

GCMAN NEWS

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Happy New Year

OVERSIZED AND OVERLOADED TOW: M/V AMERICAN PILLAR RAMS CAJUN CONDO



The "Cajun Condo" A Hunting Lodge Overlooking the Mississippi River

[Source: USCG Misle Activity 1765805, Case #170499. The M/V AMERICAN PILLAR is owned by the American River Transportation Co.(ARTCO), St. Louis, MO.]

"On 14 March 2003, at approximately 0830, the Uninspected Towing Vessel (UTV) AMERICAN PILLAR allided with The Silos Lodge at mile 270.4 on the right descending bank of the Lower Mississippi River near St. Francisville, LA. The UTV AMERICAN PILLAR, a triple screw, 10,500 hp vessel, was heading northbound pushing ahead forty-two hopper barges. The tow consisted of nine loads and 33 empties.

"The Silos Lodge sits at mile 270.4 on the Lower Mississippi River. It consists of two grain silos that were converted into a commercial hunting lodge. The facility comprises two corrugated steel buildings approx 36 feet in diameter divided into four levels. There are three porches built between the buildings at the upper three levels, which link the two buildings together.

"On the day of the incident the Lower Mississippi River was at approximately 32 ft above the mean water level on the Baton Rouge gauge. The high water resulted in the lower level of the Silo's Lodge being flooded with approximately 4 ft of water at the time since it is situated within the banks of the Lower Mississippi River. The river was flowing with a current of approximately 4 to-5 knots. Visibility was less than one mile because of the dense fog.

"As a result of the dense fog on the Mississippi River the operator of the UTV AMERICAN PILLAR, Mr. ■■■, decided to "push in" (a term towing vessel operators use when they intentionally put the head of the tow into the bank and hold that position) on the left descending bank to await better conditions. As the UTV AMERICAN PILLAR was pushing in to the bank, the head of the tow hit the Silos Lodge and wiped out part of the lower level of one of the structures.

“During the surveyor’s subsequent conversation with the master, Mr. ■■■■, on March 14, 2004, the master stated that he was using the radar mostly on its unlimited setting, but would change scales occasionally to the three mile and half-mile settings. Mr. ■■■■ said he couldn’t tell the exact distance the lead barges were from the bank. At the radar’s unlimited scale this is a normal occurrence due to compression of the image.

“In a deposition Mr. ■■■■ gave on October 8, 2003, he stated that he thought he was pushing in to a location approximately 2 miles south of his actual location. Phone records indicate Mr. ■■■■ was on the vessel’s cell phone shortly before the estimated time of the incident.

“The damage consisted of a pulled up keel on the port stern of barge #ADM 111 as well as damage to the silos. The Silos Lodge sustained substantial damage to the first and second level with an estimated repair cost between \$100,000 and \$200,000.

“There were multiple causal factors contributing to the incident. Shortly before the incident Mr. ■■■■ received a phone call on the vessel’s cell phone and thick fog closed in around the vessel. After being distracted by the phone call and without visual references, Mr. ■■■■ also failed to confirm his assumption of the vessel’s location on the river with all available means. Mr. ■■■■ did not take the time to adjust the scale on his radar appropriately. Had he done so the radar’s true motion feature would have shown him a more accurate picture of the vessel’s location.”

The foregoing is a summary of the accident prepared by the Coast Guard. GCMA provided copies of this report to our mariners who were familiar with the accident, the accident scene and the vessel. They posed a number of questions and made these comments:

- The vessel was equipped with “Pinpoint” electronic charts that graphically displayed the tow’s position at all times. The Master should not have made a two-mile error in estimating his position. If the Coast Guard had ordered the tow to wait and had actually visited the accident scene they would have noted this fact.
- Although his pilot safely pushed into the bank below St. Francisville during his watch because of the fog earlier in the morning, our mariners are critical of the Master for electing to get underway as soon as he came on watch with fog still reported in the area. The fog closed in on the tow while in the general area where the St. Francisville Ferry crosses the river carrying cars and trucks.
- The Master of the AMERICAN PILLAR previously served as Pilot a different ARTCO vessel whose Master criticized his insistence in pushing a large tow in shutout fog.
- The location of the Cajun Condos is well known to posted river posted river pilots. They are prominent radar targets as is the nearby “washout” feature even at that high river stage. There are also two sunken barges located upstream of the twin silos on the right descending bank.
- Why didn’t the Master send his deck mate out on the head of the tow in the fog with a handheld VHF radio as a lookout before landing the tow on the bank? This would have been a sensible precaution to be certain there was nothing tied on the river bank such as a small recreational craft that the tow might crush – especially

since fishermen in small boats were reported to be fishing in the area at the time of the accident?

- There is no mention in the Coast Guard report that the Master sounded any fog signals.
- Why was the Master running under the point on the east bank with the river as high as it was? This would leave him open to the current catching the head of the tow when the stern would still be in slack water. This would put undue pressure on the couplings in the tow where the steering rudders would have to be set hard over to starboard in order to keep the tow from topping around.
- Although the surveyors hired by the towing company took pictures of the damage on the day of the accident, the Coast Guard did not investigate the accident site at the time of the accident because of high water?
- Although there could have been people injured in the “Cajun Condo,” the accident report makes no mention of the towboat ever launching a small boat to closely check on the damage they caused to the hunting lodge or to check on possible injuries. The vessel simply backed off the site and continued its journey.
- Why did the employer allow the Master to stand a navigation watch while on medication (Lortab and SOMA) when both of these prescriptions carry a warning label that warns against driving a vehicle or operating machinery?

We were surprised to find when we examined the complete accident report that the Coast Guard, although critical of the Master, never took any administrative action against his license.

We also examined a number of other accident reports involving vessels owned by the same company. Many of these towboats were pushing “oversize and overloaded tows” within the Eighth Coast Guard District in the past few years. We became suspicious when we did not find that the Coast Guard brought charges in ANY of these cases.

Do all other mariners working for other boat companies in the Eighth District live equally charmed lives? This is a serious question; it is an open question. It deserves a serious answer rather than our speculation. GCMA is not afraid to ask the question!

**HOMELAND SECURITY ISSUES FACT SHEET ON
TRANSPORTATION WORKER ID CREDENTIAL**

[Source: IOMM&P Electronic Newsletter, Nov. 25, 2004]

The Department of Homeland Security (DHS) has issued a fact sheet on the Transportation Workers ID Credential (TWIC) Prototype.

TWIC is a tamper-resistant credential that contains biometric information about the holder that renders the card useless to anyone other than its rightful owner. Using this biometric data, each transportation facility can verify the identity of a worker and help prevent unauthorized individuals from accessing secure areas.

Currently, many transportation workers must carry a different identification card for each facility the access. It is argued that a standard TWIC would improve the flow of commerce by eliminating the need for redundant credentials and streamlining the identity verification process.

COAST GUARD WILL HOLD PUBLIC MEETINGS TO DISCUSS TOWING VESSEL INSPECTIONS

Introduction. Since the article titled When Will Towing Vessels Be Inspected appeared in our November newsletter, the Coast Guard already has taken the first steps to carry out Congress' mandate. We edited the following material from the Federal Register, Dec. 30, 2004 at 69 FR 78471-2. Docket # USCG-2004-19977.

SUMMARY: In the Coast Guard and Maritime Transportation Act of 2004, Congress directed the Coast Guard to add towing vessels to the list of vessels subject to inspections, and to consider establishing a safety management system appropriate for towing vessels. The USCG seeks public and industry involvement as they consider how to proceed. The rulemaking process and its opportunity for public input will provide the USCG with information on the extent of items to be considered for inclusion in any towing vessel inspection/safety management program(s).

MEETING DATES: Comments and related material must reach the Docket Management Facility on or before March 23, 2005. Public meetings will be held on the following dates and places:

- **January 26, 2005**, 9 a.m. to 12 p.m. (noon), in **Washington, DC** at the DOT/Nassif Building, 400 Seventh Street SW., Room 2230, Washington, DC 20590. [*Capt. Joe Dady will represent United Mariners and GCMA.*]
- **February 2, 2005**, 9 a.m. to 12 p.m. (noon), in the Ronald V. Dellums Federal Building, 1301 Clay Street, Third-Floor North-Tower Auditorium, Oakland, CA 94612.
- **February 10, 2005**, 9 a.m. to 12 p.m. (noon), in New Orleans, LA; 8th Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Basement Conference Room, **New Orleans, LA 70130.** [*Captain Wayne Savoie and Richard Block will represent GCMA.*]
- **February 17, 2005**, 9 a.m. to 12 p.m. (noon), Robert A. Young Building, 1222 Spruce Street, Room 2.308 (Auditorium), **St. Louis, MO 63103.** [*Captain Larry Gwin will represent GCMA.*]

To facilitate entry at a meeting site, provide the names of persons planning to attend the meeting and the company or organizations they represent to Thomas Scott Kuhaneck at the address below at least two days before the meeting. The meetings are open to the public. Security staff will compare the visitor's photo identification card with the names on the list of meeting attendees. Visitors will be escorted to and from the meeting rooms. Attendees may make oral presentations during the meeting. Please note that the meeting may close early if all business is finished.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Thomas Scott Kuhaneck, Domestic Vessel Compliance Division (G-MOC-1), U.S. Coast Guard, telephone 202-267-0240, or e-mail: TKuhaneck@comdt.uscg.mil.

[GCMA Comment: If you plan to attend one of these meetings, please notify Mr. Kuhaneck at least two days in

advance by calling him at (202) 267-0240. Security is tight at all Federal Buildings. Seating may be limited as well.]

SUPPLEMENTARY INFORMATION: Public Participation and Request for Comments. The Coast Guard encourages you to respond to their request for comments, by submitting comments and related materials. All comments received will be posted, without change, to the DOT Docket Management Website at <http://dms.dot.gov>

SUBMITTING COMMENTS: If you submit a comment, please include your name and address, identify docket number (USCG-2004-19977), indicate the specific question, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility.

[GCMA Comment: We will be pleased to help mariners who are not familiar with the process to submit their comments to the docket.]

VIEWING COMMENTS AND DOCUMENTS: To view comments, as well as documents mentioned in this notice as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number.

PRIVACY ACT: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.)

[GCMA Comment: Since comments to the docket are posted on the internet for everybody to see, we seek specific information from any mariner who threatened or intimidated for submitting written or oral comments.]

QUESTIONS. The Coast Guard needs the public's assistance in answering the following questions, and any additional information provided on this topic is welcome. In responding to each question, please explain your reasons for each answer as specifically as possible so that the Coast Guard can carefully weigh the consequences and impacts of any future actions we may take.

(Q#-1) Towing vessels of a certain size (300 or more gross register tons) are already inspected vessels and are subject to a variety of existing requirements. Should the Coast Guard use any of these existing standards (or standards for other types of inspected vessels) for incorporation into the new regulations regarding the inspection of towing vessels? If so, which regulations or standards should be incorporated into these new regulations?

(Q#-2) Title 46, United States Code, specifies the items covered with regard to inspected vessels including lifesaving, firefighting, hull, propulsion equipment, machinery and vessel equipment. However, the legislation that added towing vessels to the list of inspected vessels, authorized that the Coast Guard may prescribe different standards for towing vessels than for other types of inspected vessels. What, if any, different standards should be considered with regard to inspected towing vessel requirements from other inspected vessels?

(Q#-3) Towing vessels vary widely in terms of size, horsepower, areas of operation, and type of operation. Under what circumstances, if any, should a towing vessel be exempt from the requirements as an inspected vessel?

(Q#-4) Should existing towing vessels be given time to implement requirements, be “grandfathered” altogether from them, or should this practice vary from requirement to requirement?

(Q#-5) Should existing towing vessels be treated differently from towing vessels yet to be built?

(Q#-6) The same act that requires inspection of towing vessels authorizes the Coast Guard to develop a safety management system appropriate for the towing vessels. If such a system is developed, should its use be required for all inspected towing vessels?

(Q#-7) Examples of existing safety management systems include the international safety management (ISM) code and the American Waterways Operators Responsible Carrier Program. If a safety management system is used, what elements should be included in such a system?

CAPTAIN JOE DADY COMMENTS TO TSAC ON TOWING VESSEL INSPECTION

Background: The Towing Safety Advisory Committee (TSAC) is a federal advisory committee established by Congress in 1980 to represent every segment of the towing industry. As such, it should represent the interests of industry, labor, and government. It also has two members who represent the general public.

At the last TSAC meeting in September, the Coast Guard presented TSAC with a “Task Statement” to:

- Identify the elements to include in a Safety Management System for towing vessels.
- Recommend a framework for Coast Guard oversight and enforcement of an inspection program.
- Consider whether any towing vessels should be exempt from such a program.
- Work with the Coast Guard to develop regulations.
- Provide feedback to the Coast Guard as needed on issues and questions that arise.

The American Waterways Operators (AWO) is a powerful trade association that represents towing vessel owners. Their headquarters are in Arlington, VA across the river from Washington. Since this rulemaking is so important to them, AWO encouraged their member companies to take an active role. Mrs. Jennifer Carpenter, the Executive Vice-President of AWO also heads the TSAC Working Group.

AWO represents interests of many (but not all) towing vessel owners. Many boat owners, especially small companies including many owner-operators, are not members of AWO and choose not to be. While AWO like any membership organization (GCMA included) would like to expand its membership, that membership now requires new boat owners to adopt the “Responsible Carrier Program” (RCP) as a condition of membership. The Responsible Carrier Program calls itself a “Safety Management System” (SMS). These words are very significant because they appear in the new towing vessel inspection statute. The RCP is an investment in safety some independent boat owners are not

willing to make and, as it exists today, falls far short of the inspection standards other classes of vessels of comparable size and horsepower are expected to attain. GCMA Report #R-276 tracks the specifics of this shortfall.

GCMA wants to make it clear that we do not believe AWO always has the best interests of its mariners as its primary concern. All corporations are in business to make a profit and that goal also drives their trade association. Those companies that are successful can provide more stable working conditions, offer better health care plans, stock options, retirement etc. than other companies that operate in a less safety-conscious environment. However, many companies have poor management, are financially bankrupt, and treat their mariners as second-class citizens (i.e., morally bankrupt). Nevertheless, these companies and their trade association are ready, willing and able to speak as if they represent their employees’ best interests.

Captain Joe Dady heads United Mariners, an independent group of mariners who work in New York and the northeast. Joe attended the last TSAC meeting and signed up for the TSAC Towing Vessel Inspection Work Group. The rest is in Joe’s words...

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January 2, 2005

Mrs. Jennifer Carpenter
American Waterways Operators
801 N. Quincy St. Suite 200
Arlington, VA 22203

Dear Jennifer:

Thank you for taking the time to head this important Towing Vessel Inspection work group. After not hearing from you directly, Mr. Block was good enough to track down a copy of the minutes of the December 8th meeting and pass it on. I noticed that the contact information I had given you at the September meeting was absent.

After reading the minutes I was left with the feeling that the work group is moving in a direction contrary to what Congress had intended. There are several reasons why a person like me who actually works on a towing vessel would get that feeling after reading the minutes. First it was the intention of Congress that TSAC include input from the complete industry which includes the labor sector. I do believe labor was directly mentioned. I wonder if this imbalance in the work group would place the future of TSAC work groups in jeopardy. Considering there are 5,200 towing vessels in the United States and assuming there are two crews for each we can easily say 30,000 lower level mariners are depending on our work group. Fair representation for labor, which was one intention of Congress when they formed TSAC, cannot be realized with a group so one-sided. Wouldn’t you agree?

Another disturbing fact is that some members of the work group represent companies with the worst safety records in the

industry. Companies with mariner's blood on their hands are companies that our mariner's do not trust!

The work group is made up of fifty-eight members. Forty-six are company reps. Four are AWO reps. Two are USCG employees. Two are ABS representatives. Two are labor representatives. I am one of the labor representatives and had my contact information excluded from the official TSAC report.

Any proposed changes suggesting additional duties and responsibilities for the crew without a "time versus duties impact study" with a section for additional manning requirements to handle the work-load will be challenged by labor. Anything that does not include a fair balance between owner and worker in regard to maintenance and responsibility will be challenged. You can see my concern.

46 USC 3306 details the items to be regulated. It includes design, construction, alteration and repair of the superstructures, hull, fittings, equipment, appliances, propulsion equipment, machinery, lifesaving equipment, fire fighting equipment, and vessel stores and other supplies of dangerous nature. It is clear that Congress intended a physical inspection of Towing Vessels and not a "SAFETY SYSTEM." A Safety System is not a bad thing but it should not be placed into law to end run a physical inspection.

I feel the same way about the group suggesting that work hour rules should be part of an inspection law. There are laws on the books such as 46 USC 8104(h), which address work hours. Those laws need to be amended to provide protection for the entire crew regarding standby time and travel time etc. They do not belong in a towing vessel inspection law. It is my opinion that the working group's desire to insulate the industry from a real physical inspection of towing vessels becomes apparent when it suggests grouping other 46 USC laws into an inspection requirement. Suggesting redundancies or conflicts in the new law with other sections of 46 USC could force the Coast Guard to discard TSAC recommendations.

More paper work and sign off/shifting of responsibility from owner to crew is not what the industry needs to make for a safer working environment. This insulation and shift of responsibility from the owner to the crew is a major reason a large group of mariners I work with do not trust the Responsible Carrier Program and why any SMS molded around the RCP will be challenged.

To be practical, on my last hitch I kept track of the time needed to carry out the RCP drills and do paper work in addition to the regular duties of operating 24/7 with a five-man crew. At the end of our hitch the deck department had 6 hours break out time. The mate put in two 15-hour days and I had put in three 15-hour days.

The group addressed bridge management. This looks great on paper. However, take a look at bridge management practiced aboard a tugboat. Two men are usually awake at any given time. The engineer is not part of the deck crew. Engineers do not provide additional manpower to manage the bridge. Deckhands have taken on 99% of the additional duties attributed to the down sizing of our crew. Added duties have taken the deckhand away from his duties as a proper lookout. Most of the time the captain or mate on watch are the only persons present in the wheelhouse. In the interest of safe navigation and wheelhouse management the group should start by bringing back a *proper* lookout. It should be clear even to those who have never sailed that most of the allisions and collisions involving loss of consciousness would have been avoided by simply having a proper lookout present.

I was feeling better as I read on thinking the group could not jam one more self-serving suggestion into their draft. Then along came maximum work hours. A well-rested deckhand is a vital part of the workings of a safe crew. To suggest a deckhand be required by law to work fifteen hours a day to handle more requirements attached to RCP or SMS is irresponsible and dangerous. It makes me suspicious as to the working group's true agenda.

I apologize for being so negative toward your report. I do respect all the hard work you have done. AWO and the RCP have had some positive impact in some areas. Mariners work hard, long hours in dangerous, physically demanding conditions. They cannot handle any more duties or paperwork without additional manpower. Keep in mind that a day's work is based on 12 hours in our industry. A mandatory 15-hour day will bring about a pitched battle for an adjustment in pay scale.

Please consider this my confirmation to attend the next group meeting. Had I been kept in the loop I would have contacted you by December 23rd.

Respectfully Yours
Joseph Dady

BRITISH STUDY LINKS ACCIDENTS TO FATIGUE AND CREW SIZE

[Source: *Professional Mariner*, #85, Dec. 2004/Jan. 2005. All comments, notes and emphasis were added by GCMA.]

All merchant vessels over 500 gross tons⁽¹⁾ should be crewed with a minimum of a master plus two bridge watchkeeping officers, according to recommendations from the Bridge Watchkeeping Safety Study, published in July 2004 by the United Kingdom's Marine Accident Investigation Branch (MAIB). ^[⁽¹⁾Tonnage as measured under the International Tonnage Convention (ITC) not lower U.S. domestic tonnage figures.]

In addition, requirements in the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW '95) should be changed to emphasize the importance of providing a designated lookout on the bridge.

[GCMA Comment: Some towing companies are testing "alerting devices" rather than providing their vessels with live lookouts. The accidents listed below speak for themselves and call for trained and alert (i.e., rested) mariners physically present and on watch.

- The Webbers Falls I-40 bridge collapse with multiple fatalities where the Master passed out.
- The Staten Island ferry accident where the Pilot passed out and his ferry with 1,500 passengers crashed full speed into a maintenance slip with multiple fatalities.
- The Buzzard's Bay oil spill where the Mate left the pilot-house and left the tugboat and its tow on autopilot.
- The M/V Chinook bridge allision in Seattle where an overworked Master, following his company's version of the Responsible Carrier Program, fell asleep. Refer to GCMA Reports #R-308 and recently-released #R-406]

Current STCW regulations do not clearly specify when a lookout, in addition to the officer of the watch, should be re-

quired on the bridge, according to Steve Clinch, MAIB's deputy chief inspector marine accidents.

The study was part of a larger effort by the United Kingdom to address what safety officials say is a growing problem with vessels operating with too few crewmembers, a situation that leads to overwork, fatigue and accidents. "I think our study shows that fatigue has become a real issue and is tied up with the number of people onboard at the moment," Clinch said.

On vessels in which a master and a chief officer are the only two watchkeeping officers, the result is watchkeeper fatigue and the inability of the master to do his or her work, which, in turn, leads to collisions and groundings, according to the study.

The MAIB's study reviewed 1,647 collisions, groundings, contacts and near collisions from 1994 through 2003. The MAIB focused on collisions and groundings that met certain criteria:

- involved merchant (vessels) over 500 GT
- subjects of MAIB investigations
- occurred in coastal waters, harbor areas or high seas where the vessel was not carrying a pilot.

That definition produced an examination of 66 accidents involving 75 vessels. The majority of these ships were dry cargo vessels of less than 3,000 GT, making frequent stops.

Of the 66 accidents, more than half took place at night.

Of the 41 ships involved in collisions, 65 percent did not maintain a proper lookout, according to the report. Eight of those vessels had just one watchkeeper on duty. And on 19 percent of these vessels, the officer of the watch was completely unaware of the other vessel until the collision occurred.

About 30 percent of the vessels in the study grounded, with 11 vessels grounding between midnight and 0600. Significantly, 92 percent of the vessels that grounded carried only two deck officers, and 84 percent of vessels that grounded were less than 3,000 gt.

Fatigue was contributory factor in 82 percent of the 11 groundings that took place between midnight and 0600. Officers in the majority of groundings were working a six-on, six-off system. In eight of the nine fatigue-related accidents, there were only two watchkeeping officers, no lookout engaged, a watch alarm was either not on the vessel or not used, and the sole watchkeepers had fallen asleep.

The MAIB has already recommended that the International Maritime Organization require all vessels operating with a sole watchkeeper to install watchkeeper alarms. The report noted that fatigue problems seem to become acute when become acute when vessels with just two watch keeping officers working six-on, six-off shifts come into port. These officers end up working longer days performing port duties, which means they can't get enough rest on that watch cycle. The six-on, six-off system also affects the ability of the master to perform his or her duties.

"While at sea, working a watch-on watch-off routine on the bridge, a master cannot fulfill his obligations without disruptions to his own patterns of rest, which are already disrupted by voyage cycle times," the report's author wrote. As a result, the master relies more on his or her chief officer than he or she otherwise would when operating in difficult situations. And the mate is less likely to call for help from the master, because he or she knows the master is overtired. "He therefore tries to deal with something that perhaps the master should be there to help with," Clinch said. "And the whole system of the structure of command breaks down."

Although watchkeeper fatigue is a major concern, a larger problem is crewing issues on these small cargo vessels that

grounded when a sole watchkeeper fell asleep did meet the crew requirements on their certificates.⁽¹⁾ "The increased propensity for watchkeeper fatigue on ships within short-sea trade, which are operating with just tow bridge watchkeepers, is a key indicator of the inadequacy of such manning," according to the authors of MAIB report.

[⁽¹⁾GCMA Comment: Inspected vessels manning requirements are found on their Certificates of Inspection. Manning requirements for uninspected towing vessels appear in the Code of Federal Regulations. The regulations in 46 CFR Part 15 are antiquated, poorly written and hard for owners, mariners and Coast Guard Boarding Officers to interpret. These regulations must be updated sooner rather than later.]

Minimum safe crew levels are suggested by the IMO but are not actually required. Converting these guidelines into specific crew size becomes subjective according to the report. A recent MAIB investigation found that two vessels operating with similar cargo on similar routes but registered in different flag states had different crew sizes. One was required to have a crew of seven, including a master chief officer, chief engineer and for ABs. The other was required to have a crew of five, including a master chief officer, an officer of the watch and two ABs.

The safe manning certificate is no longer used to analyze the number of crewmembers needed to operate the vessel safely, according to U.K. officials.⁽¹⁾ "It's been used, really, as a commercial tool, as a bargaining chip by owners and others to specify the minimum level below which you cannot go." Clinch said.

[GCMA Comment: In the United States, the Coast Guard rarely if ever consults mariners on manning issues. Few Coast Guard officers who make important manning decisions ever served as merchant mariners aboard commercial vessels. Our mariners' input needs to be solicited in future manning decisions. Refer to GCMA Report #R-279, Rev. 5.]

There should be more consideration for who is needed to perform specific tasks on a vessel, according to Clinch. "I think the whole concept of minimum safe manning document needs to be reviewed, and maybe the name needs to be changed to reflect more what it should do, which is to produce the operational minimum manning." Clinch said.

John Bainbridge, assistant secretary of the seafarer's section of the International Transport Workers' Federation, agreed the certificate should not be standard for determining crew size. "The trouble is, the manning of a vessel is a competitive issue," he said. "It shouldn't be competitive; it should be clearly objective in how they do it."

Decisions such as increasing crew levels cannot be taken in isolation, according to Capt. Roger Towner, head of the Seafarer Training and Certification Branch of the U.K. Maritime and Coastguard Agency. If the United Kingdom unilaterally changes its requirements, owners will move to another flag state. "What we need to do is get a real international agreement that this is the way safe manning should be," Towner said.

The MCA is now seeking bids on a European-wide study to examine crew requirements in all countries in Europe.

[GCMA Comment: We believe Congress needs to closely examine Coast Guard manning practices and the chronic abuse of existing work-hour regulations.]

THE IMPACT ON MARINERS WHEN BARGE OPERATOR IS FINED \$10 MILLION FOR BUZZARDS BAY OIL SPILL

A federal magistrate ordered New York-based Bouchard Transportation to pay a \$10 million dollar fine, the largest oil spill fine in New England history.

The fine is for an April 27, 2003 incident when a barge being towed by the company's tug EVENING TIDE veered outside a channel and onto the rocks of south-eastern Massachusetts' Buzzard's Bay. About 330 tons of the barge's cargo of 13,600 tons of Number 6 oil spilled into the sound and eventually washed ashore in nearby watershed and migratory bird habitat areas.

Following Bouchard's November 18th guilt plea, federal magistrate Marianne Bowler followed recommendations from the U.S. Attorney and the US Fish and Wildlife Service that \$7 million dollars of the fine be used to improve the damaged wetlands. According to court documents, the incident occurred on a clear, sunny day while an unqualified mate was at the helm of the vessel.

GCMA received an e-mail from one of our members in the northeast (don't let the "Gulf Coast" part of GCMA fool you!). The e-mail stated: "The Bouchard captain (who was in the rack and off-watch at the time) received no legal assistance from Bouchard. He was fired, lost his home and family. He is being sued by the state of Massachusetts." We are trying to verify this information.

The e-mail continues: "The risk of operating a tugboat in the state of Massachusetts far outweighs the rewards. Best reason for union representation I can think of!"

We can think of many other good reasons why tug- and towboatmen should seriously consider working together to attain union representation at this particular point in time. Only if you organize and express your concerns about the future direction of the industry can you be adequately represented and make the necessary changes in the towing vessel regulations.

Views of Lower-Level Mariners Must Be Considered

GCMA points out that there is a tremendous difference between the regulations that govern the mariners who work on inspected vessels from those who work on uninspected towing vessels.

While GCMA is not hesitant in speaking out on the safety and human issues that affect "lower-level" mariners, we are NOT a labor union and we do NOT have a permanent presence in the nation's capital and especially on Capitol Hill to counteract the well-funded industry lobbyists from organizations like the American Waterways Operators or the Offshore Marine Service Association.

Each and every mariner needs to realize that it takes a substantial financial commitment to support a presence in Washington. For example, in the mid-1990s, western rivers pilots paid dues of \$120 a year to American Inland Mariners. They sent Captain John Sutton and others to Washington to attend important TSAC meetings, speak at Congressional hearings and keep its members posted with a newsletter. AIM kept on top of the issues and "made a difference," but it was NOT a labor union and did not have a representative "on the ground" in Washington.

The latest edition of the Seafarer's Log in its annual "Beck" statement mentions that its annual union dues are \$400. This amounts to about a dollar per day. Is that unreasonable investment in an organization that works with government and industry to provide some of the best training facilities in the country? Is that too much to pay in return for adequately representing mariner issues in Washington? Is \$1.09 per day too much to pay for a decent contract with your employer that means you are no longer an "employee at will" and can no longer be fired without just cause? Is it too much to pay to ensure that you have adequate and unbroken health coverage? If it sounds too good to be true, it is because it also requires that you take an active role and interest in your union, that you apply yourself and take the training needed to advance in your career to the best of your ability. It even means standing up with other mariners for your rights – AND the rights of other exploited workers.

This is not a "commercial" for the Seafarers International Union. The SIU is not the only union. GCMA was originally formed by four of the finest maritime unions in the country. We seek to maintain good relations every union in the country because we recognize them as "friends" – and our lower-level mariners need friends and need them now more than ever.

The sad thing is that many mariners once won union benefits only to lose them by not paying attention to business. A union is like any human organization and has both strengths and weaknesses. It is up to each individual mariner to make a union work for you. There is a "YOU" in Union!

If joining was as simple as paying a fee like \$400 that would be one thing. However, because of the sad state of the nation's labor laws, you must find common ground to join in common cause with your fellow workers in your company. Don't expect your company to make it easy for you...and don't expect an engraved invitation from a union. GCMA members understand what union membership can do for mariners and also understand that union members are expected to contribute their energy and knowledge in return.

New Towing Vessel Regulations Are Coming: Will Your Voice Be Heard?

This is only the second time since 1972 when Congress opened up the regulations governing the entire towing industry for change. The first time led to the licensing changes that went into effect in May 2001 and will continue until May 2006. These changes altered the Operator of Uninspected Towing Vessel licenses into Master/Mate of Towing Vessels and created the new Apprentice Mate/Steersman "learner's permit" type of license. Mariners complained that some of the newly licensed individuals under the old licensing system "couldn't run a boat." Now, they have one year of pilothouse training under supervision to learn their job. Remember, mariners asked for this rule change!

The Buzzards Bay oil spill stirred up the public even more than the SCANDIA/NORTH CAPE oil spill off the Rhode Island Coast in 1996 and the T/B MORRIS J. BERMAN oil spill that closed the beaches in San Juan, PR, in 1994. The public in Oklahoma is up in arms about the Webbers Falls

accident that took 14 lives while residents of south Texas are still dealing with the Queen Isabella Causeway collapse that took 8 lives in 2001. The Coast Guard knows what really happened in both these tug and towboat accidents but is hard pressed by industry to do its traditional “cover-up.”

The same e-mail delivered a copy of the full text of the new Massachusetts legislation titled “An Act Relative to Oil Spill Prevention and Response in Buzzards Bay and Other Harbors and Bays of the Commonwealth” passed in the state legislature’s 2004 session.⁽¹⁾ To say the least, it makes for

grim reading. However, these laws may be nullified because they may be in conflict with Federal law. In any event, and no matter what happens, the Coast Guard received a loud and clear message from Congress that it expects the towing industry to “shape up” in the years to come. While this message will directly affect the towing companies and barge operators throughout the United States, new regulations will impact company policies that will be passed along down the line to the mariner at the bottom. Don’t you think it is time to have a voice in your own future? [⁽¹⁾GCMA File #M-417.]

THE CONSEQUENCES OF REFUSING TO TAKE A DRUG TEST

By Richard A. Block

GCMA participated in and reported on a number of significant drug cases since its founding in April 1999. We covered two important cases in **GCMA Report #R-323** (available on the internet). Another case appeared in GCMA Newsletter #22, April 2004, p. 15 titled ALJ Revokes Mariner’s License for Refusal to Test. In each case, we participated because we thought our mariner’s case had merit. Each case taught us important lessons that we brought to our readers’ attention.

On Thursday, December 2, 2004 the Coast Guard notified us that it had filed a complaint against the licensed Mate of a crew boat working for a local boat company for refusing to take a random drug test. The hearing before an Administrative Law Judge (ALJ) was set in the Federal Courtroom in Houma. We received no details of the complaint in advance and did not know the mariner.

The session started promptly at 13:30 with ALJ Jeffie Massie presiding in the large, spacious, high-ceiling, well equipped but seldom-used courtroom. Approximately 16 persons were in attendance not counting several uniformed federal security guards. Of these 16 persons, four were witnesses subpoenaed by the Coast Guard from the local boat company. Aside from the respondent, the remaining personnel were uniformed and civilian Coast Guard employees participating in or observing the proceedings.

Judge Massie opened the session by explaining that her job was to be certain that the record of the proceedings was complete and in order. She explained that she could question all parties to the case to determine facts where necessary in pursuit of maintaining the completeness and clarity of the record. She inquired as to whether the respondent was represented by legal counsel.

The Mate spoke clearly in his behalf stating that he did not have a lawyer and asked whether the court could appoint a defense counsel to represent him. Judge Massie replied politely that, although certain courts did provide court-appointed lawyers, that there were no provisions for that under the regulations she operated under. However, she assured him that she would be fair and would be certain that all of his rights were protected.

It was clear to this observer throughout the hearing that the Judge provided this mariner with every possible opportunity to speak without being intimidated by the formality of his surroundings. She did so with a certain warmth that is not always prevalent in hearings of this nature. It is clear that she realized that the respondent was alone in the courtroom and that she wanted to make the surroundings appear less intimidating so that the process would move smoothly.

The Coast Guard Investigations Officer presenting the case, Ensign Timothy Tilghman, a recent graduate of the U.S. Coast Guard Academy in New London, CT. He was forthright, well-prepared, and clearly in command of the situation at all times – as is expected of a Coast Guard officer. He was assisted by a Chief Warrant Officer Jason Boyer who was also well-prepared. There were no “dirty tricks” of any sort in the proceedings. A court reporter went about her work competently and unobtrusively throughout the afternoon.

Judge Massie then called for opening statements. The Ensign briefly outlined the case he planned to present. The respondent chose not to offer an opening statement. The Judge advised him that no opening statement was required and that any opening statement would not be considered as “evidence” in any case.

The Coast Guard proceeded with its case. Essentially, the Company decided to give the crew of their crew boat a random drug test while the vessel was at their fabrication yard in Houma and dispatched an authorized collector (i.e., a trained and certified company employee) to obtain urine specimens. When he obtained the specimen from the Mate, he tested its temperature and found it was below the required minimum acceptable temperature of range of 90°F to 100°F as specified in the custody and control form. This obviously posed a problem whose solution is spelled out in the DOT regulations.

Subpart I of the DOT drug-testing regulations at 46 CFR Part 40 is titled “Problems in Drug Testing.” When the collector discovered the problem, he told the Mate that he would have to provide another specimen “under observation” – a procedure also covered in the DOT regulations. At this point, both the collector and the Mate left the boat and walked across the yard to the Personnel Office and spoke with the Company Human Resources Director. A conversation followed in which the Mate asked what would happen if he refused to provide a sample. There were two divergent views of exactly what was said but the result was that the Mate refused to provide a second specimen “under observation.” He also signed a statement to that effect.

As a direct result, the Mate was terminated (April 8, 2004) and was escorted back across the yard to the crew boat where he picked up his personal belongings and left the yard. End of story – well, not yet. The wheels of the bureaucracy would have to turn for eight more months!

The Coast Guard Prosecutor had to extract all of this evidence from four company employees that he called as government witnesses. One important lesson stands out and is worth mentioning.

One Important Lesson

The Company, like most boat companies has a drug policy that closely reflects federal requirements. Their policy is included as part of a company “Operations Manual.”

When a mariner goes to work for this company (e.g., just about any company) at his “orientation” he is required to sign a statement that he has read and presumably understands the Company policies he must abide by – including, among many other things, the company drug policy. This Company also provides training in different areas and, as a part of a structured training program, requires mariners to acknowledge in writing that they have received this training. Maintaining these records is a reasonable and sensible business practice and is common throughout the industry.

The Coast Guard presented the Mate with a signed statement verifying that he had read and understood the company policies in the Operations Manual. At that point in the hearing, the Mate admitted that his signature was genuine but protested vigorously that he had never received the orientation he had signed for and never received a copy of the company manual to read. He indicated that form was just one of many forms he had to sign when he applied for the job and that there wasn’t even a copy of the manual on his boat. Although one of the company employees was asked several questions about the manual, the net result of the signed statement left the Mate in a very bad light for signing his name that he had done something he had not done.

However foolish this may look, we need to point out that the **danger** to a mariner can be much greater than appears on the surface. As we pointed out in the past, 46 CFR §5.57 defines **misconduct** as “human behavior that violates some formal, duly established rule ... such as statutes, regulations, common law, the general maritime law, **a ship’s regulation or order** ... (or) similar source.” The warning to all our mariners is clear: You work for an employer who probably publishes his version of an “Operations Manual.” On a towing vessel, it might be your Company’s version of the AWO’s Responsible Carrier Program (RCP) or, something you will hear a great deal more about in the days to come, a “Safety Management System” as called for in recent legislation.

Every mariner needs to pay close attention to what your employer’s policies are – both written and oral. If you find that you cannot comply with any of these policies for any reason, you may want to either discuss or clarify these policies with the company or reconsider working for that company. The Coast Guard expects you to comply with these company policies.

The Judge gave the Mate the opportunity to question each witness called by the Coast Guard. He did so in several cases by challenging both the specimen collector and the Human Relations Director.

The keystone as far as evidence was concerned was the signed statement where the Mate refused to provide the second urine specimen.

Failure to Submit

Coast Guard regulations for “Chemical Testing” (i.e., drug tests) appears at 46 CFR Part 16. 46 CFR §16.105 states that “Refuse to Submit means you refused to take a drug test as set out in 49 CFR §40.191. Since all drug testing must follow U.S. Department of Transportation regulations in 49 CFR Part 40, there are really two separate sets of regulations in effect. As a licensed or certificated mariner, you should take the time to read and understand these regulations so you can protect yourself.

49 CFR §40.191 goes into considerable detail about what constitutes “refusal.” This should not be a mystery to any of our readers because we covered this in **GCMA Report #R-315**, Revision 1, May 2002 and posted it on our internet website. We published this report as a direct result of a meeting between approximately 10 GCMA licensed mariners and the Coast Guard’s Drug Program Director (“Drug Czar”) at Coast Guard

Headquarters in 2002. However, to summarize it quickly, one subsection states: “As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations.” In other words, revocation of your license and/or your merchant mariners document (MMD)!

When the Coast Guard finished presenting its evidence, it was crystal clear that the Mate had refused to be tested. Although the Mate stated clearly and with the utmost sincerity that he “never did drugs” that simply was not the question at hand. By refusing to be tested, he lost his only opportunity to prove his innocence.

Judge Massie then called for closing statements, again stating that these statements were not treated as evidence and were not “required.” The Coast Guard offered its brief closing statement; while the respondent did not.

The Judge then declared that she was prepared to give her decision from the bench but also stated that she was required to prepare a written opinion that would be ready within a week and asked if there were any objections. There were none.

Then, addressing the Mate, she asked politely whether he had anything whatsoever to say in his own behalf and that she was ready and willing to listen to anything he had to say at that time before announcing her decision. It was at this point that the Mate rose to make comments to the effect that the company had worked him long hours, that they had treated him unprofessionally and that the drug test and his termination was a great personal embarrassment to him.

The Mate’s statement was followed by several minutes of silence as Judge Massie appeared to carefully weigh the impact of his words. You could have heard a pin drop in the courtroom.

The Judge then announced that the Coast Guard had proven its case and that she would hand the Mate’s license over to the Coast Guard for the necessary administrative action. She would furnish him with written instructions if he chose to appeal her written decision or he could speak to the Coast Guard about “Administrative Clemency” procedures.⁽¹⁾ [⁽¹⁾ Refer to GCMA Report #R-377 & R-314.]

The “Guilty Until You Prove Yourself Innocent” Dilemma

The indictment or formal complaint against any person is not evidence of guilt. Indeed, the person is presumed by the law to be innocent. The law does not require a person to prove his innocence or produce any evidence at all. In an administrative hearing of this type, the Government has the burden of proving a person is guilty in light of the preponderance of the evidence. This is not as high a standard as proving guilt “beyond a reasonable doubt.” However, if the Government fails to do so, the person is not guilty.

In this case, the respondent had a clear opportunity to prove his innocence by taking and passing a drug test. Regulations in force since the late 1980s requires mariners (and all other transport workers in the United States) to submit to drug testing as a condition for holding their licenses or merchant mariner documents. The random and unannounced nature of these tests is part of an administrative program designed to protect the public safety. Since the government cannot make you provide a urine or blood specimen by force, other administrative steps and presumptions are necessary. Under these regulations, refusal to submit to a test means you refused to take a drug test and leaves you open to a penalty – in this case, license revocation. The point the Government must prove is guilt by the preponderance of the evidence presented that

a mariner “**refused to submit**” to a legitimate drug test following DOT and SAMSHA guidelines and **not** that he was “doing drugs.” This is why the Mate’s protests that he “did not do drugs” fell on deaf ears. Whether he “did drugs” was no longer an issue. The only issue was his refusal to test.

The USCG Can’t Take Your License Without Due Process

The Coast Guard cannot “take away” your license. This can only be done by an Administrative Law Judge who follows a strict set of guidelines. Even a plea agreement (e.g., a “Sweeney” agreement in a drug case and a “settlement agreement” in other types of personnel actions) between Coast Guard investigators and individual mariners must be justified to and approved in writing by an Administrative Law Judge.

A “Sweeney agreement” is, in effect, an administrative procedure in which a mariner admits his/her guilt and accepts punishment without undergoing the expense and formality of a hearing before an Administrative Law Judge.

GCMA advises most mariners who choose to appear before an ALJ to secure the services of a knowledgeable and experienced maritime attorney for representation. Since these services are not cheap, we also advise our mariners to protect their licenses by purchasing license insurance. This ensures that you will have the services of a knowledgeable maritime attorney available on the end of a phone line at the first sign of trouble and before you open your mouth.

In this particular case, the matter was so “open and shut” (e.g., the mariner signed a paper refusing to submit to a test) that there is little or nothing that any attorney could do to help him. However, the mariner did gain eight months in which he still had possession of his license...although the court date was hanging over him like the Sword of Damocles.

The Cost to Our Government

The cost of conducting this hearing was borne by the Coast Guard in money, time and effort. It took two weeks of work for the Marine Safety Office investigators to prepare the case for trial. At least a dozen Coast Guard officials spent most of the day traveling to and from Morgan City to Houma and preparing the court room. This occurred in spite of the fact that the Coast Guard leases and fully equips a court room in the office building that houses the Marine Safety Office in Morgan City – 35 miles west of Houma.

The Administrative Law Judge had to travel from New Orleans to conduct the hearing in a courthouse leased by the federal government (but is seldom used) for over a quarter of a million dollars a year. In a previous case reported earlier this year, an ALJ traveled from Norfolk, VA, to hear a case in Morgan City. Such travel is not unusual. That case, as reported in GCMA Newsletter #22, revolved around real issues of substance that directly affected and needed to be reported to our mariners.

Mariners Must Learn the Rules

It is unfortunate that drug (and alcohol) abuse continue to impact the transportation industry. Wringing our hands will not make the problem go away. GCMA supports the existing regulations that attempt to protect the public from a proven menace.

In order to inform our mariners, we prepared **GCMA Report #R-315** at the suggestion of the Coast Guard. We have also reported and will continue to report and publicly comment upon abuses of the system by a number of employers.

GCMA and a small number of dedicated attorneys have done our best to help mariners when the drug system mistakenly grinds them up in their gears as does happen on occasion. However, we offer this statement as a fair warning: Read the regulations in 46 CFR Part 16 and 49 CFR Part 40 so that you understand every single step of the drug-testing procedure. GCMA will do all it can to help you understand the regulations **before** you find yourself in hot water.

GCMA Announces Two New Drug Reports In Print and on the Internet

- **GCMA Report #R-315A.** Drug Testing Regulations: The Role of the Medical Review Officer (MRO)
- **GCMA Report #R-315B.** Drug Testing: Refusal to Test

GCMA BLASTS SAFETY BOARD OVER MARINER WORK-HOUR ABUSES

[Background: The National Transportation Safety Board investigated the disaster at Webbers Falls, OK, in May 2002 where the barges in the tow of the M/V ROBERT Y. LOVE brought down the Interstate 40 bridge taking 13 lives. The Coast Guard also investigated the same accident but only for the limited purpose of determining whether laws had been broken. Our letter of January 1, 2005 to Mrs. Ellen Engleman Connors, Chairman, National Transportation Safety Board (below) expresses our disappointment with one aspect of the NTSB report.]

Dear Mrs. Connors,

The Gulf Coast Mariners Association is voluntary membership organization deeply involved in and concerned with the interests of thousands of “lower-level” mariners who crew vessels under 1,600 gross register tons on rivers, inland waters, coastwise and in the offshore oil industry. Our concern includes the safety, health, and welfare of over 30,000 mariners employed in the towing industry.

Our representatives met on several occasions with your Marine Department at your offices in Washington, and we conveyed our concerns to them.

While your M/V Robert Y. Love report goes into considerable detail on the history of bridge allisions involving ships and barges, forgive us if we focus on the interaction between the towboats, where our mariners live and work, and the bridges they occasionally strike. Since the American Waterways Operators (AWO) conveniently blames “human factors” for most of these accidents, this is our focus in this letter. We are particularly upset with the following excerpt from your accident report:

[Page 37, “Factual Information,” *Licensed Operators’ Hours of Service*

“The hours of service or hours “on watch” per day for the licensed towboat wheelhouse watch personnel (the captain and the pilot) are specified at 46 U.S.Code 8104(h), which states that “an individual licensed to operate a towing vessel may not work for more than 12 hours in a consecutive 24-hour period except in an emergency.” A licensed operator on a towing vessel can work any combination of hours, as long as that person is not on watch for more than 12 hours in any 24-hour period.

“Not included in the 12-hour work period is standby time, for example, when the vessel is underway, but not moving or waiting to move through a lock or waiting for a tow to be formed. Also not included in the 12-hour work period is the operator’s commuting time to a vessel. No regulation or requirement specifies the hours of rest a licensed, uninspected towing vessel operator must have before reporting on board to assume or relieve a watch.

“According to MMT,⁽¹⁾ the company complies with the hours-of-service law limiting licensed wheelhouse personnel (captain and pilot) to 12 hours of work in a consecutive 24-hour period. The company does not limit a captain’s or pilot’s pre-voyage commuting distance or time. Inland towing companies normally provide the crew with vehicles to use for their commute, but they do not provide drivers.”

[**Vocabulary:** *MMT* = *Magnolia Marine Transportation, owners of the M/V Robert Y. Love.*]

We believe you are mistaken in your belief that: “No regulation or requirement specifies the hours of rest a licensed, uninspected towing vessel operator must have before reporting on board to assume or relieve a watch.” 46 U.S.C. §8104(a) clearly states: “An owner, charterer, managing operator, master, individual in charge, or other person having authority may permit an officer to take charge of a deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours within the 12 hours immediately before the time of leaving.” We are concerned that the Coast Guard effectively fails to enforce this statute.

● Here is some “institutional history.” In 2000, GCMA petitioned the Coast Guard to clarify the work-hour conflicts based on 57 letters from our mariners that we reported in our book titled Mariners Speak Out on Violations of the 12-Hour Work Day. The Coast Guard published G-MOC Policy Letter #04-00 on September 11, 2000 [**Enclosure #1**] and discussed it in detail at the Towing Safety Advisory Committee meeting in Memphis, TN, several days later. The Coast Guard accident investigation of the M/V Robert Y. Love accident correctly cites a work-hour violation by both the Company and the Master of that vessel based upon G-MOC Policy Letter #04-00. The Coast Guard currently is addressing the company’s violation in civil penalty proceedings. GCMA went out of its way to keep your Marine Department fully informed on this important subject. We are distressed that your report fails to reflect this information.

● Crew change on the M/V Robert Y. Love took place at Lock 13 near Van Buren, AR, at 1840 hours, and the Captain took over the watch shortly thereafter at 1910. (p.14). He had just completed driving a 368-mile leg of a trip that exceeded one thousand miles for the purpose of making crew change. Did he undertake this odyssey on his own volition or was he paid to do this? While en route, the Master may not have been “on watch” but he was clearly performing “work” on behalf of the company. The Coast Guard defines “work” in paragraph 2.f of Coast Guard Policy Letter G-MOC #04-00 that your report failed to consider. He assumed the watch at Van Buren, AR, without the required rest. While this may be a common practice, it is forbidden by law.

● The NTSB “Also (has) not included in the 12-hour work period is the operator’s commuting time to a vessel.” (p.36) We believe that you are in error on this important point as well. Your opinion certainly does not square with the Coast Guard accident report excerpt that we furnish as [**Enclosure #2**]. The general public should expect that two Executive Branch agencies, the NTSB and the USCG, to show more coordination in investigating the same accident. Since the “scope” of the Coast Guard’s activity in this investigation was to “...determine whether there was any violation of law or regulation associated with this casualty and prosecute enforcement activities accordingly,” they are in a better position to state whether the Master or Magnolia Marine violated statute, regulation, or agency policy. However, when two Executive Branch agencies cannot agree on something as basic as “work-hours,” then Congress needs to address the issue. We believe we are justified in asking them to do so since interpreting the statute may be in question!

In regard to “commuting time” (your term) to the boat, our Association formally petitioned the Coast Guard on this issue on April 18, 2002 even before the date of this accident. Our petition was assigned Docket #USCG-2002-13694 on October 11, 2002 and was farmed out to the Towing Safety Advisory Committee (TSAC) as Task Statement #03-01 the following Spring. [**Enclosure #2A**]. This “task statement” reflects our mariners’ great concern with the ambiguous term “neutral time” used in Policy Letter G-MOC-#04-00 and the confusion it causes as regards the issue of “commuting time.” Since TSAC made little progress on this issue over the past 20 months other than to simply question towing companies on their internal policies, we requested, based on Coast Guard findings in the M/V Robert Y. Love accident, that the Coast Guard revise policy letter G-MOC #04-00 to specifically clarify that travel time is “on-duty” time. This information is contained in [**Enclosure #3**] to which we have not yet received a reply.

Our mariners are concerned, in spite of the Safety Board’s previous “Hours of Service” recommendations to every DOT modal administration extending back to 1989, that your M/V Robert Y. Love accident report ignores the well-documented problem of **work-hour abuse** that leads to crew fatigue. We note that “Reducing Human Fatigue in Transportation Operations” was high on the NTSB’s list of “Most Wanted” transportation safety improvements until July 30, 2003 after you became Chairman of the agency. We note that the Court of Appeals has acted on truck-driver hours of service that have implications for our mariners as well. [**Enclosure #4**]. According to a press release on that date, this topic (fatigue) is no longer on the Safety Board’s “Most Wanted” list.

We express our concern about the constant **abuse** of the statute that limits licensed towing vessel officers to 12-hours work per day. We ask why the Safety Board gave Magnolia Marine’s self-serving statement in the excerpt above the aura of your approval in your report: “According to Magnolia Marine, the company complies with the hours-of-service law limiting licensed wheelhouse personnel (captain and pilot) to 12 hours of work in a consecutive 24-hour period.” Why did you not cite the Coast Guard’s findings?

The Coast Guard, in its accident report, clearly does not agree with them and currently seeks an “Administrative Civil Penalty” for this violation. No matter the amount of the civil

penalty a Coast Guard hearing officer assigns them, this action hardly rises to address the magnitude of the problem of work-hour abuse that the Coast Guard ineffectively monitors in the towing industry.

Up to July 2003 it appeared that the Safety Board took the "hours of service" issue very seriously. Our Association followed the History of work-hour abuse carefully over the years and shared our information with your Marine Department. We also shared the same information with Congress and published it on the internet!

The Tulsa World⁽¹⁾ quoted Safety Board Member Deborah A.P. Hersman as saying: "It's almost amazing that he could function" due to his lack of sleep. However, our mariners understand exactly what the problem is because it happens to them every day while the Coast Guard simply turns its back on the matter. We regret that your agency now appears to turn its back on the problem, too. Although the time-line showing the Master's hours of service on p. 14 was impressive, we believe the following simple statement reported in "The Oklahoman" on May 30, 2002 sums up the problem best. "The captain who piloted the tugboat and barges that struck the Interstate 40 bridge had slept for less than 10 hours during the 41½ hours preceding the accident, a National Transportation Safety Board investigator said Thursday." By using any other yardstick such as 72-hours or even 24-hours, you clearly dilute the impact of this statement. [⁽¹⁾Rod Walton, *Tulsa World*, Sept. 1, 2004, p. A1]

The Gulf Coast Mariners Association hereby files a formal protest on the excerpt of the report we cited above and respectfully requests that you change it in light of this letter. We regret that we find your report unbalanced and biased in that it accepts seemingly without question information provided by the American Waterways Operators, an industry trade group, without soliciting information from the mariners who have years of hands-on experience operating towing vessels.

We direct your attention to GCMA's report on bridge allisions [**Enclosure #5**] that presents the issues from the mariners' point of view. We note that the Safety Board appears to derive comfort in relying only on the "corporate" view. Also, from the mariner's point of view are three reports on one significant bridge allision that occurred in Seattle [**Enclosure #6**] & [**Enclosure #7**] that the Coast Guard investigated. That accident exposed how a company's interpretation of the Responsible Carrier Program led directly to work-hour abuse. This, in turn, led to a AWO-USCG Quality Action Team report that had critical flaws.

We further submit for the Safety Board's consideration [**Enclosure #8**] that recites the work-hour abuses attendant to the "call watch" system in use on western rivers towboats. We previously furnished this information to your Marine Department and to members of Congress as well as to the general public that accesses our website. We believe that the Safety Board under your leadership will discredit itself by continuing to ignore our mariner's views.

Every licensed mariner must serve two masters – his employer and the Coast Guard that licenses him to use the public waterways. The American taxpayer, who paid the most of the bill for the Webbers Falls accident, deserves to read the whole story. This story is rampant with work-hour abuse that apparently Ms. Hersman was the only the Safety Board to recognize it. While we appreciate and recognize the expertise of the medical doctors and professional engineers you called upon to elucidate the details that virtually exonerated the

Master of the towboat, it is incredible that your report completely missed the much larger issue of reducing human fatigue in transportation operations previously examined by the Safety Board. Your predecessor understood that a much larger issue of work-hour abuse lurked behind many problems blamed on seemingly inscrutable "human factors."

While our Association supports Crew Endurance Management (CEMS) training, we do not believe it is a magic bullet that can or will cure "work-hour" abuse. Consider that our lower-level licensed mariners already work an 84-hour workweek. Then consider that employers abuse that 84-hour workweek. Now consider that AWO's Responsible Carrier Program suggests that even a 105-hour workweek for unlicensed mariners is permissible. They also abuse the 105-hour figure. Our mariners are fed up and are leaving the industry in droves. The Safety Board needs to consider that mariners (and other transport workers) live in the twenty-first century and not the nineteenth century and have homes, families and loved ones.

Our Association encourages CEMS training. However, we understand that "work-hour abuse" is based upon "greed" – both individual and corporate. Seeking to install some mechanical device that seeks to obviate the presence of a second mariner serving in the traditional role as "lookout" glosses over the issue of safe manning. The Coast Guard ignored this problem for years and continues to ignore it! We offer the suggestion that the Coast Guard adopt adequate manning standards when they finally promulgate the regulations that will finally "inspect" the nation's towing vessels and not simply play dead when industry complains about the cost.

Very truly yours,
Richard A. Block
Master #1014425, Issue #8
Secretary, Gulf Coast Mariners Association

USCG AGREES MARINERS SHOULD BE ENTITLED TO THEIR SEA SERVICE LETTERS

By Richard A. Block

Duh, you say! Of course all mariners should be entitled to receive their sea service time from their employers without a hassle. We agree, but that has not been the case for a great many "lower-level" mariners for at least the last 35 years that I am personally aware of.

Most mariners represented by strong labor unions simply do not have this problem. Mariners without a strong union to stand up for them are often short changed by lazy or vindictive employers. Many companies do not take the time or make provisions for compiling and preparing sea service letters for many former employees and especially for those who are terminated as a result of some misunderstanding (or worse). This prevents these mariners from upgrading their licenses or MMDs. When these mariners report they cannot obtain their sea service to a Regional Exam Center, in most cases they are told that the REC can do nothing about it.

GCMA Acts

This type of treatment just is not good enough for our mariners. Although GCMA reported this problem to the National Maritime Center we were told that there was a

problem with the existing statute.

Changing a law already on the books means someone must approach Congress and ask them to make changes. We believe that the Coast Guard should do this because it clearly affects the mariner licensing and documentation program under their purview. Consequently, GCMA petitioned the Coast Guard to draft a Legislative Change Proposal (LCP).

GCMA previously asked the Coast Guard to draft LCPs in several other legislative areas only to be told that we could petition Congress on our own if we wanted to. But this case was different for some reason. This could be a sign that the Coast Guard is taking mariner complaints seriously – or, perhaps we dream!

The Coast Guard Acts on Behalf of Mariners

In a letter dated December 1, 2004, Captain David L. Scott (G-MSO) answered our request. We quote part of his letter below:

“Specifically, you allege that there have been a “great many instances” where mariners have served on vessels and the vessel owners later refused to furnish the mariners with letters of sea service needed for licensing purposes. Such mariners who are not covered by the existing applicability of 46 CFR Part 14, by virtue of the 46 U.S.C. 10301 and 10501 route and tonnage limitations, cannot turn to the law for help when this happens.⁽¹⁾ [⁽¹⁾*The National Maritime Center verified the details of this legal maze in earlier correspondence.*]

“Collectively, 46 U.S.C. 10301 and 10501 can be read to require shipping articles and certificates of discharge for all mariners sailing on foreign and intercoastal (i.e. from Atlantic to Pacific, or vice versa) voyages on vessels of at least 75 gross tons, and on coastwise voyages between a port in one state and a port in another non-adjointing state on vessels of at least 50 gross tons. Mariners serving on vessels under 50 or 75 gross tons and/or on routes that do not at least extend across non-adjointing states are not required to be given shipping articles and/or certificates of discharge.

“Upon consideration of your request, the Coast Guard has decided to pursue a LCP to mandate that all commercial vessels maintain accurate records of sea service, and to require that all commercial vessels make these sea service records available to the mariner and Coast Guard upon request.

“This new statutory provision, which would be⁽¹⁾ codified in Title 46 of U.S.C., would apply to all vessels operating in commercial service regardless of route, tonnage or any other restriction. It would be in addition to the existing shipping articles and certificate of discharge provisions in 46 U.S.C. 10301 and 10501 (which remain unchanged). Failure to comply with this new provision would be enforceable by a civil penalty. [⁽¹⁾*“Would be” means there is a chance that this might occur in the future.*]

“This new provision, which is part of a larger suite of proposed statutory changes to 46 U.S.C., has been forwarded to the Department of Homeland Security (DHS) for review. If this provision is reviewed favorably by DHS, it will then be presented to Congress for enactment into law. There is no guarantee that DHS, or subsequently Congress, will agree with our proposal. As such, the language of the provision may be modified, or the provision may be dropped altogether, as the final legislative process is completed.

“Our goal is to have this provision enacted into law in 2005; however, the ultimate success of enacting this provision into law may be vitiated by external factors beyond the control of the Coast Guard.”

A Breath of Fresh Air

It is refreshing after telling the Coast Guard about this problem for the past 35 years that something may be done to solve it. It is also refreshing that the Coast Guard has finally found enough merit in one proposal by our Association to actually try to assist our mariners. We could, and have, taken proposals directly to Congress with some degree of success. However, in cases like this, the fact that the Coast Guard finally recognizes a problem and is not willing to sweep it under the rug is truly a breath of fresh air. Thank you, Captain Dave Scott.

THE DANGERS OF H₂S GAS

By Capt. Sid Tassin

Working in the oil patch for over 30 years, I have had several encounters with hydrogen sulfide (H₂S) gas. In order to put this into prospective I would like to begin with a true story that was related to me by my brother-in-law.

My brother-in-law was employed at Shell Oil Refinery in Chalmette, LA, and was in charge of servicing separators and cracking units for production. In two or three sentences he made me realize several important things about H₂S gas.

“You would have had to seen this to believe it,” he said. “After we finished changing out the tubs in several separators we started pressuring up the system to test for leaks. I wasn’t even finished opening the supply valve when it began to rain black birds. One of them almost knocked my respirator mask off. After shutting the system back down, I ran to the outer safety perimeter and was totally amazed by what I saw. There were thousands of black birds lying everywhere around the separators. It was frozen death, birds in mid-flight just came down all over the place.”

Having had the training and experience of working with H₂S gas myself, I didn’t have to see it to believe it. Though it did make me realize that there is a much deeper danger working around H₂S than I ever realized. Before my brother-in-law’s retirement, he had gone through this same drill several times without incident. Believe me Shell Oil has several in-process safety checks in their repair operations. So, no matter how safe you are working around H₂S, accidents still happen such as one where one of the work team didn’t tighten up some of the valve bolts properly. In my brother-in-law’s case, no matter how safe his work record had been over his term of employment, he was almost killed by a secondary cause when the black bird almost knocked his mask off.

So when someone mentions H₂S gas, falling black birds is the first thing that pops into my mind. Three-second death may be one of the most painless ways to die, but I am not ready to go yet!

So, how does this fit in with working in the boat industry you might ask? Like the black birds flying over my brother-in-law’s head there were several things that I wasn’t aware of and you may not be, either.

I didn’t know that at least 30% of the time that I hauled “return” liquid mud back from the drilling rig it contained what mud engineers called safe levels of H₂S gas. You heard me right. They can not conceive of the fact that some unknowing deckhand or engineer has to, at times, stick his head into or even enter a liquid mud tank during the loading or unloading process. During long-term jobs hauling liquid mud

offshore I began to notice my engineers having severe head aches and nausea after working around H₂S-contaminated mud. I don't know if this exposure had any long term effects or not. I did find out that Hazmat Rules do not require that a boat Captain be notified when hauling contaminated mud unless it contains radioactive material. Black birds, black birds, now I begin to see them everywhere. Can you work safely around H₂S gas if you don't even know it is in the tanks that you are working on?

Although safety rules demand that you sniff a tank before entering, how many of us do so especially when you have what you believe is a safe product to handle.

I also found that H₂S gas can accumulate in the overhead framing of the tanks. "Stick your head in there boy and see if we are ready to lose suction." How many times could I have regretted saying those words. I feel that if I have the responsibility to send my crew into a dangerous place, I should be informed of what the dangers are and how I am expected to handle them. The mud engineers, (valve tighteners) and Captains (black birds) both seem to have a lack of communication within the meaning of handling hazardous material that is going to get somebody killed one day.

Now, when something is loaded in my tanks or on my deck, I want to know exactly what it is and what is in it. For example, don't forget cutting boxes, and explosives. I don't know how many times I have had to put the primers back on the dock that were packed in with the explosives themselves.

Related Articles

- **GCMA Report #R-378.**Hydrogen Sulfide – A danger to Mariners.
- **GCMA Newsletters #17 & 18.**

THE "GOOD OLD BOYS" PINK BUNNY: TRICO FILES FOR BANKRUPTCY

Introduction. Remember the pink "energizer" Bunny TV ad that beats its drum and just "keeps going and going"? Well, the "good old boys" at Trico's have their own "pink bunny" just keeps spinning its wheels, plowing through the dirt stirring up controversy as it keeps going and going – fueled by a seemingly endless supply other peoples' money to the tune of over a quarter-billion (with a **B**) dollars so far.

Several years ago, Offshore Mariners United (OMU) joined by the International Transport Workers Federation (ITF) representing over five million transport workers throughout the world in condemning Trico as one of the most oppressive maritime employers in the Gulf of Mexico. OMU, responded to pleas from dozens of mariners, turned on Trico with a vengeance from 2000 until 2003 and documented countless reports of Trico's unfair labor practices.

GCMA staff spent several days in the Terrebonne Parish Clerk of Court's office researching local cases that mariners filed against Trico and noted their insensitivity to mariner injuries. These records speak for themselves for all who choose to read them. As a result of these and other mariner complaints, we "brown-listed" the company, cautioning our mariners to seek employment with more responsible employers.

GCMA also reported on the collision between two offshore supply vessels, Trico's aging M/V BASS RIVER and Edison Chouest Offshore's brand new OSV C/CAPTAIN in GCMA

Report #R-328. As a result of the collision, the BASS RIVER sank off the entrance to Port Fourchon taking three crewmen to their death and injuring another crewman in the accident. GCMA also examined a number of other Trico accidents.

GCMA reported to its readers in our July-August 2004 Newsletter that Trico Shareholders filed suit against the company.

To bring this sorry soap opera up-to-date, we add the following article to the Trico collection. The Houma area witnessed other well-heeled, wheeler-dealer oil-patch entrepreneurs set up shop in the same physical location as Trico. One even tried and failed to corner the world's silver market in the 1970's. But, our mariners ask why would any company want to corner the market in rust buckets in light of all the new equipment available in the oil patch.

[Source: The following article by Katherine Kelly Gilbert, Business Editor of the Bayou Business Review published Dec 25, 2004 "Court Gives Initial Approval for Trico's Bankruptcy."]

Houma. A New York bankruptcy court cleared the way Thursday for Trico Marine Services to continue paying its employees and vendors after the Houma-based marine company and two of its subsidiaries filed for Chapter 11.

Also this week, Trico filed a disclosure form with the Securities and Exchange Commission advising its note holders that the SEC is conducting an informal inquiry of the industry's vessel impairment evaluation practices and, thus, seeks company data.

The court's interim approval of motions Thursday clears the way for Trico's new \$75 million debtor-in-possession financing to be used to pay employees salaries and benefits, as well as vendors to continue operating.

"We have worked over the last several months with our creditor groups to reach an agreement on a debt restructuring," Thomas Fairley, Trico's CEO, said in a news release. "During this period, we have made the necessary preparations to ensure that the restructuring does not impact the services that Trico provides to its customers. We intend to utilize this restructuring to strengthen our business. During the restructuring, services will remain unaltered and all vendors can expect timely payment for post-petition goods and services," Fairley said.

The \$75 million is comprised of a \$55 million term loan which will be used to pay all of the company's outstanding indebtedness – the loan upon which the company defaulted in May – as well as \$20 million in revolving credit. The financing is part of the prepackaged Chapter 11 reorganization case for Trico Marine Services, Trico Marine Assets and Trico Marine Operators that was approved by 99.9 percent of Trico's eligible creditors. According to the filing, the package is designed to restructure and substantially reduce the company's debt, strengthen its balance sheet and increase its liquidity.

A Jan. 19 date has been set for the court to sign off on the reorganization plan. Because of the high degree of support from creditors, the company expects to exit from the Chapter 11 proceedings in less than 60 days, according to a news release. "The pre-packaged plan allows them to get through this bankruptcy quicker," possibly two or three months, said John Sirois, certified financial planner with Raymond James Financial Services in Houma. "It's a lot smoother process." Under the plan, existing shareholders will be issued warrants,

options to buy common stock in the future at a set price. If the stock price rises above that set price, the warrants can be exercised to turn a profit. If it's lower than the warrant's set price, it's a worthless option, Sirois said. "That's the risk of buying common stock," Sirois said. An investor can lose his entire investment when something like this happens. For signing off on the reorganization plan, debtors receive common stock of the reorganized company, he said.

Also under the plan, Fairley will continue as CEO, and Trevor Turbidy will continue as the company's chief executive officer. Joseph Compofelice will remain Trico's non-executive chairman of the board of directors.

For greater detail of the reorganization plan or to submit a claim, log on to <http://www.kccllc.net/trico>.

The bankruptcy filing is the latest turn of events for the marine support service company. One week ago, Trico's stock was removed from the NASDAQ stock exchange because of its failure to maintain a minimum bid price of \$1 per share for trading. Trico's stock, formerly trading under the symbol TMAR, has been trading below the \$1 mark since April. It is now listed as TMARQ.PK.

Trico has blamed the lack of companies using its supply boats, the lull in drilling activity in the Gulf of Mexico and the softness in prices in the North Sea market for its financial situation.

In June, a lawsuit was filed against Trico, alleging fraud by its officers. It alleges that in order to artificially maintain stock prices, they publicly maintained optimism that

operations would improve although the company had been experiencing financial difficulties for two years.

Securities & Exchange Commission Investigation.

According to the SEC filing, Trico received a letter from the Securities and Exchange Commission asking the company to voluntarily turn over information about vessel impairment evaluation practices of the offshore industry. "The SEC has not advised the company as to either the reason for the inquiry or its scope," the document states, and "the SEC's letter states that it should not be construed as an indication of any improper or unlawful conduct on the part of the company." The disclosure continues, "The company plans to fully cooperate with the SEC staff."

Although it sounds ominous, Sirois sounded caution in connection to the SEC investigation. "I'd be careful reading too much into it," he said. "The SEC is purposefully going to remain vague" until findings materialize. "The SEC right now, is investigating everybody ... basically because of what happened with Enron, they're basically going to the other extreme. Anywhere there's smoke, they're looking. They're investigating everything," said C.J. Domangue of Domangue Lafont Investment Group in Houma. "Usually, if there's something bad, they start subpoenaing records." The fact that the SEC only asked for a five-page report may be an indicator that this is a routine check of practices, Lafont said. "But the question is 'Is it necessarily a bad thing?'" Sirois said. "I don't think anything good can come from it."

"DESPERATE DECKHAND" (A Letter to the Editor and Our Reply)

[Note: We received this letter post marked New Orleans, December 10, 2004 from a person known only from his return marking on the envelope as "Desperate Deckhand" with no return address. His letter is followed by the reply we were unable to mail for lack of an address.]

To whom it may concern,

Just recently, I came across your publication for the first time. I was thrown back in my chair when I realized that so many mariners out there are battling the same problems that my co-workers and I are.

I've tried so many times to contact the correct people and have come up empty on replies from those folks. Sometimes I ask myself why even waste my time.

I am asking Gulf Coast Mariners Association to please get the attention of the folks in charge of safety and let them know and any mariner seeking employment about E.N. Bisso and Son, and how they conduct business.

Please check the vessel logbooks. Safety drills, vessel security drills, radio logbooks, lack of basic safety gear onboard, employees not properly trained, Captains not certified in required areas, crew members without MMD cards. And if O.S.H.A. were to board these boats, no telling what would happen. They are also in violation of the 12-hour rule, Title 46 U.S.C. Section 8104(h) and Title 46 Part 15.705.

Ask them – the Captains or the crews to describe the Bisso's "sliding scale" is. The sliding scale was cooked up to save money on the wheelman. Please check into these. I don't have long to go before I hang up my lifejacket for good, but I would like the chance to do that very thing.

Thank You
No Name,
Title 46, U.S. Code §3315(b)

GCMA Reply:

Dear Desperate,

Your letter indicates that you may be facing two different types of problems that you need to approach from three different angles. They are "labor issues" and there are "USCG safety issues" and "OSHA safety issues" all mixed together.

First, lets identify the "labor issues.":

- Labor issues are those issues between you and your employer. By law, the Coast Guard is not allowed to take sides in a labor dispute. However, I understand that the Seafarers International Union represents Bisso employees. As a labor union, the SIU has standing to bargain with your employer for better working conditions. You should use this path to resolve "labor" issues. In this regard, you are more fortunate than most "lower-level" mariners who have absolutely no tools to work with in dealing with their employers. Unfortunately, GCMA is not a labor union and has no standing to deal with your employer.
- Bisso's "sliding scale." Unfortunately, you may know what the "sliding scale" is but your letter does not explain what it is. However, if it is a company policy, the company must remedy for the problem.
- Employees are not properly trained. Any training beyond meeting USCG licensing and able seaman training and qualifications on offshore tugs over 100 gross register tons

is up to the company. They can either hire the talent they need or train it. It may be cheaper (today) to hire a person with a license or z-card than to send that person to school. You do not tell us very much about your company's training policies. The SIU has a world-class training center in Piney Point, MD.

Second, let's look at the possible "USCG Safety Issues":

- Safety drills. On an uninspected towing vessel, only fire drills are required. There is a big regulatory gap that leaves out "man overboard" drills on tugs. GCMA pushed this issue in GCMA Report #R-276 by pointing out the inexcusable lack of safety regulations. The Coast Guard is clearly to blame for this situation! We will try to fix it in the upcoming regulatory changes. A meeting will be held in New Orleans on Feb. 10 from 9 AM to 1 PM in the basement conference room of Eighth District Headquarters. Be there and find out how to be part of the solution!
- Vessel Security Drills. The Coast Guard was supposed to have visited every vessel to check on the status of vessel security after July 1, 2004. However, you never told me the name of your boat or gave me any specific information about how security regulations are being violated. Your information is not specific enough as regards the type of security violations you observed and in which port areas they occurred. Give us more to work with! However, be certain to report any event that might impact national security directly to the Coast Guard by VHF radio or by phone to the National Response Center at 1-800-424-8802.
- Lack of basic safety gear. The only "safety gear" required on a towing vessel is a work vest in good, serviceable condition. The regulations do not call for any "survival craft" such as inflatable liferafts, rescue boats, skiffs, outboard motors or anything like that on a towing vessel. GCMA tried to impress this fact upon the Coast Guard without success and finally turned directly to Congress last Spring. GCMA will work to remedy this problem in the new towing vessel inspection regulations.

You have the option of using a "work vest" on deck or when working over the side under supervision.

If you are referring to what is known as "personal protective gear" like steel-toe work shoes, gloves and a hard hat, that equipment is usually issued by or required by your employer and is usually mentioned in your company operations manual. "Good" companies provide safety equipment to protect their employees; "cheap" companies make you buy it! In any event, it's your life and limb and your ultimate responsibility.
- Vessel logbooks. Owners of tugs, towboats, and offshore supply vessels may keep logs in any form they like. The Coast Guard regulations concerning logbooks are an absolute farce. The Coast Guard claims that they did not have the authority to regulate the entries required in the logbooks of vessels working in domestic trade...and never even asked for this authority for the past 30+ years. GCMA openly questioned how the Coast Guard even could conduct a meaningful accident investigation if they did not know how to decipher some of the arcane scribbling presented to them in existing logbooks. GCMA attacks the basic credibility of many of their accident investigations and we certainly not alone in doing so. It seems that Congress had the same questions and the Coast Guard now has the authority to require logbook entries. We will have to see

how they manage that authority in the future. For the time being, however, vessel logbooks are an open joke – and the Coast Guard is the butt of that joke.

- Radio logbooks. Federal Communications Commission regulations at 47 CFR §80.409 requires station logs to be maintained by the radio station licensee for two years and longer in certain instances. The Coast Guard regulates and enforces the Bridge-to-Bridge Radiotelephone Act as described in 33 CFR Part 26. The FCC and USCG seldom check towing vessels for compliance although they expect the radio logbook to be properly maintained. That's the reality of the situation.
- Captains not certified in required areas. This allegation might refer to a licensing problem where a towing vessel officer is not licensed for the route he/she is operating on. It might also involve a person with a "100-ton" license serving on a vessel larger than that tonnage. In some cases it might involve a person with a 100, 200 or 500-ton license or even an "upper level" license working without a "towing" endorsement. While this is probably illegal, there may be some cases where it might not be – at least until all the new licensing regulations are in full effect on May 21, 2006. It might possibly involve pushing a large tank barge on the Lower Mississippi River without First Class Pilotage endorsement or without enough trips "serving as" a pilot in pilotage waters. However, your statement is so broad that it would involve checking dozens of licensed mariners working for your employer. However, if you are correct, this lack of certification could put your crew as well as the general public in danger. If so, report the specific facts of the case, and do it in writing.
- Crewmembers without MMD cards. Merchant mariner documents are only required on towing vessels (or OSVs) greater than 100 gross tons in oceans and coastwise service. GCMA discovered several years ago that one Coast Guard Marine Safety Office really didn't have a clue that this regulatory requirement existed. When the MSO turned up multiple violations it was not particularly concerned with enforcing the regulation after it was pointed out to them. The result is that dozens of offshore tugs are crewed by mariners without the required training and documentation. Without z-cards, the Coast Guard has no control over these individuals and, in a number of cases, we were told that illegal aliens were filling jobs that should have been held by American citizens. In addition, many individuals, who had lost licenses or documents for various reasons, were serving as the deck crew on these vessels. After a brief flurry of enforcement activity, some of these individuals without z-cards temporarily switched to working on towing vessels of less than 100 gross tons where they did not need documents.
- They are also in violation of the 12-hour rule. As you know, this is quite common. The Coast Guard has not been vigilant in enforcing this rule, and this has led to tragic consequences. For example, in the Webbers Falls, Oklahoma, bridge collapse the Master and his employer violated both the 12-hour rule (46 USC 8104(h)) and the rule that requires a watch officer to have 6-hours of rest before going on duty (46 USC §8104(a)). The Master who damaged the Lake Washington bridge near Seattle also violated the 12-hour rule. Further inquiry ascertained that his employer had knowingly violated the 12-hour rule nine times in the month before that accident.

Violating the 12-hour rule is a much more serious violation than the Coast Guard imagines. They don't have a clue because they allowed the towing industry to run free and unregulated for the past 30 years. However, it appears that the general public has had their fill of bridge allisions and pollution incidents and is starting to "connect the dots." However, some mariners "just don't get it!"

If you have a complaint that you believe the Coast Guard should look into, you should contact the Investigations Office at the nearest Marine Safety Office. Since the postmark on your letter is New Orleans, you would call (504) 589-6251. You should be prepared to give your name, identify the company you work for, the boat you work on and clearly identify the illegal activity that you wish to report. In addition, they may ask you to come into the Coast Guard office at 1615 Poydras Street and sign a statement to back up the report you make over the telephone. In return, the Coast Guard cannot divulge your name to any party including your employer. That is guaranteed by 46 USC §3315(b). Of course, your employer may "guess" who reported them. Guessing may not be difficult considering the small number of crewmembers on your boat. We are aware of at least one case where the employer fired the wrong employee. If you are a union member, you work under a union contract and are NOT an "employee at will." Your employer probably will have to deal with your union through a grievance procedure and probably cannot fire you arbitrarily (i.e., "at will").

The law (46 USC §2114) gives you a small degree of "whistleblower" protection that, in our opinion, provides our mariners with inadequate protection. It will be very difficult to find an attorney that would be willing to protect your interests for the \$1,000 fee limit that the law allows. GCMA will continue its efforts by asking Congress to improve this law so that merchant mariners can obtain real protection for reporting significant illegal activities to the proper authorities.

It is clear, however, that nothing contained in this letter contains sufficient detail for the Coast Guard to conduct a meaningful investigation.

Third, lets look at possible "OSHA Safety Issues." In the past, the U.S. Department of Labor's Occupational Safety and Health Administration had limited authority over many safety issues on uninspected towing vessels in areas where the Coast Guard did not exercise its authority to establish rules and regulations. If you look at 46 CFR Parts 24, 25 and 26 you will see that the Coast Guard's principal interest in uninspected towing vessels are limited to requiring a few portable fire extinguishers and one lifejacket per crewmember – just very basic stuff. It has only been in the past few years that the Coast Guard added a new 46 CFR Part 27 to strengthen the firefighting capabilities of towing vessels after the SCANDIA/NORTH CAPE fire and pollution disaster off the Rhode Island coast. The Coast Guard has been reactive rather than pro-active in its approach to marine safety on towing vessels. They close the barn door with a resounding slam only after the cow runs away!

Basically, anything beyond the realm of lifesaving and firefighting fell into OSHA's camp to regulate. Realistically, however, OSHA has no way to enforce its safety and health regulations on towing vessels unless the vessel is in port and tied to the dock. Consequently, most boat owners found that OSHA's bark was worse than its bite. With the passage of §415 of the Coast Guard and Maritime Transportation Act,

towing vessels will become "inspected" vessels and will be regulated by the Coast Guard in the future. In the meantime, until the Coast Guard promulgates Final Rules that will bring towing vessels under inspection, do not expect OSHA to come to the defense of merchant seamen. While we can push the envelope could be pushed, don't look for that to happen as a result of the lack of specific facts (i.e., names, dates and places) in your letter.

GCMA Newsletter #26, pages 9 & 10 contains an article titled, OSHA Still Regulates Uninspected Dry Cargo Barge Safety. This is one area where OSHA still has responsibilities. The newsletter article shows how OSHA operates and how to contact them. However, the OSHA office covering LA, AR, TX, OK and NM is located at 525 Griffin Street, Dallas, TX 75202. The "Administrator" of that office is Mr. John Miles at (214) 767-4731. You will have to give OSHA your name and file a written complaint if you expect them to do anything meaningful on your behalf. If you write to OSHA, you can expect a reply!

Finally, if you expect GCMA to be of any help in improving your situation, you have to give us a few basic scraps of information like your name, address, and telephone number to start with. We are not "investigators" and don't do the fingerprint, DNA, or hair-and-fiber routine on every letter we receive. Nor do we have access to the boats our mariners work on since there are now homeland security issues involved in making visits to the boats. We must have some basis to trust the information that our mariners supply to us before we can use that information. We need to know that we are only dealing with the truth.

We hope this reply will give you an insight into some of the problems you face. And, yes, we know of many mariners who decided to hang up their lifejackets because of the problems they faced and could not get any help in solving. The same industry that destroyed Pilots Agree in 1999 still is unwilling to acknowledge that it has any personnel problems.

In closing, we suggest that by joining GCMA you could become part of the solution to many of the problems your letter addresses.

ELECTRONIC CHARTS IN YOUR FUTURE

By Richard A. Block

The Coast Guard and Maritime Transportation Act of 2004 contained one surprise that will affect "lower-level" commercial mariners in the next several years. Although I first read about it in September, its importance was made quite clear at a Nautical Chart Agent's Conference in Silver Spring, Maryland, I attended in late November.

SEC. 410. ELECTRONIC CHARTS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by inserting after section 4 the following:

"SEC. 4A. ELECTRONIC CHARTS.

"(a) SYSTEM REQUIREMENTS.

"(1) REQUIREMENTS.-Subject to paragraph (2), (the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate electronic charts under regulations prescribed by the Secretary of the department in which the Coast Guard is operating:

"(A) A self-propelled commercial vessel of at least 65feet

overall length.

"(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

"(C) A towing vessel of more than 26 feet in overall length and 600 horsepower.

"(D) Any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel.

"(2) EXEMPTIONS AND WAIVERS.-The Secretary may

"(A) exempt a vessel from paragraph (1), if the Secretary finds that electronic charts are not necessary for the safe navigation of the vessel on the waters on which the vessel operates. And

"(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary, if the Secretary finds that electronic charts are not needed for safe navigation on those waters.

"(b) REGULATIONS.-The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing subsection (a) **before January 1, 2007**, including requirements for the operation and maintenance of the electronic charts required under subsection (a)

The plan is that electronic charts will eventually replace paper charts that we all use. While there are many advantages to using electronic charts, the changeover will involve learning about the new technology appearing in many pilothouses.

The Coast Guard has a bad habit of introducing new technology without requiring the training to make use of this technology. A perfect example is the new Automatic Identification System (AIS) that must be installed on many commercial vessels before January 1, 2005. Several of our mariners report that their companies spent the money to buy and install the equipment but never bothered to show their licensed officers how to use it. Nothing new here!

[GCMA Comment: Requirements that mariners must be trained to use new equipment must accompany any new regulations that require this equipment. Simply adding a few questions to the USCG exam database does not replace adequate training. The Coast Guard must include the realistic cost of this training and who must pay for it in future rulemaking. Examples of poor USCG planning in the past: STCW and AIS training.]

We note that several union schools and maritime colleges currently offer or plan to offer training in the use of electronic charting (ECDIS) but that this training costs in the vicinity of \$1,000.

We also learned the U.S. Navy that provides nautical charts with worldwide coverage (i.e., charts of other than U.S. territorial waters) is taking steps to move toward full electronic chart coverage and that a number of nations have given our government a hard time over chart data coverage of their territorial waters. This will pose a problem to mariners that their chart agents will have to address in the years to come.

The old U.S. Navy Oceanographic Office, morphed into the Defense Mapping Agency in the 1990s and has now become the National Geospatial-Intelligence Agency. The fancy new name change (aside from the typical government bureaucratic BS) also pictures itself as more concerned with "intelligence" than it does with the mundane job of printing

charts. Effective January 1, 2005, the (worldwide) Notice to Mariners formerly printed every week will now become available only over the internet. Private publishers decided to take over publishing this notice on a subscription basis for about \$250 per year. Several months ago, the Coast Guard also changed its policy and made its Local Notice to Mariners available only on the internet.

Where does this lead us? Most important, after the Bayou Canot accident in September 1993, the Coast Guard began to require that tugs and towboats carry charts (and "maps" of rivers). They should have done this twenty years earlier, but Congress never passed laws requiring it and the Coast Guard never took the necessary initiative until after the Bayou Canot catastrophe.

Twelve years later, the Coast Guard is starting to check and see if charts are 1) the latest edition and/or 2) corrected to the latest Local Notice to Mariners (LNM). Yet, many of the training courses the Coast Guard approves do not require training in how to correct charts and publications using the latest Local Notice to Mariners. And, of course, they never stop to ask when a Master or Mate on a vessel operating under the two watch system would find the time to do this and still keep within the existing work-hour laws, regulations and policies. All the latest duties brought about by new Homeland Security regulations fall under the same mantle. The Coast Guard either doesn't know or simply doesn't care about these small details.

OVERSIZE AND OVERLOADED TOWS: NEW ORLEANS TO MOBILE

[Introduction: When the winds begin to blow, a number of oversize and underpowered tows on the Gulf Intracoastal Waterway find themselves "windbound" along the banks "crabbing" sideways to try to stay in the channel. In late November a number of reports of overloaded tows, groundings and near misses between New Orleans and Mobile prompted us to question the Coast Guard about whether they intend to enforce the oversize tow regulations that govern that section of the GIWW. In turn, MSO New Orleans asked us to publish their "Standing Order #45" to refresh our mariners knowledge of the regulations. In addition, we reprinted the USCG Regulation that the Standing Order #45 is based on.]

Breaking the Law

As a licensed officer you are expected to know the regulations that govern the waterways you are operating on and comply with those regulations. In this case, you can consult Volume 5 of the U.S. Coast Pilot.

If you see some discrepancy between your "orders" and the regulations, it is your job to inform your employer of the discrepancy as you understand it to the best of your knowledge and belief.⁽¹⁾ *[⁽¹⁾You might consult GCMA Report #R-344 in advance for some guidance.]*

However, if your employer tells you to proceed (i.e., to violate the law), you should not refuse to do so because this can put your job in jeopardy. Nevertheless, you are in danger of losing your license if you break the law and are caught doing so. This leaves you, at least temporarily, between a rock and a hard place.

To protect yourself, make logbook entries describing the situation and show that you notified the responsible person in your company by name, the time you made the call, and the result of the call.

Next, take a positive step to protect your license by immediately notifying the nearest Coast Guard Marine Safety Office as soon as you get underway. As unreasonable as it may appear, do not refuse to get underway. Be sure to note the name of the person you speak to in the Coast Guard office and the exact time of your call. The watchstander may have to take a few minutes to confer with his/her supervisor. The Coast Guard may not divulge your name and this sensitive information to any party. However, they will give you any guidance you need from that point forward since the ball is now in their court and you are reporting what you believe to be the violation of a law in progress. They may do something, or they may do nothing – the move is theirs and you should be covered if you follow their instructions!

Waterways Regulations at 33 CFR §162.75

33 CFR §162.75 All Waterways Tributary To The Gulf Of Mexico (Except The Mississippi River, Its Tributaries, South And Southwest Passes And Atchafalaya River) From St. Marks, Fla., To The Rio Grande.

(a) The regulations in this section shall apply to:

(a)(1) Waterways. All navigable waters of the U.S. tributary to or connected by other waterways with the Gulf of Mexico between St. Marks, Fla., and the Rio Grande, Tex. (both inclusive), and the **Gulf Intracoastal Waterway**; except the Mississippi River, its tributaries, South and Southwest Passes, and the Atchafalaya River above its junction with the Morgan City-Port Allen Route.

(a)(2) Bridges, wharves, and other structures. All bridges, wharves, and other structures in or over these waterways.

(a)(3) Vessels. The term "vessels" as used in this section includes all floating craft other than rafts.

(b) Waterways:

(b)(1) A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and tows normally using the various waterways covered by the regulations of this section

(b)(2) Fairway: The District Commander may specify the width of the fairway required in the various waterways under his charge.

(b)(3) Anchoring or mooring:

(b)(3)(i) Vessels or tows shall not anchor or moor in any of the land cuts or other narrow parts of the waterway, except in an emergency, or with permission of the District Commander. Whenever it becomes necessary for a vessel or tow to stop in any such portions of the waterway, it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such a place and under such conditions as will not obstruct or prevent the passage of other vessels or tows. Stoppages shall be only for such periods as may be necessary.

(b)(3)(ii) When tied up individually, all vessels and tows shall be moored by bow and stern lines. Tows shall be secured at sufficiently frequent intervals to insure their not being drawn away from the bank by winds, currents, or the suction of passing vessels. Lines shall be shortened so that the various barges in a tow will be as close together as possible.

(b)(3)(iii) Lights shall be displayed in accordance with provisions of the Navigation Rules, International-Inland, Commandant Instruction M16672.2 (series).

(b)(3)(iv) Whenever any vessel or tow is moored to the bank (paragraph (b)(3)(i) of this section) at least one crew member shall always remain on board to see that proper signals are displayed and that the vessel or tow is properly moored at all times.

(b)(3)(v) No vessel, regardless of size, shall anchor in a dredged channel or narrow portion of a waterway for the purpose of fishing if navigation is obstructed thereby.

(b)(4) Speed: Speeding in narrow sections is prohibited. Official signs indicating limited speeds shall be obeyed. Vessels shall reduce speed sufficiently to prevent damage when passing over vessels or structures in or along the waterway.

(b)(5) Size, assembly, and handling of tows:

(b)(5)(i) On waterways 150 feet wide or less, tows which are longer than 1,180 feet, including the towing vessel, but excluding the length of the hawser, or wider than one-half of the bottom width of the channel or 55 feet, whichever is less will not be allowed, except when the District Commander has given special permission or the waterway has been exempted from these restrictions by the District Commander. Before entering any narrow section of the Gulf Intracoastal Waterway, tows in excess of one-half the channel width, or 55 feet, will be required to stand by until tows which are less than one-half the channel width or 55 feet wide have cleared the channel. When passing is necessary in narrow channels, overwidth tows shall yield to the maximum. Separate permission must be received from the District Commander for each overlength or overwidth movement. In addition, the following exceptions are allowed:

(b)(5)(ii) Gulf Intracoastal Waterway--Between mile 6.2 EHL (Inner Harbor Navigation Canal Lock) and mile 33.6 EHL tows of 78 feet in width will be allowed.

(b)(5)(iii) Gulf Intracoastal Waterway--Between mile 33.6 EHL and the Mobile Bay Ship Channel, tows of 108 feet in width will be allowed if under 750 feet in length including the towboat but excluding the length of the hawser.

(b)(5)(iv) Gulf Intracoastal Waterway--Mobile Bay Ship Channel to St. Marks, Fla., for tows made up of empty barges on the off or shallow side, a width of 75 feet will be allowed.

(b)(5)(v) All vessels pulling tows not equipped with rudders in restricted channels and land cuts shall use two towlines, or a bridle on one towline, shortened as much as safety of the towing vessel permits, so as to have maximum control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. In open water, the towlines and fastenings between barges may be lengthened so as to accommodate the wave surge. In the case of lengthy or cumbersome tows, or tows in restricted channels, the District Commander may require that tows be broken up, and may require the installation of a rudder or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others. Pushing barges with towing vessel astern, towing barges with towing vessel alongside, or pushing and pulling barges with units of the tow made up both ahead and astern of the towing vessel are permissible provided that adequate power is employed to keep the tows under full

control at all times. No tow shall be drawn by a vessel that has insufficient power or crew to permit ready maneuver ability and safe handling.

(b)(5)(vi) All tows navigating the Pass Manchac bridges in Louisiana are limited to no more than two barges, not to exceed a combined tow length of 400 feet (excluding the towboat). Vessel operators for tows exceeding these limits must request and receive permission from the COTP New Orleans prior to navigating the bridges. Requests should be made by telephoning the COTP at 504-589-7101. Any decision made by the COTP is final agency action.

(b)(6) Projections from vessels: Vessels or tows carrying a deck load which overhangs or projects over the side, or whose rigging projects over the side, so as to endanger passing vessels, wharves, or other property, shall not enter or pass through any of the narrow parts of the waterway without prior approval of the District Commander.

(b)(7) Meeting and passing: Passing vessels shall give the proper signals and pass in accordance with the International Rules, the Navigation Rules, International-Inland, Commandant Instruction M16672.2 (series), where applicable. At certain intersections where strong currents may be encountered, sailing directions may be issued through navigation bulletins or signs posted on each side of the intersections.

[NOTE: The Corps of Engineers also has regulations dealing with this section in 33 CFR Part 207.]

[CGD 75-082, 42 FR 51759, Sept. 29, 1977, as amended by CGD 78-050, 45 FR 43167, June 26, 1980; 65 FR 40052, June 29, 2000]

MSO NEW ORLEANS STANDING ORDER NO. 45

Ref: (a) CCGD8INST 16670.4 (series)

(b) 33 CFR 162.75(b)(5)

1. Permits are required for tows on the Intracoastal Waterway over 55 feet wide or 1,180 feet long.

The only exception is tows up to 78 feet wide between miles 6.2 to 33.6 EHL (east of the Harvey Locks).

2. Permitting Procedure for Overwidth Tows Made Up of Barges:

(a) From mile 6.2 EHL westward:

(1) **Permits tows from 55 to 80 feet wide if they are less than 750 feet long** (see paragraph (c) of this section). If the tow consists of a single barge that is oversized, permit per paragraph 3 below.

(2) **Tows from 55 to 80 feet wide and longer than 750 feet:** Per the decision of the Chief, Port Operations (if permitted, see paragraph (c) of this section). Consider any waterway restrictions and other oversize traffic using the waterway. Permitting is normally not done.

(3) **Tows wider than 80 feet:** Same as paragraph (2) above.

(b) From mile 6.2 EHL eastward:

(1) **Tows 78 feet wide or less:** No permit is needed. However, if the vessel is going past mile 134 (where the Mobile Bay Ship Channel intersects the ICW in the MSO Mobile AOR), it cannot be over 55 feet wide.

(2) **Tows wider than 78 feet:** Permit only if the portion of the tow over 78 feet wide consists of empty tows, the tow is

not wider than 108 feet, and it is not longer than 750 feet (if permitted, see paragraph (c) of this section). If the tow consists of a single barge that is oversized (exceeding 78 feet in this case), permit per paragraph 3 below. However, if the vessel is going past mile 134 (where the Mobile Bay Ship Channel intersects the ICW in the MSO Mobile AOR), it cannot be over 55 feet wide.

(c) Permitting Procedure:

(1) Complete the JOOD deck log.

(2) Ensure that the requestor understands and he agrees that, per reference (b), "a clear and free channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and tows" normally using the Intracoastal Waterway. When passing is necessary, "overwidth tows shall yield to the maximum."

3. Permitting Procedure for Overwidth Tows that Close or Partially Close the Waterway.

(a) These requests must be received at least 24 hours in advance of departure.

(b) Notify all other COTPs along the vessel's intended route and obtain their permission.

(c) Complete a broadcast notice to mariners (BNTM).

(d) Notify APOPS, CPOD, CO, D8 (cc) and GRU NOLA.

A SEAMAN'S POEM

By: Capt. Sid Tassin

[*Ed. Note: A Captain that "wears a tight lid" goes by the book – the only way to survive at sea.]

Once upon a time in America
There was a kid named Sid
Who wore a tight lid
Calling himself Master of the Sea.

He sailed the world's waters
Enjoyed the boats, ports and harbors
And told everyone of what he did see.

But of his grandfather who had sailed ships much larger
Explained to Sid what could not be

Many times he would scold
And many times Sid was told
He may be Master of his ship
But never, never be Master of the Sea.

He explained that God who is your father
Who calms aft waters
Master of the sea is He.



COURT OVERTURNS NEW HOURS OF SERVICE REGULATIONS FOR TRUCKERS

The United States Court of Appeals for the District of Columbia reviewed a Final Rule established by the U.S. Department of Transportation that changed the “Hours of Service” (HOS) regulations for truck drivers. The Court decision on July 16, 2004 “vacated” the new rule and “remanded” it to the Department of Transportation for review.

The Federal Motor Carrier Safety Administration (FMCSA) is the agency within the U.S. Department of Transportation that regulates the trucking industry much as the Coast Guard (while it was within the DOT) regulated the maritime industry. Even though the Coast Guard now operates within the Department of Homeland Security, there are significant parallels between FMCSA and the USCG regulations although there also are differences. However, “lower-level” mariners, more so than “deep sea” merchant mariners, often view themselves in a light similar to that of truck drivers.

The most significant reason why the Court stepped in was that **several public interest groups** concerned with **highway safety** questioned a number of provisions in the new regulations. The Gulf Coast Mariners Association has expressed considerable concern with the work-hour abuse of lower-level mariners since its founding in 1999 and with **mariner safety**.

Most important of the reasons that the Appeals Court overturned these new rules was that the Court held that FMCSA failed to consider the impact of the new rules on the health of the truck drivers.

[GCMA Comment: GCMA Reports #R-375, Crew Endurance: The Call-Watch Cover-up and GCMA Report #R-403, Stress and the Licensed Mariner express similar concerns for the health and welfare of our “lower-level” mariners.]

The Court also was concerned about several other provisions that appeared to rest on shaky ground, namely:

- Increasing the maximum driving time from 10 to 11 hours even though the accident rate after 8 hours behind the wheel soars. It also increased the number of maximum permissible work-hours per week – although not approaching the “on-duty” time our “lower-level” mariners face.

[GCMA Comment: Licensed “lower-level” mariners work 12-hour days or 84-hour workweeks. Unlicensed mariners in the towing industry are often expected to work 15-hour days within a so-called “safety-management systems” such as the Responsible Carrier Program.]

- The “sleeper-berth exception” did not allow “each driver to have an opportunity for eight consecutive hours of uninterrupted sleep every day”

[GCMA Comment: The “two watch” system with 6 hours on-duty followed by 6 hours off duty as practiced on many tugs, towboats and offshore supply vessels does not come close to providing for 8 consecutive hours of uninterrupted sleep. The 7-7-5-5 watch schedule that is part of the Crew Endurance Management System tries to squeeze 7 hours of sleep into a “two-watch” system. Clearly, a “three-watch” system (if not abused) allows 8-hours sleep.]

- The FMCSA did not seriously pursue the issue of Electronic On Board Recorders to monitor driver compliance with the regulations after agreeing that cheating on driver logbooks was widespread.

[GCMA Comment: The Coast Guard has never seriously approached requiring vessel logbooks to record the hours spent “on watch” or “on duty” claiming that it lacked authority to do so from Congress. They, like the FMCSA, should be tasked by Congress with adequately evaluating the use of tamper-proof time-recording devices to prevent well-documented work-hour abuses from continuing.]

The Future

The National Transportation Safety Board recommended as early as 1989 that all of DOT’s modal administrations review and revise their “Hours of Service” regulations. The Court determined that the FMCSA did not do what Congress told them to do.

Separately, Congress, in Section 409 of the Coast Guard and Maritime Transportation Act of 2004, took steps to give authority to the “The Secretary (of Homeland Security to) prescribe by regulation requirements for the maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel...” Congress also required the Secretary to prepare a report on the Crew Endurance Management System now being experimented with on towing vessels before prescribing new regulations.

While the FMCSA will have to rethink many aspects of its regulations to satisfy the Court of Appeals before re-introducing them, there is no direct connection between the Court’s rejection and the Coast Guard’s current rulemaking on towing vessel inspection. However, the Coast Guard now has an opportunity to profit from a good example of how a public interest group can petition a Federal court to intervene if a new rule fails to carry out a clear Congressional mandate. We hope that such a possibility may lead the Coast Guard to finally take our “lower-level” mariners’ work-hour complaints seriously as they failed to do during the past 5 years.

[GCMA Comment: To read the court’s decision refer to GCMA Report #R-407 on our website. GCMA members without computers may request the printed report.]

USCG REGIONAL EXAM CENTER (DIS)-SATISFACTION SURVEY

Captain Joe Dady is conducting a survey of “lower-level” mariners to determine their level of satisfaction (or dissatisfaction) with the service they receive from the Regional Exam Center that handles their license and document transactions.

While we understand that the Coast Guard has a long range plan to “fix” the problems at the REC, mariners have heard this before.

Please take the time to complete this form in writing OR go to United Mariner’s website on the internet and send it to Captain Dady at his address in Florida. GCMA will forward any copies we receive to Captain Dady for tabulation.

We want to thank Joe for trying to collect information to serve as a basis for some positive steps to give our mariners a voice in future changes.

UNITED MARINER USCG REC SATISFACTION SURVEY

3616 HARTLAND DRIVE NEW PORT RICHEY FL,34655

unitedmariner@yahoo.com

http://geocities.com/unitedmariner Phone: 727-534-4081

« Personal information will never be submitted to USCG, sold or used for sales. »»

Name:			
Address:			
Phone:			
Email:			
What USCG REC office did you apply to?			
What type of documents did you apply for?		M.M.D	License Tankerman
An original?	Renewal	If renewal what was the expiration date?	
Date you applied:		Date you received your documents	
Applied by mail?	Applied in person:	Name of evaluator	
Was your evaluator courteous?		Was the REC helpful?	
Did you submit all required documentation, ID, Photos, drug test, physical report etc.			
Were you ever told your file, copies of ID or sea time records were lost or misplaced?			
Do you feel the REC evaluator gave you accurate information through the process?			
If there was a problem with your application were you notified by mail or phone?			
Was their mail or phone communication from REC that you did not receive?			
Did you experience a delay due to a medical review?			
Did you experience a delay due to the new security check?			
Did you lose time or wages due to delays during your REC experience?			
Did you lose your job or opportunity for advancement due to a REC delay?			
Did you find the new application to be user friendly?			
If you did experience a delay do you feel it was caused through no fault of your own?			
Was your renewal process handled satisfactory in a timely manor by your REC?			
Did you find it necessary to use a "License Consultant" in order to renew with USCG?			
In your opinion are REC fees and charges worthy of the service you received.			
If available would you use a computer / internet /tracking/ system to renew in the future?			
To your knowledge were Code of Federal Regulation followed by your REC evaluator?			
Comments:			

OVERSIZE AND OVERLOADED TOW: FOUR DEAD IN CATASTROPHE ON THE OHIO RIVER

There are two sides to every story. One side points to the common theme that we reveal throughout GCMA Report #R-340 of oversize and overloaded tows. This report chronicles a long record of abuse and shows the lengths some companies will go to to push more barges than a towboat can handle. This abuse falls primarily on the "lower-level" mariner who has no voice and no representation. The towing industry saw to that when they killed the "Pilots Agree" movement in 1999 and, with it, the chance that mariners had to join a well-established maritime union to represent their best interests with their employers and before the Coast Guard and Congress.

The other side of the story seeks to blame everything on "human error." For example, the AWO bridge allision report released in May 2003 lays the blame for most of the 2,692 reported bridge allisions to human performance – 78% to pilot error, and 12 % to other operational errors.

However, "human error" also extends to errors management makes. Management determines the size of the tow as well as when and where it will move. Management puts pressure unbelievable on many pilots to perform. Stress takes its toll on river Pilots as GCMA Report #R-403, Stress and the Licensed Mariner, points out to our readers.

In reality, both "human error" and moving "oversize and overloaded tows are two faces of the same coin.

We are providing copies of three recent articles that appeared in local newspapers reporting on the accident. We were not there – and can offer no comment. The Coast Guard has not yet investigated the accident and determine the causes. It is their job, and we can only hope they do it accurately and without bias. We will review their accident report and ask our mariners to comment on it in due time – probably two or three years from now.

3 DEAD, 1 MISSING AS TOWBOAT GOES OVER DAM, SINKS IN OHIO RIVER

[Story by Don Hopey, and photograph by Bob Donaldson of the Pittsburgh Post-Gazette. Don Hopey can be reached at dhopey@post-gazette.com or at 412-263-1983. Copyright ©1997-2004 PG Publishing Co., Inc. All Rights Reserved. Reprinted by permission.]

Monday, January 10, 2005

Screams for help echoed from the towboat Elizabeth M as it sank into the swirling, frigid Ohio River after tumbling backward through the Montgomery Dam early yesterday morning.

The crew's cries could be heard over the rushing wall of noise from the river as it sluiced through the wide open dam gates, and over traffic noise on state Route 68 in Industry, Beaver County.

"I could hear them screaming all the way across the road at my house," said Stanley Bostwick, a member of the Vanport Volunteer Fire Department, who lives at least 200 yards from the dam. "When I got here the boat was still above water, but it was sinking fast."

Three crewmen of the Elizabeth M died and another is missing and presumed dead inside the boat in the worst commercial boating accident on the region's rivers in recent memory.

River water churns around the top of the pilothouse of the sunken Elizabeth M just below the Montgomery Locks and Dam in Industry, Beaver County.



The towboat and the six fully-loaded coal barges it was pushing upriver had just passed through the Montgomery Locks at 2:20 a.m. when the river's muscular current, strengthened by days of heavy rain runoff, grabbed the two front barges and pushed them toward the dam.

The 2,200-horsepower towboat couldn't stop the barges. The pilot pulled his boat free of the barges and circled downriver to get a better pushing angle, but the barges had gained too much momentum and pushed the towboat backward over the dam.

The dead, according to Renea Esoldo, Beaver County deputy coroner, are Edward Crevda, 22, of West Brownsville; Scott Stewart, 36 of Wheeling, W.Va.; and Tom Fisher, 25, of Latrobe and formerly of New Cumberland. Esoldo said autopsies showed all three drowned.

Three crewmen survived, rescued from the river by the towboats LILLIAN G, SANDY DRAKE and ROCKET. The crew of the Rocket pulled in the two crewmen who had been yelling for help from the towboat; the other man was pulled from the water.

One of the men dove into the 38-degree water to grab a ring buoy tossed from the Rocket and then was pulled aboard the rescue ship.

All seven are members of the crew of the Elizabeth M, owned by Campbell Transportation Co. of Dunlevy, near Charleroi in Washington County. The towboat was pushing the barges from a loading dock on the Kanawha River, near Charleston, W.Va., to a railroad loading terminal in Braddock.

"I've been around since 1971 and, with the loss of life, never seen anything like this," said Dave Sneberger, assistant operations manager for the 23 locks and dams in the Army

Corps of Engineers' Pittsburgh District. "We've had deckhands fall in, but this has to be one of the worst."

By mid-morning, carloads of the curious were stopping and walking along the riverbank in Industry where one end of the 1,378-foot-long navigation dam is anchored.

The pilot house of the towboat poking through the surface of the churning, dirty foam below the dam and the jutting end of one of the 195-foot-long barges lodged in the current a quarter mile down the river looked like tombstones on a muddy, glistening field.

Occasionally, a red-and-white ring rescue buoy, still tethered to the back of the towboat, would bob to the surface in the turbulence downriver from the boat.

"What was so bad was that we could hear the guys on the boat screaming for help over all the river and dam noise but couldn't do anything," said Chuck Ward, assistant fire chief in Industry, one of the fire companies that responded. "The pilot tried to save the barges when they swung around in the current, but things just went from bad to worse."

Richard Bennett, of the Midland Volunteer Fire Department, said his department was called to the river shortly after the accident along with the Chester and Newell, W.Va., fire departments, but none got into the water.

"We were called out to set up emergency lights, but conditions were too bad," Bennett said yesterday morning from a hillside near the dam. "The current was too fast and too much mud had built up on the ramp."

Three of the barges sank and wedged on the front, or upriver, face of the dam. Two others are unaccounted for, but the Army Corps of Engineers, which operates the locks and dam, said they sank in the pool downriver from the dam. The barges against the dam will be salvaged after the river recedes.

John Anderson, the lock master at Montgomery, received a call from the dam at 2:30 a.m. and by the time he arrived a half hour later the towboat was already over the dam and sinking.

"There were two people standing in the boat and we couldn't find one. It was not a pleasant thing," said Anderson, who has worked on the dam for 15 years and been lock master since 1998.

"The lock crew told me that once the barges started turning in that direction the tow couldn't hold them," he said. "The whole thing didn't take more than five or six minutes to happen."

Don Grimm, president of Campbell Transportation, owner of the 54-year-old towboat, said he learned of the accident about 2:45 a.m. yesterday in a telephone call from the operator of another towboat in the area. But Grimm and other company officials were short on details yesterday because they had yet to speak directly to any of the three surviving employees. He also declined to release their names. "I don't know how the accident happened," he said. "It's just a terrible thing."

Campbell Transportation and its sister company, C&C Marine Maintenance Inc., have about 350 employees. In addition to its Washington County headquarters, the company also has operations in Clairton, Georgetown, Beaver County, and Point Pleasant, W.Va.

Campbell Transportation operates 30 towboats and 420 barges along rivers from Huntington, W.Va., to Pittsburgh. The seven-man crew of the Elizabeth M consisted of a pilot, captain, cook and four deckhands. The crew sleeps in shifts, either three or four at a time. The deckhands are required to be on the barges as they pass through locks to maintain control of the vessels. Each barge is 195 feet long, 35 feet wide and 12 feet deep, weighs 400 to 500 tons and can hold 1,000 tons of coal.

Anderson said that during high water flows the currents upriver from the locks are tricky and powerful, and push vessels away from the river bank above the lock. That's especially true when the dam's 10 gates are fully raised to facilitate flows during high water, as they were at the time of the accident.

He said the current was probably running at between 13 and 15 miles per hour, compared with normal, non-storm flow of three to four miles per hour. "You need to stay against the wall of the lock because the river has a lot of out-draft that will push you out, especially with the dam wide open," Anderson said.

He speculated that the crewmembers were on the barges, re-tying them after going through the lock, when the current caught the tow and that's why the pilot tried to save the barges instead of letting them go over the dam when it became apparent the tow couldn't beat the current.

"I think he went around the barges for another push to save the men on the barges," he said. "You wouldn't normally risk your life to save coal barges."

The accident did not damage the dam or the locks, which continued to operate after the accident although no tows locked through yesterday afternoon. The U.S. Coast Guard has restricted river traffic for five miles below the dam because of the danger from the sunken barges.

Richard Lockwood, chief of the Army Corps Pittsburgh District Operations and Readiness Division, said it's not uncommon in high water conditions for barges to be washed into and over navigational dams.

In addition to those lodged against the Montgomery Dam, the corps is dealing with barges that hit this week and are stuck on the lock and dam at Wheeling, W.Va., 84 miles down the Ohio River from Pittsburgh; and the lock and dam, at Reedsville, Ohio, 203 river miles from Pittsburgh. Lockwood said the corps typically does an after-incident review but doesn't foresee any change in the lock and dam operations during high flows. "The river is the river. It's constantly changing," Lockwood said. "We'll look at the standard operating procedure and may issue a notice, but it's up to the boat operators to decide what to do."

The Montgomery Lock and Dam was built in 1935 and underwent a major rehabilitation in 1988.

HIGH WATER HINDERS SEARCH FOR MISSING TOWBOAT CREWMAN

[By Mike Bucsko, Pittsburgh Post-Gazette. Staff writer Brian David contributed to this report. Accident diagram by Cathy Tigano. Mike Bucsko can be reached at mbucsko@post-gazette.com or 412-263-1732. Copyright ©1997-2004 PG Publishing Co., Inc. All Rights Reserved. Reprinted with permission.]

Tuesday, January 11, 2005

High water yesterday hampered the search for a missing towboat crewman and retrieval of the towboat lodged in an Ohio River dam in Beaver County.

Investigators from the U.S. Coast Guard began the preliminary steps yesterday to determine how the early Sunday morning accident occurred. Three members of the Elizabeth M crew lost their lives, three survived and one is missing.

The examination will likely take months and could result in sanctions against Campbell Transportation Co. Inc., owners of towboat and barges, and the towboat pilot and captain, said Cmdr. Wyman W. Briggs, commanding officer of the Coast Guard Marine Safety Office in Pittsburgh.

Sanctions could be imposed if investigators determine there was pilot error or the company was negligent in some manner.

There is also an environmental problem that could result in sanctions because the towboat has 7,500 gallons of diesel fuel and 500 gallons of lubricating oil aboard that may be leaking into the Ohio River, said Lt. Mike Anderson, chief of the Coast Guard's Pittsburgh port operations.

As is routine in other fatal transportation accidents, those involved will be evaluated for drug and alcohol use as part of the investigation, Anderson said.

The bodies of three of the seven crewmembers aboard the Elizabeth M were found Sunday, but high water has prevented rescue workers from reaching the stranded towboat which they suspect may hold the body of the missing crewman, Rick Conklin, 40, of Crucible, Greene County.

The Coast Guard brought in a helicopter from Detroit and employed another helicopter from Westmoreland Search and Rescue to scan the Ohio River for miles below the Montgomery Locks and Dam in Industry in a search for Conklin.

The victims whose bodies were found are Ed Crevda, 22, of West Brownsville; Tom Fisher, 25, of New Cumberland, W.Va.; and Scott Stewart, 36, of the Elm Grove neighborhood of Wheeling.

Harry Gallop, chief engineer for AM&O Towing in East Liverpool, Ohio, said the accident had hit the entire towing community like the loss of a family member. "From New Orleans to Pittsburgh and beyond, it's a tight-knit family," he said. "We all help each other. Losing someone like this, it's like losing a brother."

Campbell Transportation is based in Dunlevy, near Charleroi on the Monongahela River. A crew from a sister company, C&C Marine Maintenance Inc., performed what officials yesterday called a "heroic effort" in the rescue of pilot Toby Zappone and crewmember Jacob Wilds. They were clinging to a dangling ladder outside the pilothouse of the partially submerged towboat.

The third person rescued was crewmember John Thomas. Telephone calls to the companies yesterday seeking comment were not returned and even Coast Guard officials said they received scant information from Campbell Transportation.

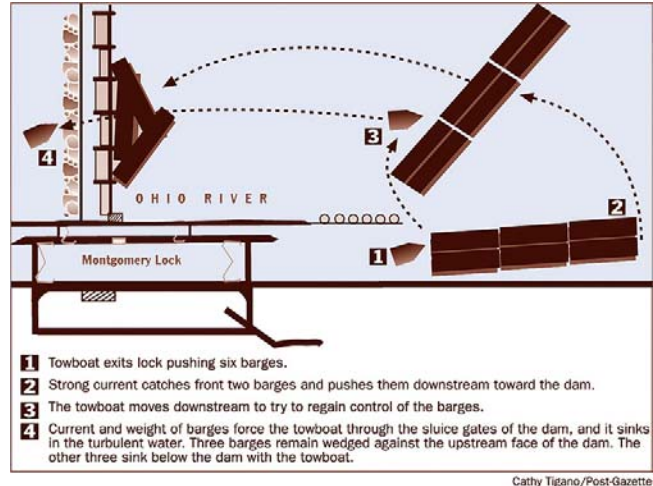
The river was closed to most traffic between miles 31 and 36 around the Montgomery Locks and Dam as the Coast Guard established a security zone. The locks are open for traffic, but vessels need Coast Guard approval and an escort to move through, said Richard Lockwood, chief of the Army Corps of Engineers Pittsburgh District Operations and Readiness Division.

The accident occurred about 2:30 a.m. Sunday as the six coal-filled barges left the lock chamber. The current, swollen by days of heavy rain, pushed the two front barges back toward the dam. Zappone apparently tried to move the towboat around the barges to find a better angle to push, but the barges and the deadly current sent the towboat over the dam, where it lodged.

Workers at the Montgomery Locks knew there was a problem when they heard the engine of the towboat revving as the vessel was pushed backward, Lockwood said. Corps employees rushed out onto the dam and tossed out some life preservers. Two towboats, the LILLIAN G. and the SANDY DRAKE, were in the lock pool and their crews were able to begin a rescue effort. Meanwhile, the towboat ROCKET,

owned by C&C Marine, was docked just downriver from the lock and its crew quickly moved to assist those stranded on the Elizabeth M.

Three of the barges lodged against the dam, while the three others followed the towboat over the dam. One was located just beneath the dam and the second about a mile downriver, while the third is submerged within two miles of the dam, Briggs said.



NEW CUMBERLAND MAN SURVIVES TOWBOAT DISASTER

By FRED MILLER, Review Staff Writer
[Reprinted with permission]

EAST LIVERPOOL - A surviving crewmember of the towboat disaster at Industry, Pa., said the boat's captain was "crazy" for trying to save breakaway coal barges and blamed both the captain and the company for the deaths of crewmembers.

Jacob Wilds, 26, lost his best friend Tom Fisher - who he called a hero in the tragedy - when the MV ELIZABETH M went over Montgomery Dam at 2:30 a.m. Sunday. Two other crewmembers also drowned, and a fourth is believed still inside the sunken towboat.

"The captain was crazy. He went on the backside of the tow. He made a big mistake. He risked our lives about 10 times that night, and he killed my friend," said Wilds. Both Wilds and Fisher were living in Latrobe, Pa., but are from the New Cumberland area. Wilds is a son of Rev. Mark and Karen Wilds, formerly of the New Manchester, area. He spoke to The Review in this exclusive telephone interview Monday evening.

The coal-laden barges may have originally come from Charleston, W.Va., as reported, but Wilds said the six-barge tow was made up only hours before, a short distance downstream at C.C. Johnson's. Before the tow left there, making very slow progress against the fast-flowing river, crewmembers on other towboats including the ROCKET warned the ELIZABETH M's crew not to attempt the upriver trip, Wilds said. He also said another towboat was supposed to help push the six barges but never showed up.

Wilds said Monday evening he had not been asleep since being awakened from his bed by the alarm that called all hands to the emergency situation on the boat around 2 a.m. "The general alarm sounded and I woke up. My buddy Tom Fisher, my lead man, came to make sure I was awake. He

said, "We've got to get out on the tow. We went out and the barges had broke loose, the first two. I ran a lead line out there to the head (of the tow) to secure the first two barges, so we thought. The captain gave us the order. There were four of us out there," said Wilds.

The front two barges had broken loose, apparently caught by the heavy current as the tow emerged from the lock. The crew fought for, it seemed to Wilds, for at least half an hour, not the five or six minutes estimated by others. At one point, crewmembers believed they had won the fight and were taking pictures with cameras and camera cell phones, he said. For part of the struggle, the towboat was going in reverse, trying to pull the barges upstream, he confirmed.

The towboat untied from the barges but never lost contact with them, he said. "We cut them loose but we stayed with them. The captain never let go. He kept trying to get them," Wilds said.

When barges hit the dam and began sinking, "we tied off from the boat to the barges that were sinking. We looked up and we were on the dam. We said, 'We need to cut loose, we need to cut loose, we need to cut loose! But it was too late.'"

While the towboat was in the process of going over the dam, it was being knocked around by some of the runaway barges, he said.

Wilds said the towboat went over the dam stern first, over the "rollers" and then was tossed backwards, up the dam, whether because it was hit by a barge or by some fluke of water flow. Then it went down again over the rolling water below the dam and sank.

"We went forward then started backing up, away from the dam. It slammed us around like crash dummies. The back of the boat went over the waterfall but we didn't sink. It pushed us back up."

"We went down over the rollers of the dam and everyone else was sucked off. Me and Tom Fisher and that kid Ed (Crevda) watched everyone else go down. That was the last I saw of my buddy."

Wilds went under water when the boat sank. "I blacked out. I remember drowning," he said. He thought about his little girl Storm, 19 months old, and his fiance Cindy and other people he loved.

"I remember thinking I gave up. I gave my regards to God." Then he said, "I didn't want to drown anymore. It was a miracle and my head popped above the water. Whenever I

opened my eyes I was 800, a thousand feet from the dam. I had my life vest on."

He saw something floating nearby in the water that he thought was a body but when he grabbed it he found it was a garbage bag. He yelled for help. "I grabbed onto it and I stayed afloat for another hour. They didn't see me for another hour."

Crewmen on one of the towboats below the dam found him and pulled him out of the water. He was taken to the Beaver Medical Center, where fellow survivor John Thomas was already being treated in the emergency department. The third survivor, Toby Zapponi, was taken to Aliquippa Hospital.

"I saw John Thomas. He was underneath a heating blanket. I was the only one that walked away," said Wilds. He remembers telling himself while in the water "to live, you got to live. If you made it that far, you got to survive."

The Beaver County Coroner's office has said Scott Stewart, 36, of Wheeling, and Tom Fisher, 25, were pronounced dead at the scene. Edward Crevda, 22, of West Brownsville, Pa., was taken to Beaver Medical Center where he later died.

Wilds said the dam "sheared off the top of the pilot house" when it went the first time through the dam. "We never should have been pushing those barges," said Wilds, who was told it was too much of a tow for bigger boats in that kind of water. "The ROCKET, the boat that helped us build that tow, the deckhands told me it was a bad idea to go. "We got done building those barges around 10 or 10:15 (p.m.) Everybody was telling us not to go. The RICHARD C. was supposed to be assisting us but it didn't. The office told us to go anyway," Wilds said.

Cindy, mother of his daughter, is very upset because Tom Fisher lived with them and was their friend and godfather to their child, Wilds said. "Tom is part of my family. He was my lead man, my boss, my friend," he said. Tom and Marissa Edwards are also friends who have helped Wilds and Cindy in the past two days, he said.

Tom was a hero because "he told me where to go, go to the yawl. We were all sitting there together when we went over. He said, 'Don't worry, Jake.'"

Wilds said Fisher ran up the stairs to the pilothouse and grabbed Toby Zapponi, who had no lifejacket. "He held onto Toby. He saved his life. Tom Fisher saved my life."

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By Richard A. Block

Martin A. Kapp is a Los Angeles-based Certified Public Accountant who specializes in working with taxpayers in the transportation industry – including our mariners!

In 2000, Kapp went to the U.S. Tax court in Washington, DC, on behalf of two of his clients over the legal issue of mariners claiming automatic travel deductions without receipts while underway. His cases ended up in a landmark court decision in favor of mariners who must travel as part of

their work. I have read the decision – as you can.

Mr. Kapp wrote a series of articles in Professional Mariner several years ago. They show how many mariners can make considerable savings on their taxes.

We spoke with Mr. Kapp following publication of GCMA Newsletter #26. Here's a person that has really tried to help mariners in a complicated field where he is has become the expert by his knowledge, persistence, and hard work. As a CPA, he offers professional tax advice to his clients. However, he willingly shared this information with all of us. The information is available free on his website. Captain David

Miller, GCMA webmaster, linked our website with Mr. Kapp's website.

Mr. Kapp is in business to handle the needs of clients in our industry. Go to his website at sailortax.com to see if he can help you save a bundle. If you think he can help, use the information you read as a basis for asking him questions. If you ask him and if he accepts you as a client, he will prepare your taxes for you – at a price.

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