Kyle stated that they had, and that he had given a letter to that effect to the MPC. Lacking an objection to the rates, the Board no longer needed to hold a hearing.

The MPC stated that the last two pages under Tab 1, titled "Agreement Between the Alaska Steamship Association and the Southeast Alaska Pilots' Association" were mistakenly included in the Board packet. He apologized for their inclusion and stated that they would be removed and were not part of the official record of the meeting.

Agenda Item 9 **Marine Simulator Project Update**

The MPC reviewed for the Board, the presentation he made to the committee working on the marine simulator RFP. He also went into the reasons that led him to consider soliciting proposals from industry without spending the RFP money. There had been general agreement among the committee to try the approach he had outlined. He then walked through a handout he had prepared and distributed that explained the approach he was now considering. Following the summary of the committee teleconference, the MPC summarized the regulation he had drafted to implement the new approach he was considering.

Captain Spence commented that he took exception to the emphasis of the program the MPC was proposing.

Chairman Bush related the history of the marine simulator initiative for the new members of the Board. He then solicited public comment from the audience on this subject.

End Tape 3, Side A The following persons gave public comment regarding the marine simulator project: Mr. Dennis Lodge, Captain Michael O'Hara, Mr. Ken Castner, Mr. Dennis Lodge, Captain Richard Desautel, Captain Joe Homer, Captain Ted Kellogg, and Captain David Gray.

Discussion among the Board members followed. The majority consensus was that there were still concerns regarding the industry's ability to provide what the Board is seeking in regard to simulator based marine pilot evaluations. Some members also cited the possible subsequent cost to pilots if industry paid the bill for developing the program and databases the Board desired. Accordingly, it was decided that the committee should go forward with an RFP to develop whatever items are not already present in the marketplace. Chairman Bush stated that if we are going to do an RFP at all, he would like to see a complete draft of the RFP presented at the Board's next meeting.

Agenda Item 12 **Exam Results/License Approval/Endorsements - continued**

End Tape 3, Side B The MPC reported that he now had the additional information he
Begin Tape 4, Side A needed to proceed with Captain Ogilvy's request to upgrade his license.
He related that Captain Ogilvy had taken exams that were very similar to
the examinations now given. The MPC recommended that the Board
grant the upgrade for Captain Ogilvy's license.

On a motion made by Captain Spence, seconded by Mr. White and carried
unanimously, it was

RESOLVED to grant Captain Ogilvy's a license upgrade to
unlimited.

Agenda Item 15 **Review of Regulation Package**

Chairman Bush introduced the package and told the Board that the
Department of Law would prefer that the Board again resolve to notice the
regulation package, since at the last meeting the Board did not have a
package to actually review or consider.

He then turned the presentation over to the MPC who quickly reviewed
and summarized the package as presented. Following the MPC's
summary the Board took oral comment. In addition to the Board, the
following persons commented on various portions of the regulation
package: Mr. Castner, Captain MacPherson, Captain Hans Antonsen,
Captain O'Hara, Captain Homer, Captain Collins, Captain Baken, Mr.
Kyle, Mr. Castner,

End Tape 4, Side A Captain Hans Antonsen, Captain Moreno, Captain O'Hara, Captain
Didier,

Begin Tape 4, Side B Mr. Castner, Captain Kellogg, Mr. Geldecker, Captain Gurry, Captain
MacPherson, and Captain Ward.

1211 Lunch day. The Board then recessed for lunch. Ms. Huff Tuckness departed for the

1329 Back on Record The Board reconvened with Mr. Smith now present, and recessed into an
End Tape 4, Side B informal work session as they worked through the regulation package,
Begin Tape 5, Side A section by section.

End Tape 5, Side A
Begin Tape 5, Side B
End Tape 5, Side B
Begin Tape 6, Side A

1530 The Board reconvened into regular session.

Agenda Item 16 mistakenly identified as Continue Review of Regulation Package.

Agenda Item 17. Business Items

Report of BMP Budget and Legal Costs: The Board costs to date in FY98 were presented and the MPC explained that the Division still did not have any FY98 legal billings.

End Tape 6, Side A
Begin Tape 6, Side B

Correspondence: The MPC led the Board through the Correspondence contained under Tab 8 in the Board packet. The Board discussed the Coast Guard letter regarding the late renewal of Captain Douglas' Federal license and its possible effect on the validity of his State pilot license. It was determined that current State statutes and regulations only require a current federal license be presented for initial licensure and for license renewal. The Board also took an active interest in the violations of state pilotage reported by the Coast Guard in the grounding of the M/V KUROSHIMA.

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

RESOLVED to refer the M/V KUROSHIMA's reported violations of State pilotage to the District Attorney's office.

Captain Spence volunteered to draft a reply to the Alaska VoTech letter the Board had received. The Board asked that the draft letter be reviewed by the Board before it is sent out.

Captain Spence brought up the issue previously raised by Captain Winter and Mr. Lodge regarding acceptance of USCG approved ARPA courses for meeting the continuing education requirements required for renewal of marine pilot licenses.

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

RESOLVED to amend 56.083(a)(1) to accept USCG approved ARPA courses and to notice the regulation change in this regulation package.

On a motion made by Captain Spence, seconded by Captain Garay and carried unanimously, it was

RESOLVED to notice the proposed regulation package as amended.

Set Teleconference Date for Amendment/Adoption of the Regulation Package: Rather than hold a teleconference, the Board decided to take oral comment on the regulation package at the Board's next meeting.

Set Summer Teleconference Date: The Board set July 16 at 1300 for a summer teleconference with exams to be held that morning.

Set January 1999 Meeting Date: The Board set January 27-28, 1999 as the date for the January 1999 Board meeting.

The RFP committee set February 12, 1998 at 0900 for a teleconference committee meeting to work on the RFP for development and implementation of a simulator based pilot performance evaluation.

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

RESOLVED to adjourn the meeting.

Respectfully submitted: _____
Peter D. Christensen,
Marine Pilot Coordinator

Approved this _____ day of _____, 1998.

Jeffrey W. Bush,
Deputy Commissioner