

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

**MINUTES OF MEETING  
April 15, 1999**

**B**y 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 by teleconference April 15, 1999. The teleconference sites for public participation were the Ted Ferry Civic Center in Ketchikan, the State Office Building in Juneau, and the Commissioner's conference room in the Frontier Building in Anchorage.

**4/15/99**

Start Tape 1, Side A

**Agenda Item 1      Call to Order/Roll Call**

Chairman Bush called the meeting to order at 0838. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Ketchikan - Ted Ferry Civic Center:

Captain Spence      -   Pilot Member  
Mr. Bob Berto      -   Agent/Vessel Manager Member

Juneau SOB:

Mr. Jeff Bush      -   Commissioner's Designee  
Mr. Bernie Smith   -   Agent/Vessel Manager Member

Anchorage Commissioner's Conference Room:

Mr. Mike White    -   Public Member

Members Absent:

Ms. Barbara Huff   -   Public Member  
Captain Garay      -   Pilot Member

Staff present:

Peter Christianson -   Marine Pilot Coordinator

Public in attendance in Ketchikan were:

Captain Baken

Captain Kellogg  
Captain H. Antonsen  
Captain Anderson  
Captain Porter  
Captain MacPherson  
Captain George

Public in attendance in Juneau were:

Captain O'Hara  
Mr. Monkman

Public in attendance in Anchorage were:

Captain Desautel  
Mr. Castner

**Agenda Item 2**      **Review/Set Agenda**

The agenda was amended as follows:

Agenda item 11a, titled "License Actions" was added.

Agenda item 10a, titled "Yachts" was added.

Agenda item 10b, titled "Audit Recommendations" was added.

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

RESOLVED to approve the agenda as submitted.

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

No conflicts were noted.

**Agenda Item 4**      **Investigation/Litigation**

The MPC announced the following: a prehearing conference was to be held April 15, 1999 in the Renwick matter; the Proteus matter is still in the discovery phase of the proceeding; currently there are approximately 9 investigation cases open and that he anticipated closing three cases in the

near future. The MPC announced also that the majority of the open cases were violations of the pilotage act where vessels have failed to take a pilot when required.

Captain Garay joined the meeting from Anchorage.

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

A typographical error on page 11 of the minutes was noted. The item listed as Agenda Item 14 "Rate Hearing – SWAPA" needed to be renumbered as Agenda Item 15 "Rate Hearing – SWAPA".

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

RESOLVED to approve the minutes as amended.

**Agenda Item 6.**      **Public Comment**

Captain Antonsen - updated the Board about SEAPA's progress in developing their quarterly report to be in an electronic format.

Captain Kellogg - commented on Agenda item 8 and announced that both Region 1 associations were jointly working on a pilot performance monitoring form.

Captain Baken – elaborated that SEAPA and ACP are cooperating on regulatory issues and that they are jointly sponsoring a safety conference May 7, 1999 in Ketchikan. On the subject of emergency dispatch, Captain Baken noted that discussions on this issue continue. On the proposed simulator regulation, both ACP and SEAPA favor amending it to read every three biennial periods instead of every two biennial periods as written. He requested that the proposed regulation titled "Previous Experience or Supervision to Conduct a Movement" be tabled until the association has had time to study it further.

Captain Dundas – commented that the regulation titled "Previous Experience or Supervision to Conduct a Movement" was unnecessary. Currently pilot associations take various actions in-house to address this

issue when it arises. He also mentioned that they were working to comply with the requirement to submit their quarterly reports in an electronic

format, and that the system should be ready soon. He stated that AMP also supported amending the proposed simulator evaluation requirement to every three biennial periods. Lastly, he endorsed the proposed amendment to Region 3's pilot availability regulations.

Ken Castner – expressed his desire to hold face-to-face meetings rather than teleconferences and his disappointment that the 60,000 GT issue was not on the agenda. He stated that the draft regulation “Previous Experience or Supervision to Conduct a Movement” did not address the issue he has been trying to see addressed. He is more interested in a regulation that addresses opening of new ports.

Captain Garay – also commented that he thought face-to-face meetings were much more productive.

Captain O'Hara – stated that he felt that the 60,000 GT issue would be better addressed in each association's training program.

**Agenda Item 7**

**Requested Reports from Quarterly Database**

The MPC reported that he had not yet received any data from the associations for the first quarter of 1999, and therefore he did not have any information with which to compile the reports the Board had requested. Chairman Bush encouraged all the associations to comply with the requirement to submit their quarterly reports in an electronic format as soon as possible.

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

**Agenda Item 8**

**Board Review & Approval of Association Training Programs  
Implementing Performance Monitoring**

Captain O'Hara introduced SWAPA's proposed performance-monitoring form. Chairman Bush said that speaking for himself, he was not inclined to approve any forms until he saw the proposed forms submitted from the other groups. Captain Spence spoke in favor of objectifying as many of the elements to be monitored as possible and, if possible, a universal form for use by all three regions.

Chairman Bush called for a volunteer from each association to work with the MPC to produce a universal form. Captains Baken, Dundas, Kellogg, and O'Hara were later identified to work on this item. Additional public

comment was heard both for and against developing a universal statewide form. In the interests of letting the associations begin their monitoring programs, the Board granted interim approval to the associations' proposed forms pending the Board's final review and ultimate approval of the forms and the amendments to the associations' training plan.

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

RESOLVED to grant interim approval to the associations' performance monitoring forms that are officially submitted within the next 10 days to the MPC. The forms submitted will be subject to the MPC's review. Final Board approval of the forms will be taken up at the July 15, 1999 meeting.

Break 1010  
End Break 1025  
End Tape 1, Side B  
Start Tape 2, Side A

Barbara Huff joined the teleconference in Juneau.

## **Agenda Item 9**

### **Marine Simulator Project Update**

The MPC announced that the Job Task Analysis had occurred at RTM Star Center with the assistance of seven Alaskan pilots. He thought the JTA was a success and that the pilots seemed pleased with the simulator. He went on to discuss the information that the associations need to gather and submit to RTM Star Center to assist the modeling of the geographical areas and some of the guidelines for collecting that information. The Star Center usually gathers this information themselves, and the MPC proposed that he amend the contract to have the RTM Star Center send one of their modeling staff to Alaska to gather some of the information needed for the models. The comments on this idea were unanimously favorable.

On a related topic, the MPC explained that while he was attending the JTA at RTM Star Center, several of the pilots in attendance were requesting the staff to change some of the ship models and geographical databases that were to be used or developed for the project. The MPC told the pilots in attendance that any changes to the ship models and/or geographical databases would require an amendment to the contract and that since the original specifications had been designed by a statewide committee, any

changes should be submitted in writing by the associations. He requested that the associations submit a letter to him if they desired to change any of the ship models or geographical areas specified to be simulated in the

contract. He also mentioned that the Region 1 pilots in attendance at the JTA also felt that the actual evaluations should be limited to certain waterways on the list for Region 1. The MPC asked that the Region 1 associations discuss and submit to him a list of the waterways that they wished to use in the actual evaluations when they are conducted.

**Agenda Item 10**      **Update – M/V KUROSHIMA Case Status & the M/V KHANA Pilotage Violation**

The MPC announced that the USCG investigation into the grounding of the M/V KUROSHIMA was not yet complete and therefore it was not yet subject to release. He assured the Board that when it is available, he will provide copies of the investigation to the Board. He also mentioned the letters in the Board packet from Captain Hutmacher (USCG) and Captain Moreno regarding the M/V KHANA. He went on to state that he did not intend to submit any further violations to the Anchorage District Attorney's office until the M/V KUROSHIMA and M/V SEA TRADER violations had been acted upon by that office and a process established for processing these sort of violations.

A discussion followed that outlined the efforts that have been made to have these types of investigation/violations processed. The discussion then turned to the problems that impede the performance of effective investigations and the prosecutions of any resulting violations.

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

Chairman Bush asked the MPC to work with the Department of Law to try to formulate a process that will allow investigation and prosecution of these cases. Consultation with the Department of Law should include drafting any necessary legislation to give the MPC investigative authority and implementation of a penalty that would work to discourage future violations. Implementation of a civil penalty process was also mentioned.

**Agenda Item 9**      **Marine Simulator Project Update - Continued**

The Board then returned to further discussion of Agenda Item 9. Captain Spence expressed discomfort with the MPC's intended course of action regarding potential changes to the contract. Chairman Bush asked that the

MPC inform all members of the Board of any impending changes to the contract.

**Agenda Item 10a**     **Yachts**

Captain Spence was interested in knowing whether an information letter had gone out yet to the publishers of information for cruising Alaska. The MPC stated that he had not yet sent the letter. The MPC stated that it would be done soon after the meeting.

**Agenda Item 10b**     **Audit Recommendations**

Captain Spence spoke regarding the recommendations of the audit, especially Recommendation #1. Recommendation #1 recommended that the Board work to “develop a database against which the competency of both trainees and licensed pilots can be better measured”. This database would have to reflect “the human factors involved in regulated maritime shipping activity”. Captain Spence raised the possibility that perhaps the performance monitoring can provide this data. The MPC was directed to include this item on the Board’s July meeting agenda.

**Agenda Item 11a**     **License Upgrades**

The MPC asked the Board whether they wanted to extend his current authority to upgrade deputy marine pilot licenses to 40,000 GT to also include an upgrade to the newly established level of 60,000 GT. He stated that if the Board did not wish to extend him the authority, he had three applications for tonnage upgrade that he wished to present to the Board.

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

RESOLVED to grant authority to the MPC to issue tonnage upgrades to deputy marine pilot licenses of 40,000 and 60,000 GT by application of the regulations.

The motion was written to include the 40,000 GT upgrades to confirm that the MPC retained that authority even though the requirements for the

40,000 GT upgrade had changed at the same time the 60,000 GT endorsement became effective.

Recess for Lunch  
Off Record

**Agenda Item 11 Roll Call**

In the absence of Mr. Bush, Mr. Smith called the meeting to order at 1335. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Ketchikan LIO:

Captain Spence - Pilot Member  
Mr. Bob Berto - Agent/Vessel Manager Member

Juneau SOB:

Mr. Bernie Smith - Agent/Vessel Manager Member  
Ms. Barbara Huff - Public Member  
Mr. Peter Christensen - Staff

Anchorage Commissioner's Conference Room:

Mr. Mike White - Public Member  
Captain Garay - Pilot Member

Members Absent:

Mr. Jeff Bush - Commissioner's Designee

**Note:** Due to problems with the teleconference connection everyone went offline at approximately 1340. To allow the MPC time to straighten out the problems or arrange for another teleconference provider, it was agreed that everyone would be present to resume at 1400. The tape was not started for the Roll Call and in the confusion that followed the tape was forgotten until partway into Agenda Item 12.

**Agenda Item 11a License Upgrades – continued**

Captain Stith joined the teleconference to address the Board regarding his application for a deputy marine pilot license. Captain Stith's marine pilot license could not be renewed this year because his license did not comply with the requirements of 12 AAC 56.080(f). That regulation requires that a marine pilot may not have any areas in the marine pilot's region excluded on the marine pilot's federal or State pilotage. At the January Board meeting, the Board had told Captain Stith that if he could meet the requirements of 12 AAC 56.028, (the deputy marine pilot regional training requirements), they would consider his request for a deputy marine pilot license. Subsequently, Captain Stith made application for a deputy marine pilot license.



The MPC gave a summary of Captain Stith's pilotage history over the last seven years and a summary of how that history fulfilled the requirements of 12 AAC 56.028(a). In brief, and with the qualifications stated on the record, the MPC stated that Captain Stith met the requirements of 12 AAC 56.028(a) with the exception of the moorings required in 12 AAC 56.028(a)(1)(F). Following some discussion regarding what the Board had meant when they stated that they he would have to meet the requirements of 12 AAC 56.028(a), the Board stated that if he could complete the requirement for moorings the board would consider his request. Captain Stith acknowledged the Board's decision and with the discussion of his situation now complete he disconnected.

The Board then considered a request for a "Training Pilot" endorsement for Captain MacPherson.

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

RESOLVED to grant Captain MacPherson an endorsement as a "Training Pilot."

**Agenda Item 12**      **Draft Regulations**

Ken Castner – commented that the proposed regulation to implement the simulator based pilot performance evaluation program did not include a list of approved simulator facilities. He stated that the regulation should also list the facilities that are approved.

Tape 2, Side B  
Restarted

Dave Anderson – commented that the simulator based pilot performance evaluation program should only be required every three licensing periods, not every two as stated in the proposed regulation before the Board.

Ted Kellogg – agreed that the simulator based pilot performance evaluation program should only be required every three licensing periods, not every two as stated in the proposed regulation before the Board. He also stated that the regulation dealing with "Previous Experience or Supervision to Conduct a Movement" should be tabled at least until the next meeting to give the associations more time for a proper response.

Bernie Smith (acting as Board Chair in Mr. Bush's absence) – requested that the Association's submit alternatives to the draft regulation regarding "Previous Experience or Supervision to Conduct a Movement."

End Tape 2 Side B  
Start Tape 3, Side A

Captain O'Hara - suggested that the way to address the proposed regulation "Previous Experience or Supervision to Conduct a Movement" was to require the associations to identify the process they will follow in their Board approved Training Plan.

Captain Garay - proposed that the associations bring proposed amendments to their training plans to the Board at the next meeting.

Mr. Smith requested that the associations submit comments in the interim or at least be prepared to discuss possible alternatives to the proposed regulation "Previous Experience or Supervision to Conduct a Movement."

Following a discussion among the Board, the regulation to implement the simulator based pilot performance evaluation program was amended to be required every three licensing periods.

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

RESOLVED to notice the proposed regulations in the packet that amend 12 AAC 56.080(e)(1) and 56.083.

Following a brief discussion among the Board regarding the proposed amendment to the Region 3 regulation regarding the availability of pilots.

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

RESOLVED to notice the proposed amended regulation 12 AAC 56.205(b) & (d).

Regarding the issue of whether to establish additional requirements for advancing to a 60,000 GT license, the Board considered several approaches, including the idea submitted by SWAPA that each association should be allowed to develop their own program that would then be written into their training program and submitted to the Board for their approval.

**Agenda Item 13      Business Items**

Report of BMP Budget and Legal Costs - the MPC presented the current Board budget report and the litigation report.

Correspondence – The MPC briefly presented the correspondence

End Tape 3, Side A  
Start Tape 3, Side B

It was announced that the tentative date for the next years April meeting was - April 5-6, 2000 (Wednesday-Thursday).

Captain Garay related to the Board that he gave testimony to a Coast Guard Roles & Missions committee that is tasked with identifying the Coast Guard's roles and missions for the future. He added that anyone interested in providing input to the committee could still submit written comments.

It was announced that the Board's next meeting would be held via teleconference with exams on July 15, 1999 at 1330.

Mr. Smith announced regretfully that he would have to resign from the Board effective June 30, 1999, since he would no longer be employed in a position that qualified him for a seat on the Board as an agent or vessel manager.

**Motion to Adjourn**

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

RESOLVED to adjourn the meeting.

Recording Stopped

Respectfully submitted:

Peter D. Christensen,  
Marine Pilot Coordinator

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

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Jeffrey W. Bush,  
Deputy Commissioner