

# GCMA NEWS

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## INSIDE THIS ISSUE

1	"Personal Retriever" Wins Award
3	USCG Saves Crew when Tug Sinks
5	ARTCO – SIX Trial Date Set
5	Clean Potable Water
6	Sinking Tugs Threaten Mariners Lives
9	Is This Job Worth Dying For?
9	GCMA Brown List
10	Towboats Need Engineers
10	Our Children, Our Troops, Our Heroes
11	Duties of A Deckhand
12	NTSB Chairman Answers GCMA Critics
12	Towing Vessel Inspection Docket – GCMA Report #R-276
15	Towing Vessel Inspection Hearing in Washington
16	Towing Vessel Inspection Hearing in New Orleans
19	Towing Vessel Inspection Hearing in St. Louis
20	Mariners Question USCG Leadership, Direction, Knowledge, & Commitment
23	Vicksburg Bridge Hit Three Times

## LIFE SAFER'S PERSONAL RETRIEVER WINS AWARD, SAVES LIVES

*[Source: By Jim Kelly, The Log, Friday, January 21, 2005]*

Before he commanded the Coast Guard Cutter POINT STUART, and before he was an award-winning inventor, **Paul Driscoll** was a little boy drowning in a pool.

"I was doing the classic arm pump," he revealed in a recent interview with The Log. "Both of my hands were splashing at my sides, and my feet were pointing down in the ballerina position we find associated with many drown victims.

"Then a pair of hands grabbed me and pulled me to the side." Driscoll paused to take a drink of coffee. His boxer's nose gave excellent contrast to the tenderness in his eyes. "When I stopped shaking," he continued, "I looked around to thank the person who had saved me ... but there was no one there."

This experience created a life long obsession for Driscoll, to provide aid for as many people as possible who found themselves in his situation. At 17 years of age, he escaped the rough neighborhoods of south Boston where he grew up and enlisted in the U.S. Coast Guard.

Throughout a distinguished 28-year career, Driscoll, who is somewhat saltier than a can of Campbell's soup, rose to the distinguished rank of master chief and became the captain of his own ship.

As Driscoll approached retirement, his need to help others focused on a glaring inadequacy in traditional water rescue, the difficulty of getting a lifeline and buoyancy to people who were in the water and in need of help. In 1996, after he left the Coast Guard, Driscoll began devoting his full time to working on a device that would deliver buoyancy and reach to drowning victims.

He formed a company he named "**Life Safer**" and adapted the basic flight design of a Frisbee to accommodate a light, strong lifeline.

In 2001, after working with three different mechanical engineers over a period of four years, the first working prototype of the **Personal Retriever** came out of the workshop. With buoyancy factor of 12 pounds and a reach of up to 100 feet, the Frisbee-like device was easily thrown by anyone after a few minutes of instruction.

It seemed like the perfect answer to an age-old problem. Unfortunately, there was another age-old problem: getting approval from the Coast Guard.

To this time, the Coast Guard approves only two types of throwable rescue devices: the life ring and buoyant seat cushions. "The Coast Guard stopped using the life ring on their ships 20 years ago," Driscoll explained.

"If you're in water and need help, you don't want someone throwing a 7-pound bag of potatoes at your head."

Driscoll dismissed the effectiveness of the seat cushion with a single question: "Have you ever tried to throw a seat cushion against the wind?" he asked.

In spite of their shortcomings, either the life ring or seat cushions are required on all small boats. "The irony is, neither Coast Guard ships nor any other professional mariners use either of these devices," Driscoll said.

"They know they don't work." Driscoll went on to explain the life ring is carried on most Coast Guard vessels but is only used as a marker when someone is in the water. Driscoll explained this irony by saying the laws governing Coast Guard approval are antiquated and enforced by some people "... who don't know what the pointy end of a boat is called."



What Coast Guard ships typically rely on are two unapproved devices: the line bag and the heaving line (a rope with a rubber ball on the end).

Both the line bag (what many rescuers call the “drowning-acceleration tool”) and the heaving line have the same problems. They only have an effective reach of 40 to 50 feet, and they don’t float.”

Production began on the Personal Retriever, but, by the end of 2003, sales were still slow. Without Coast Guard sanction, boat owners were limited to life rings and seat cushions as approved devices on their vessels.

The irony was 50 Coast Guard ships were already using the Personal Retriever and enthusiastically endorsing it. The device also was as effective in rivers as it was on the ocean. In the winter of 2003, a New England fire crew used the Personal Retriever to rescue five people who had fallen through the ice. In a television interview, the firefighters said they could not have effected the rescue without the new device.

However, Driscoll’s struggle was just beginning. Professionals in the boating industry and in government refused to believe any product could be so good. As good as he was as an inventor, Driscoll fell short in the salesman game.

It was time to take his show on the road.

Driscoll and his small band of believers, including partners Larry Nance and former Coast Guard helicopter pilot Stuart Hartley, started the Personal Retriever Challenge. In the past four years, they have approached everyone from New England fire departments to the Japanese commercial fishing fleet and have dared them to bring out their best life-saving devices to compete against the Personal Retriever.

One by one, the competition failed - and those who initially opposed it became supporters of the new device. Today, the Personal Retriever endorsement list reads like a who’s who of the rescue world. It includes the New England Association of Fire Chiefs, the American Fire Equipment Company, Boston Pilots Association, Canadian Coast Guard Auxiliary, the Maritime Institute, Navy Port of Operations, the Marine Corps, the U.S. Army Corps of Engineers, the Sportfishing Association, the San Diego Fire Department, and numerous towns, fire departments, and police departments across the country.

Undaunted by shrinking finances and encouraged by its success, Driscoll continues to perfect his bright-yellow disk that looks sort of like a Frisbee. He put in an insert for the fingers to help throw it and developed a professional model with a survival light and an EPIRB in it.

He has also continued to work on other life-saving products. In addition to some of his newer inventions (he declined to discuss any until they receive patents), he has been helping others who are having trouble getting Coast Guard approval.

“We’re working with an inventor who has an emergency flare,” he revealed, “that consists of a fan-type laser and can be seen at 20,000 feet.”

However, the Personal Retriever is still his main product.

In January of 2004, Driscoll was talking with Nancy Van Dillen from the University of California, San Diego (UCSD) Direct about possible financial help to keep the Personal Retriever in production when she suggested he submit the invention as a contestant in the prestigious Most Innovative New Product Awards (MIP). For 17 years, the MIP has been given to companies in San Diego who show excellence in technological innovation. Knowing he was a long shot, Driscoll submitted his application to the committee and

promptly forgot about it. However, in late fall, he received an invitation to attend the MIP awards luncheon on Dec. 2, as one of 19 finalists.

“I was surprised and thrilled to be invited, but I knew there was no chance of winning the award,” Driscoll said. As he was driving his truck into the parking lot of the posh event, Driscoll noticed most of the cars driving in were Mercedes and BMW’s.

“I really knew I was out of my league then,” he explained. “All the other finalists seemed to be members of multi-million-dollar corporations.”

At the luncheon, the attendees were applauded for their inventions, and winning awards were given in six categories: Hardware, Software, Biotechnology, Life Sciences, Telecom, and General Technology. The Personal Retriever was one of three finalists in the last category.

When the winners were announced, Driscoll was astounded to hear his name called. Without a prepared speech and wiping salad dressing from his mouth, he walked to the podium to receive his award. Perhaps for the first time in his life, the salty master chief was stunned into silence, but he soon recovered and said, returning to perfect character, “In this field of competition, I feel like the last fire hydrant in a canine universe.” For more information on Life Safer’s Personal Retriever, call (888) 222-0373, (619) 222-3467 or visit [www.life-safer.com](http://www.life-safer.com).



A WINNER - Paul Driscoll, inventor of Life Safer’s Personal Retriever device (on the wall above his left shoulder), shows his Most Innovative New Product Awards trophy from the MIP luncheon on Dec. 2. Driscoll won in the field of General Technology.



HEAVE TO - In the foreground, Paul Driscoll prepares to deliver a life-saving toss of his Personal Retriever, while Stuart Hartley watches his successful heave of the new device. Life Safer’s new product is a hybrid between a life ring and a heaving line and is now receiving approval from important agencies such as fire and police departments as well as others in the rescue services.

## COAST GUARD SAVES MOST OF THE CREW WHEN TUG SINKS IN WINTER GALE

[Source: USCG Misle Activity #1725622, MSO Portland OR. GCMA File #M-409. Report edited by GCMA for clarity but not content.]

**Background:** In the early morning of December 29, 2002 the 100-foot, 2,400 hp tug M/V PRIMO BRUSCO towing a 260-foot log barge, the LUCKY LOGGER, sank twenty miles off the Oregon coast in a fierce winter gale with the loss of one life. After the tug sank, the barge was retrieved and taken in tow to Coos Bay, OR.

A crewmember said that an alarm went off at about 2230 hours while he was on watch indicating flooding in a rear compartment. He thought the problem was solved when the Engineer pumped the water out of the compartment and went to bed after finishing his watch. He awakened to find the tug listing badly with the starboard stern under water.

The following is an edited excerpt of Coast Guard interview of one of the four survivors of the accident. As is customary in incident reports provided under the Freedom of Information Act, the seaman providing the interview is not mentioned by name. We will call him Mr. ■. An unnamed Coast Guard Lieutenant (LT) interviews him.

**Mr. ■:** About a quarter to midnight, I think, pretty close to midnight because I was eating crackers and drinking water because I was a little seasick. We were sitting there talking, and I make the joke if we sink wake me up early I have to get into that damn (immersion) suit. We laughed about it and I went to bed.

I was in my bunk, I was trying to get to sleep, I did not sleep very long, and xxx opened the door and yelled, "Get up." I got out of my bunk, and I noticed immediately that we were down heavy by the starboard quarter because you could tell. I ran up to the wheelhouse. The Captain was up there and he was talking to the Coast Guard and putting out a mayday giving our position.

I asked a stupid question, "Should I get my (immersion) suit?" He said, "Hell yeah." So I ran back down and got it and came right back up because I did not see any other crewmembers. I believe they were in the engine room or in the fidley, but I did not know. I ran back up to the wheelhouse. As I was putting on my survival suit I asked the Captain if he wanted me to go back and cut loose the barge to see if it would help our situation and he said go back and look and see what's going on. I said OK. I got into my survival suit three quarters of the way in. I left my left arm out in case I had to get out of it if I got pinned, and I needed a working arm. I went back aft and the barge was behaving beautifully, no problem behind us. It was not dragging us in anyway.

We were down heavy by the starboard quarter. The plywood box that we use to store gear in broke loose, knocked me down, and threw me across the (deck) and I was pinned between it and the console. It tagged me on the way down. The water was just up to and touching the upper deck by that time, getting there on certain swells. I looked at the situation, and it was bad.

I got myself unpinned, went back up to the wheelhouse, and asked the Captain, "Do you want me to cut the barge loose because we're sinking." He said something like, "Hell

yes, try anything," because we were desperate. I went back, and the water was covering the liferaft and on swells, it was up to this high, about belly high. I did not think we were ever going to get into the liferaft because I was trained in SCTW. You want to throw it over, but it will deploy (automatically) at 30 feet. In those conditions, I did not think anybody could catch the damn thing.

So I got back there and I'm thinking I've got to let the barge go. However, I remember we had the damn manual brake on (the towing winch) which we always do because the air pressure does not always stay up. However, the manual brake is down below on the starboard side underwater. I tried to go down the ladder and I got down part way and it was no good because I was pinned. The (immersion) suit would have held me against the overhead and underwater. So I got back out of it.

It was dark. I could see (but then) the lights went out and then they came back on. I do not remember if that was the first time, I went back or second time. When I went over to the console and I pulled back the levers to release the air pressure hoping the brake would slip but it don't work too good, I guess, for all I know. I pulled everything back and I could not see the tow wire very often because it was underwater and it was a bad situation.

By this time, the boat was down by the starboard quarter and heavier on the starboard side but the stern was underwater.

Earlier in the watch I had hammered down the dogs on the fidley door because we got a little spray in there, but it was already shut, but I just hammered it down to avoid mopping, I hammered it. Well, after I pulled back the levers and everything I climbed back up to the port side and that is when I saw two or three crewmembers in the wheelhouse. One of them might have been XXX and one of them was xxx, I think, but I did not see, it was jumbled, it was dark.

I pulled open the port side bridge door and I yelled we've got to get out of here. I heard them yelling and stuff and I figured we are going to need the life ring. So I let the door back down. I think the boat was roughly anywhere between, it varied, between a 45 and a 15 degree angle or horizontal because the way the waves were pushing us.

I turned around, I grabbed the life ring, and I grabbed the strobe light. I held onto (them) and had my survival suit up about chest high. I pulled my hood over so I was almost fully dressed and I turned around. Then I fell down the ladder and I realized this was not going to go and I did not know how the guys were going to do it. Then I went to the forward ladder to get down to the main deck. I am yelling for them to come on but nobody is hearing anything anyway as far as I know. I fell down the starboard ladder, the long one, and fetched up against the starboard bull rail around the starboard bits. A wave came up, picked me up, and washed me over the side. Then I was in the water.

I looked up and the boat towered over me. I realize if it rolls, it might take me with it. I don't know. I wanted to head for a high spot or anything. Well, it was too late.

All I could do was try to kick away from the boat, but the waves really had control of me. I drifted around the starboard bow and around the stem. Once I was around the stem, I drifted off at an angle of about 15 degrees maybe from the boat at an angle down the portside.

**LT.** Did you still have the life ring with you?

**Mr. ■.** Yeah, I had the life ring with me. I was tangled up in it. The line was tied with a piece of twine that I could not break. I put my left arm and my head through the life ring and

the strobe was floating around somewhere. Then the one on my vest was pinging me, too. I was going past the boat, I looked up at the boat, I could see the portside, and I did not see anybody else. Then the boat went silent and the lights went out as I was passing the stern. At one point, I got a glimpse of the box (on deck) that tried to kill me and it was floating past the stern, with one corner sticking up. I could see the barge and the barge was doing very well, no problem.

There I was in the water, and I was trying to get situated to where I could keep my head vertical – but I could not do it. I had forgotten to inflate my (immersion suit's) pillow and I remembered to do that. I did it but I kept swallowing lots of salt water and vomiting. The salt water was burning and I could not see that well. The strobe lights were actually blinding the hell out of me, but that was the only thing I had going for me as far as being located. At one point, I heard Monty<sup>(1)</sup> yelling my name and I did not think it was real. [<sup>(1)</sup> Monty =the crewmember lost in the sinking.]

**LT:** How long had you been in the water?

**Mr.■:** I have no idea. It wasn't very long.

**LT.:** You sure it was...

**Mr.■:** At first, I thought I heard other voices too. However, I could not tell. Then I heard Monty distinctly, but I could not find him. I looked around and every time I tried to get vertical, I swallowed water. I got sick. Then there was the smell of diesel and all that stuff and I could not find him.

**LT** Could you see his strobe?

**Mr.■:** I could not see his strobe either. But, then my strobes were blasting me and, really, all I could see was rain that blinded me as well as foam.

I ran into some rotten wood, just a chunk about that long. It hit me and I looked at it but I could not find him; and then I could not hear him anymore. I did not know where to swim. I do not know if he was up wind of me or down wind of me. With my life ring it might have pushed me faster than him because it was at an angle and sometimes it kept the water off of me, but not very good.

I was out there for a while. I guess it was about three hours because they got a distress (call) from us at 2:30. I was in the water probably four to seven minutes (after) that. I was pulled out of the water, I think, at 5:30. All I did was swallow water and throw-up, pray, cuss and everything else, make deals with God.

Then I saw a light out of the corner of my eye, but I couldn't get it out of the corner of my eye. I kept trying to swim around to see it but it kept staying in the corner so I do not know what it was. It could have been a reflection, but it was steady. There was no way I could get ...I could not even go like this, it kept staying there. Then later on I saw a white light, but I did not really believe it. It was somewhat low to the horizon, I thought, but I think it was one of the two helicopters because they sent two of them out.

They located the raft, I found out later, and it was way down wind of me, I could tell kind of. Occasionally I was on wave tops and I would tumble and would try to find the surface again to breathe, and turn upright. That happened three or four times.

Then I was getting hypothermic, and I could recognize that, my arms and legs were weak and they were cold. I knew that, because of what I have been told, that my body will do that, that it will hide the blood in the cavity here so what I tried to do was go into a fetal position, but it was not very good. Therefore, I tangled my arms in the life ring in case I croaked they would find my body anyway.

I stayed in a fetal position to try to conserve my body heat. Then I could throw-up which felt somewhat nice because it was warm – weird. Then I kept blowing up my pillow so I would have something to do and I kept looking for the toggle so I could unzip it to throw-up. Then I would zip it back up to here. My (immersion) suit was full of water but it was relatively warm. Nevertheless, although I was shipping water in the whole time, I was staying afloat. The lights were getting closer and I thought it was a mast range light on a ship. It turned out to be a helicopter. Then, I saw this rescue swimmer hanging from a cable.

Thank God. They are great. His name was xxx. I want you guys to give me the address to their station, I want to write them a letter and maybe visit them.

**LT.:** Take your time, take your time, it is all right.

**Mr.■:** Anyway, he landed downwind of me. Then he was pulled right out of the waves because it was not a good spot. Then he went upwind of me, I think, I do not know. Then he disappeared and then he came up, and I could see him hanging. Then he got close; he was above me, and I am thinking do not land on me because it has been rough enough (chuckle). But these guys are good!

Then he was in the water and he swam up to me and said hello. I knew it was real. I said, "Thank God, I thought I was dead; thank you. Then I realized that the lines might foul the helicopter. I said, "do you want me to get rid of the life ring?" He said, "No" and then I said, "OK."

They had to hoist the basket back up and then they lowered the basket. I got one arm untangled and then the other arm untangled because I figured we could not take it with us but I really wanted it. He got me in the basket. I could not get my legs in for some reason. I did not realize I had to have my legs in, because I was happy the way I was. My legs were so damn heavy. However, on one swell I got the legs in (the basket) and finally. Next, I was underwater and thought I was going to drown in the basket. These people are good and they dragged me up through the water because there was quite a bit of slack on the line.

Occasionally, I could see what was going on. He got me in the basket and kept trying to give instructions, but I could not hear because my ears were full of water and my hood was on. However, it worked out well and I was hoisted up for a nice ride.

They got me in the helicopter and then they lowered the basket down for (the rescue swimmer). Then they took me into the airport and then took me in an ambulance from there to the hospital.

They interviewed me shortly afterwards because they wanted to know how many crewmembers were on the (tug). What it was, they tried to get information from me in the helicopter. I said there were five of us. They thought there were only four, but they did not know for sure. I said there is one more man in the water, and they told me they were going to go back and look for him. I said, "Thank you, and good luck." Then they took me to the hospital. Everything turned out OK for me.

**LT:** Thank God.

**Mr.■:** Yeah, I have been doing that a lot lately!

**LT.:** How long have you been with Brusco Tug and barge?

**Mr.■:** This December, probably four years now.

**LT:** How long on the PRIMO BRUSCO itself?

**Mr.■:** I made a trip. We crewed up in Cathlamet with the Captain and the crew, took a trip barge to Eureka, and then came back with it. Then, we...came back up and then we

were de-crewed the day after Christmas and then the boat came back to Aberdeen. I caught it up there because I live up there. Then we left two days after Christmas. They were all working days to me. We left that morning and the weather was good. I liked it. It was on our (stern).

Once we got down towards Coos Bay, it got continuously worse. The fax was telling us we had 40 mile-an-hour winds with occasional gust maybe 50 mph or something with 14 to 18 foot seas or, maybe, 12 to 14. I cannot remember exactly. The reality of the situation was that it was stronger than I think they understood. Then we tried to make it into Coos Bay. The JACK made it in before us.

**LT:** So you have been on the PRIMO BRUSCO 4 or five trips.

**Mr.█:** No, about two weeks.

**LT.:** How many trips in that time did you make?

**Mr.█:** Well, we went to Eureka and back and then we went from Cathlamet to Aberdeen and we were on our way to Eureka again.

**LT:** How many years of experience do you have, over all?

**Mr.█:** I have been sailing since I joined the navy in 1976.

**LT:** What were your duties with the PRIMO BRUSCO?

**Mr.█:** I was the Able Seaman-Deckhand.

### ARTCO-SIX TRIAL SET FOR JULY 5<sup>th</sup> IN BELLEVILLE, IL

The "Artco-Six" trial described in detail in GCMA Newsletter #20, Jan. 2004, p.1, in an article titled The "Artco Six." Pilots Sue Towing Company on Oversize and Overloaded Tows is scheduled for trial on July 5, 2005 in U.S. District Court, Belleville, IL.

Experienced GCMA mariners with years of experience on the river expressed their opinions about pushing oversize and overloaded tows on the western rivers systems to the Coast Guard Commandant, the last two Eighth District Commanders, to other officials at Coast Guard Headquarters in Washington, to the Towing Safety Advisory Committee (TSAC) and to members of Congress. GCMA collected and disseminated these opinions in GCMA Report #R-340, Revision 8.

We plan to add the story of the recent loss of the towboat ELIZABETH M with the death of four crewmembers to GCMA Report #R-340 when the Coast Guard completes its investigation. You will recall that the ELIZABETH M was overwhelmed and pushed backwards over Montgomery Dam as she tried to push six loaded coal barges upstream in the flooded Ohio River valley.

The American River Transportation Company, defendant in the "Artco-Six" lawsuit, plans to subpoena several dozen of its top towboat pilots to appear in court and convince a Federal judge as to the wisdom of pushing tows in excess of forty barges down the main stem of the Lower Mississippi River from Cairo to New Orleans.

The Pilots may face a unique challenge in asserting how it is safe to push these oversize tows in light of the large number of accidents attributed to them. Although many (but not all) of these accidents were reported, the Coast Guard rarely called on these Pilots to answer charges before a Coast Guard Administrative Law Judge (ALJ) following these accidents. On most of the reports of Coast Guard accident investigations GCMA requested from the Coast Guard under the Freedom of Information Act in preparing GCMA Report #R-340, Part VI of the Coast Guard report, Referral for Enforcement Action, remains completely blank.

Although the damage to property and infrastructure attributed to oversize and overloaded tows is considerable, the Eighth District as well as the Commandant resisted every call to limit tow size except under the most extreme conditions and usually only after a serious accident like the recent ELIZABETH M incident below Pittsburgh on the flooded Ohio River takes place. As a result of Coast Guard inaction, many river mariners have good reason to fear for their lives.

If the Coast Guard will not act, perhaps mariners can succeed when their attorneys bring the situation before a Federal District Court judge since these oversize and overloaded tows clearly endanger public safety when they strike bridges and waterfront facilities.

An excellent example is the allision of four loaded ACBL barges that wiped out the Queen Isabella Causeway Bridge in Texas in September 2001 killing eight innocent people. Another example is when ARTCO's M/V JOHN H. MACMILLAN and its 42 barge tow struck a moored red flag barge and wiped out a dock below the Upper Baton Rouge Bridge on Oct. 29, 2002 causing almost \$1,000,000 damage.

### CAN INDIVIDUAL MARINERS BE HEARD? (Mariners' Struggle for Clean Potable Water)

GCMA has gone through years of frustration in dealing with the Coast Guard at just about every level. In dealing with the Coast Guard or any other government agency, you must first learn how that agency works – specifically, what it can and cannot do.

Mariners on workboats, whether inland towboats or offshore supply boats constantly complained about the poor quality of the water they are expected to drink and still continue to perform a full day's work. Cooking with unpalatable water or flavoring it with tea or Kool Aid may cover up the taste.

Three of your Gulf Coast Mariners Association Directors,

Captain David Whitehurst, Captain Larry Gwin, and Able Seaman Mark Blackman did something about it. They each contributed their time and effort and did the legwork necessary to prepare GCMA Report #R-395, Safe Potable Water and Food Service On Workboats: An Appeal To Congress. As a result, the law was changed.

In the process, Captain David Whitehurst contacted the office of U.S. Senator Mary Landrieu who, in turn, contacted the Environmental Protection Agency. The EPA contacted Senator Landrieu on January 25, 2004 with a very interesting summary. **We report and you decide whether an individual mariner can be heard if he has a meaningful message to deliver.**

The Honorable Mary Landrieu  
United States. Senate  
Washington, DC 20510



Dear Senator Landrieu:

Thank you for your letter of October 15, 2004, to the Environmental Protection Agency (EPA) forwarding correspondence from your constituent, Captain David Whitehurst. Captain Whitehurst expressed concerns about the quality of drinking water onboard inland towing vessels.

Several different agencies have overlapping roles in ensuring safe drinking water aboard the types of vessels of concern to your constituent.

The EPA has authority for regulating drinking water provided by public water systems including interstate carrier conveyances (e.g., water vessels, trains, aircraft) that meet the definition of a public water system. To be considered a public water system under the Safe Drinking Water Act, a system must provide drinking water to at least 25 people for at least 60 days a year. If a towing vessel meets the definition of a public water system, the specific requirements to which it would be subject would depend on whether the vessel provided water to the same people for more than six months in a year (e.g., non-transient population) or to different people (e.g., transient population) throughout the year.

The Food and Drug Administration (FDA) within the Department of Health and Human Services, has authority for sanitation on interstate carrier conveyances. Generally, drinking water on conveyances overseen by the FDA must meet standards for drinking water quality developed by EPA for public water systems.

We understand that many of the types of vessels of concern to Captain Whitehurst do not regularly serve 25 crew and passengers and would, therefore, not come under EPA's purview. However, these vessels would be under the new authority of the U.S. Coast Guard (USCG) and the FDA.

Partly in response to similar concerns about drinking water quality expressed by the **Gulf Coast Mariner's Association**, Congress amended Title 46 of the U.S. Code which oversees shipping.

The 2004 Coast Guard and Maritime Transportation Act amended section 3305 of Title 46 to require that vessels subject to USCG inspection and regulation consider the adequacy of the supply of potable water aboard vessels.

The USCG is initiating an effort to develop regulations to implement the new requirements. The Agency has established a docket (USCG-2005-20052) on the Department of Transportation website ([dms.dot.gov](http://dms.dot.gov)).

We will cooperate with our colleagues at the FDA and the USCG as regulations are developed for ensuring the safety of potable drinking water on the specific types of vessels referenced by your constituent.

For further information from the USCG, please contact Commander Anthony Wiest, Chief of the Systems Engineering Division, Office of Design and Engineering Standards at (202) 267-2206. If you have any additional questions, please contact me, or your staff may contact Steven Kinberg of the Office of Congressional and Intergovernmental Relations at (202) 564-5037. s/ Benjamin H. Grumbles Assistant Administrator

**[GCMA Comment: We will submit GCMA Report #R-395, Rev. 1, Safe Potable Water and Food Service On Workboats; An Appeal to Congress to the docket. GCMA Directors Captain David L. Whitehurst, Captain Larry P. Gwin and Able Seaman Mark A. Blackman contributed to this direct Congressional appeal.]**

## SINKING, CAPSIZING AND FLOODING THREATEN OUR MARINERS

### Towboat, Two Barges Hit Ship and Sink

*[Source: Associated Press, Feb. 11, 2004 as it appeared in the New Orleans Times-Picayune.]*

Geismar (LA) Feb. 11, 2005. A towboat and two barges sank in the Mississippi River near Geismar on Thursday morning after colliding with a ship, Coast Guard Lt. Cmdr Paul Dittman said.

The barges carried dry cargo. No oil was spilled and no hazardous material was involved. Four crewman from the towboat CSS ARKANSAS were rescued from the river. (End of story).

### Ho, Hum. Another fleet boat takes the big plunge

The Coast Guard Public Affairs Office reported a few more sketchy details before the big newspaper story.

- The collision involving the towing vessel CSS ARKANSAS, that was northbound and pushing seven barges, and the 737-foot Greek-flagged motor vessel RODON AMARANDON, also northbound and carrying pig iron.
- Following the collision, the CSS ARKANSAS and one of the barges, loaded with coke, a non-hazardous substance, sank. All four crewmembers who were aboard the CSS ARKANSAS were rescued by Good Samaritans and transported to local hospitals as a precautionary measure. All other barges were recovered safely. (As reported to us, a second barge was grounded to prevent sinking.)
- The Coast Guard is conducting an investigation.

### “This...Truly Pisses Me Off”

Captain Dean Bruch, a senior GCMA member and unlimited deep sea Master mariner wrote this note to the Editor:

“This is something that truly pisses me off. Other than a short comment, this is all the public or other mariners will ever know about this incident. They don't even mention the name of the ship.

I (would) appreciate if you look into this matter...The C.G. is attempting to hide things by telling the media and mariners as little as possible.”

### Little Boats Equals Little Concern...

In GCMA's February 2004 Newsletter we printed an article titled Pilot Tells Harrowing Tale of Going Down With The Vessel. This told the story of the Captain of the **fleet boat** M/V ED whose boat sank out from under him in sight of GCMA Director Captain David Whitehurst.

A year later the result of the Coast Guard “investigation” is in. Yes, Capt. Dean, we thought that it is very important to determine why so many towboats sink. When towing vessels were “uninspected” vessels, it appears that the Coast Guard couldn't care less about them.

Consequently, we filed the following statement in the Coast Guard's Towing Vessel Inspection Docket (#USCG-2004-19977) as follows:

“In Item #33 in the reference cited above, we stated: “We await the publication of Coast Guard data relative to towing vessel sinkings previously requested...”

“We are pleased to note that we received the attached documents marked [**Enclosure 1**] from the Coast Guard (G-MSO) in a letter dated February 4, 2005. We were told that this data on sinkings, flooding, and capsizing was provided from the Office of Investigations and Analysis (G-MOA) and is “raw data.”

“We note that significant and plentiful raw data is available in the Coast Guard database to support these documents but that it awaits analysis. We hereby formally request that the Coast Guard Office of Investigations and Analysis evaluate this data as a part of this Towing Vessel Inspection Rulemaking.

“For further consideration, we enclose three examples of sinkings whose causes, in the opinion of our mariners, were neither adequately determined nor sufficiently explored by Coast Guard investigators after the accident. In the first incident, a mariner lost his arm and almost his life when his boat capsized. In the second incident, a mariner almost lost his life. In the third incident, the master and his crew went for an enforced swim as their boat capsized.

#### **Incident #1: M/V Ed sinks in Mississippi River.**

GCMA Files #MNL21.9a; M-451

Misle Activity #1989401; Misle Case #213999

Status: Uninspected towing vessel

Owner: McKinney Towing; an AWO “Responsible Carrier”

Official Number: 634667, 94 GRT, 64 Net Tons.

Number of Previous Incident Investigations: 18 reported from 1993 to 2004.

Reported in the Waterways Journal with pictures furnished by a GCMA Director on the scene.

#### Executive Summary:

“On 19 January 2004 at 0930 hours the UTV Ed sank at MM157 Lower Mississippi River. There were three crewmembers aboard the Ed. The two deckhands were able to step off onto a barge prior to the sinking. The pilot went down with the vessel but was able to escape through a broken pilothouse window with the aid of a life jacket that he clutched under his arm. There were no injuries. A surveyor, McGlasson Marine Services, was called to the scene. Location of vessel marked as an obstruction to navigation. Cause of sinking is unknown. No pollution or injuries. Damage estimate of \$100,000.”

**GCMA Comments:** We requested the complete investigation report under FOIA and have no reason to believe we did not receive it. Our mariners told us the vessel was raised after the incident.

- There is no report of Coast Guard investigators ever visiting the vessel after it was raised to determine the cause of the sinking.
- There is no record in the file that investigators ever spoke with the deckhands who, presumably, were responsible for looking after pumping the bilges.
- There was no interview with the Master after the sinking in the file.
- Even the point is not clear as to whether any person was trained to operate the vessel’s bilge pumping system.
- The vessel had no assigned engineer nor was it required to have one. GCMA Report #R-401 furnished to G-MOC discusses the issue of training towing vessel engineers in detail. Please consult it.
- No information is revealed about the bilge pumping

system on the vessel. We consider that a very important item and the Coast Guard should have determined its role in this \$100,000 accident that almost led to a fatality.

- Drug and alcohol tests were performed with negative results.
- The Coast Guard never held a hearing on this accident. It is obvious that nobody in authority at the Marine Safety Office gave a damn that another small fleet boat sank and placed three mariners lives at risk.
- If this 23 year old boat was raised in one piece, even after being declared a “constructive total loss,” as an uninspected vessel it could be resurrected and placed back in service without even correctly addressing the cause of its sinking.

All of this speaks to the need for the Coast Guard and/or an approved classification society being responsible for inspecting the condition of the hull and bilge pumping system and maintaining accurate records thereof.

#### **Incident #2. [Enclosure #3]**

GCMA Files #Mnl24.6j; M-424

Misle Activity #1837105; Misle Case #126483

Status: Uninspected towing vessel

Owner: Monica Lee Tugs.

Official Number: 642222, 65 feet, 114 GRT, 64 Net Tons.

Damage Estimate: \$150,000.

Reported in the Waterways Journal, July 14, 2003.

Cause of capsizing is unknown. The vessel’s Master lost his arm in the accident...Value of arm to mariner: **Priceless!**

**GCMA Comments:** This uninspected towing vessel capsized inside the lock chamber. The vessel reportedly had water in the engine room bilge that had not been pumped out. With no regularly designated or trained engineer this situation has points that are comparable to Incident #1. The Coast Guard report cites: “Operations not in accordance with rules and regulations. Deckhands did not make appropriate rounds of the engine room.” Yet the boat capsized in the Bayou Sorrel Lock, was righted several days later by two crane barges, taken to a shipyard, viewed by the Coast Guard (as we believe must be required of all newly-inspected towing vessels initially, at regular intervals, and after a casualty and before repairs).

The vessel, being an uninspected towing vessel, never underwent a stability test nor was it required to do so. In speaking with a senior investigating officer after we received the accident report and asking about the wisdom of placing such a vessel back in service and again risking the lives of its crewmembers without first determining its stability, he brought up the pertinent question of who should pay to conduct the stability test.

This is an important question that needs to be resolved in the rulemaking at hand.

We opine that the Coast Guard should have the authority to require any towing vessel owner to prove his vessel’s stability before issuing it an initial Certificate of Inspection and before any major work requiring a stability update. We request that this provision be addressed.

Our mariners deserve the protection of adequate stability regulations including the written instructions normally provided the Master of an inspected vessel.

Our mariners also deserve the protection of having adequately trained and designated engineers who are completely familiar with the bilge pumping and piping systems of their vessel and

know how to operate it properly. The bilge system needs to be inspected on an annual basis. A part of this inspection, as required on other classes of inspected vessels, must determine that the bilge is clean, free of oil, grease, sand, dirt and other debris that should not be there. This is a neglected area on many existing towing vessels.

**Incident #3. [Enclosure #3]**

GCMA Files #Mnl24.6j; M-283

Misle Activity #75452; Misle Case #0

Damage Estimate: \$450,000, tug and tow + Pollution

Status: Uninspected towing vessel

Owner: The Coast Guard apparently could not find the owner to see if the operator was tested for drugs or alcohol. Company apparently "relocated" after accident. However, they were "found" by someone and the case was brought to trial in Houma, LA, several years after the accident. Our mariners did not profit from any USCG safety recommendations.

Official Number: 272311, 53.4 feet, 33 GRT, Built 1956.

**Cause of Accident: Unstable tow overturned.**

**GCMA Seeks Protection for Our Mariners**

Two of these incidents occurred in the winter months. While the air temperature is routinely reported on the Coast Guard accident reports (e.g., it was 47 degrees in incident #2), the water temperature of the river was not recorded. Yet the human body loses heat to cold water as much as 25 times more rapidly than air of the same temperature. Water temperature is an important factor as discussed in NVIC 7-91.

Melting snow and cold rain from the north feed the Lower Mississippi River in winter. The temperature of these waters is below the 59 degree level where immersion suits are required on inspected vessels in coastal waters. We brought this matter to the attention of Vice-Commandant Card who directed the matter to the attention of both the Towing Safety Advisory Committee and the American Waterways Operators. Both organizations showed a distinct lack of interest in recommending suitable Coast Guard approved work suits for towing vessel crews in winter. A fall in the river in any season is dangerous. In winter with the prospect of hypothermia, a fall into cold water can be lethal. We want our mariners who operate in cold water to have the same protection under the regulations **based upon the temperature of the water**. After all, the crews on small Coast Guard boats are have this protection. It is only **fair and reasonable** that our crews receive equal protection under the regulations.

Count of Activity ID	CY													Grand Total
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
Event Type														
Damage to the Environment	325	362	435	573	539	538	522	499	457	402	266	306	246	5470
Vessel Maneuverability	160	205	252	418	496	467	573	558	531	461	317	237	245	4920
Grounding	199	158	193	277	317	332	325	310	337	294	295	236	136	3409
Allision	78	111	145	196	208	215	200	167	171	227	358	284	144	2504
Collision	75	61	71	87	90	95	102	70	92	102	165	77	62	1149
Material Failure (Vessels)	6	8	14	19	23	24	17	27	15	67	332	206	210	968
Loss of Electrical Power	18	27	29	47	58	53	72	86	65	67	59	38	31	650
Sinking	53	58	50	49	57	61	66	39	46	36	34	30	28	607
Flooding	46	64	57	50	70	57	70	54	34	26	18	28	19	593
Fire	21	31	30	39	51	52	61	44	45	37	29	31	23	494
Capsize	10	10	13	11	14	12	15	8	6	7	5	4		115
Abandonment	7	8	11	11	18	9	12	7	10	3	6	1		103
Emergency Response								1	5	4	27	23	12	72
Evasive Maneuvers									1	3	20	17	8	49
Explosion	3	2	5	2	6	5	6	2	4	3	1	2		41
Set Adrift										2	12	12	11	37
Fouling									1	1	12	8	13	35
Material Failure (Non-vessels)									1		4	3	1	9
Loss of Stability									2		4	1	1	8
Falls into Water								1		2	1			4
Damage to Cargo												2		2
Grand Total	1001	1105	1305	1779	1947	1920	2041	1873	1823	1744	1965	1546	1190	21239

Tailored data table, taken from above, with summary comparison between all events, stability events, and pollution.

Calendar Year	MSIS													MISLE		Statistics	
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average	Std Dev		
All Events	1,001	1,105	1,305	1,779	1,947	1,920	2,041	1,873	1,823	1,744	1,965	1,546	1,190	1,634	362		
All Stability Events	109	132	120	110	141	130	151	101	88	69	61	63	48	102	33		
Sinking	53	58	50	49	57	61	66	39	46	36	34	30	28	47	12		
Flooding	46	64	57	50	70	57	70	54	34	26	18	28	19	46	19		
Capsize	10	10	13	11	14	12	15	8	6	7	5	4	0	9	4		
Loss of Stability	0	0	0	0	0	0	0	0	2	0	4	1	1	1	1		

**ENCLOSURE( )**



## IS THIS JOB WORTH DYING FOR?

[Source: *The Waterways Journal*, Feb. 28, 2005. Letter to the Editor.]

I recently attended the USCG meeting that solicited public input on implementing the new inspection program for towing vessels.

On arriving at the meeting I saw the AWO "choir" was a substantial majority of the attendees. I estimate there were about 30 AWO members from industry management for every pilot who actually made at least one 30-day trip as a crewmember of a towing vessel in the last year. A show of hands revealed only one other pilot in attendance.

The meeting started with the first speaker singing the AWO anthem with bountiful praise for the Responsible Carrier Program (RCP) and all of its accomplishments, both real and perceived. This speaker was particularly proud of the latest industry casualty figures that showed the Coast Guard-AWO partnership was responsible for only 40% of the total towing vessel casualties in spite of the fact the AWO claims to account for 67% of the active tugboats and towboats in the United States. While it is noteworthy that this figure of 9 deaths per year as displayed on the AWO website shows an improvement for the latest year, the number itself is appalling. Doesn't the AWO know that the Bureau of Labor Statistics fatal accident figures show the average death rate for all private industry is only 4 deaths per year per 100,000 workers?

According to the AWO Mercer survey the towing industry workforce total is only 32,000. If AWO companies include roughly 67% or 21,440 of these workers, again according to their website, this means the AWO companies with nine

fatalities per 21,440 workers have a fatality rate of 4.7 times 9 or 42 deaths per 100,000 workers per year. This translates to over ten times the national average. If the nine fatalities are for the whole industry, then the fatality rate is 3.13 times 9 or 28 deaths per 100,000 workers per year, or 7 times the national average. The real shocker is prior to the RCP from 1985 to 1994 the average deaths per year for the entire industry was 13.6, while from 1995 to 2003 with the RCP initiated on Dec. 7, 1994 the average deaths per year, again from the AWO website, was 17.

This unacceptable increase in an already high death rate makes it obvious the current Safety Management System provided by the AWO RCP program must be flawed in both content and execution. It lacks the main ingredient for success in any Safety Management System – enforcement. The "Strawman" proposal the towing industry presented to the Coast Guard is just a clone of the existing RCP Program; therefore, it cannot possibly deliver the results Congress expects.

Since criticism alone seldom results in viable solutions, I will offer some suggestions that may resolve some of the major problems. I recall, that before the current RCP was established, management made several changes regarding recruitment, hiring, and boat crewing. These changes laid the foundation for many of industry's current problems. No Safety Management Program including the RCP could ever succeed without first addressing these problems.

The original program, had little input from the employees it was written for, so not only were existing problems never addressed, they were never even identified. In spite of these problems, the original RCP program if implemented as originally conceived may have taken meaningful steps toward advancing marine safety. Something went wrong.

Unfortunately, the good ideas and intentions of the original authors collided head-on with the realities of capitalism. Every critical issue necessary to keep the program viable was voted on. In almost every case the majority voted to remove key components the authors considered necessary because they were too burdensome or too costly. The minority consisted of about one-third of the participants, and these dedicated people, together with those originally left out of the process, can still become the cornerstone for constructing a successful Safety Management System.

Where can these dedicated people start? They can start with a dialogue with their active crewmembers. This will be more fruitful than more paper, rules, and wishful thinking from chair-bound office personnel.

The problem today is that you may not get the honest answers you need to reach viable conclusions, because, for the most part, those crewmembers that are most at risk of dying still have no access. Even more important is the fact the turnover is so great. By the time they have the experience to offer anything meaningful they have departed the industry of their own free will or in the back of an ambulance. **NO SAFETY MANAGEMENT SYSTEM CAN SUCCEED** with a deckhand turnover of over 60%. Per year. Think about it.

In closing, I look forward to the opportunity to make a meaningful contribution to the TSAC Working Group in Washington next month as it confronts these issues. I am confident that the one-third of the AWO members, who were outvoted in the past, still want "to get it right".

s/Capt. Bill Beacom,  
Sioux City, Iowa

## UPDATED GCMA "BROWN-LIST"

GCMA fields a significant number of complaints on employment issues from lower-level mariners in as fair a manner as possible. When a mariner gets a "raw deal" we do what little we can to get to the bottom of the problem. However, we are not and never have been a labor union. The vast majority of our "lower-level" mariners work as "employees at will." Unfortunately, this means that they do not work under a labor contract negotiated through collective bargaining that controls their conditions of employment and provides the machinery to resolve their grievances. Without such a contract, most of our mariners can be fired or demoted at

any time, for any reason whether fair or not. There is little recourse for most of our mariners unless such termination is clearly illegal – and only then with the help of an attorney.

When one of our mariners is mistreated, we take the matter very seriously. As a mariners Association, we keep track of these incidents. When our mariners look for a new job, we want them to obtain jobs with employers who respect them and will treat them fairly. We assign companies whose names appear in our records as having mistreated one or more of our mariners to our "Brown List."

Mariners must make their own decisions about their employers. As a service to dues-paying members of GCMA (only) we can inform you of some of the specific incidents that led us to "Brown

List" a company. Then you can decide whether you want to learn the same lessons the hard way.

### Company:

- Abdon Callais Offshore.
- American River Transportation Co.
- American Commercial Barge Lines
- Coastal Towing, LLC & TLC Marine Svc.
- Delta Towing.
- ENSCO.
- Frazier Towing
- Global Marine
- Gulf Pride Marine Service, Inc.
- Guidry Brothers/Harvey Gulf Marine
- L&M Botruc Rentals
- Maryland Marine
- Stapp Towing
- Tidewater Marine
- Trico

## **TOWBOATS NEED MORE THAN ONE ENGINEER ON BOARD**

**By Chief Engineer David A. Sager (Ret'd)**

[Source: *WorkBoat Magazine*, March 2005]

First, I feel that I am qualified to comment because I had 40-plus years of experience in the marine diesel engineer field and, until recently, held a high-level first engineers license and ran chief engineer on linehaul towboats for 20 years.

Back in the late 1980's, early 1990's, most of the river barge industry began instituting a one-engineer boat policy. My personal experience is if the following is factored in – management demands every inch of the engine room, shaft alleys and rudder room be painted and immaculate, plus other maintenance and repairs that the chief must do – a 6,000-hp towboat is too much for one engineer.

I am not naïve enough to believe that management will go back to two-engineer boats. However, I have several suggestions that would help.

First, a one- or two-man floating paint crew that would go from boat to boat and help the chief engineer needle gun, prime and paint.

Second, you port engineers when the chief says he needs help he means it. About the only way the chief will get good help is if there is a deckhand who wants a letter of recommendation from the chief to get into the engine room. Otherwise, the mate will give him the worst guy he has.

Third, it has to be a company policy that a prerequisite for being a head port engineer is that the individual has been a chief on a towboat. I worked under one person who had not been a chief and had totally unreasonable expectations. It made a difficult situation intolerable.

Fourth, companies are going to have to come down hard on deck crews that take tools (and other things) out of unattended engine rooms without the chief's permission.

Fifth when shore-based ship yard repairs are needed, do not put them off. Do it with quality parts and workmanship, not the quick and cheap jury rig.

I was with one company who had a "run it until it blows" policy. Combining this with an engine room that is unattended a large percentage of the time is asking for disaster.

The thing that companies who do not maintain the machinery usually don't maintain the alarm system either. The No. 1 engineer is stretched thin enough as it is without having to deal with things like this.

## **OUR CHILDREN, OUR TROOPS, OUR HEROES**

**By Michael Sacco, *Seafarers' Log*, Jan. 2005**

Making the short climb up the fold-out staircase leading into the airplane, I honestly didn't know what to expect when I walked through the door.

The scene was Scott Air Force Base, Ill., a week before Thanksgiving. The plane was a large old C-141 carrying nearly 100 injured American soldiers back from the fierce fighting in Fallujah and other Iraqi cities.

What happened during my hour aboard that plane will stay with me forever.

It may be hard to understand how a brush with wounded soldiers could be positive and uplifting, but my time with those troops was all that and more. Their incredible spirit and bravery, their genuine love of this country, and their unwavering commitment to each other left me with overwhelming feelings of admiration and gratitude.

You might expect a planeload of injured troops to be sad or scared or maybe even resentful. The men and women on that aircraft returning from the battlefield were just the opposite. As I walked through the darkened plane, shaking their hands and thanking them for serving our country, soldier after soldier expressed the exact same sentiments. First and foremost, they wanted to get patched up so they could go back to their friends, their fellow soldiers in Iraq. Can you imagine that kind of courage? I saw it up close, and believe me, it's real.

The troops also waved off any description of themselves as heroes. We were just doing our jobs, they said. Maybe so, but in my book they are heroes in the finest sense of the word.

Their wounds varied in severity, but even the more seriously injured took a businesslike attitude toward the whole experience. One soldier casually remarked that he planned to save some of the shrapnel that literally had torn through his neck and cheek so he could polish it and turn it into jewelry. Another young man who'd been machine-gunned in the chest calmly pointed out that his flak vest had saved him.

As a veteran of the U.S. Air Force, I've always admired and believed in our armed forces, but recently witnessing their strength, character and integrity up close was an awesome experience. Their morale couldn't have been much better, and they said the same is true of their fellow soldiers still in the fight. Keep in mind they are all volunteers, much like our own U.S. Merchant Mariners.

The other thing that stood out from my visit was how young so many of the soldiers are. For some of the guests aboard that plane, it was like looking at our children or grandchildren – a jolting feeling. For others, they actually were looking at and visiting with their children.

It called to mind some of the stories from World War II, when kids in their mid-teens lied their way into the armed forces or the merchant marine because they wanted to join the fight. They wanted to help win the war. It's heartening to know that so many Americans were ready then, just as we were in Korea and Vietnam and the first Persian Gulf War. It's inspirational to see that so many have stepped up to win today's battles.

I went to Scott Air Force Base to join in honoring our good friend, Lt. Gen. Gary Hughey, who is retiring as the deputy commander of TRANSCOM, the U.S. Transportation Command.

After spending time on the base with General Hughey and on the plane with Lt. Col. Todd Robbis came away with an even greater appreciation for the incredible job, done by TRANSCOM under the outstanding leadership of its commander, Gen. John W. Handy. I have similarly strong appreciation for the performances of our troops and the unsung heroes who make up the medical staffs for our armed forces.

Believe it or not, there were lighthearted moments on the plane, too. The rivalry between the Yankees and Red Sox was in full force, as evidenced by fans of both baseball teams. And a number of the soldiers joked about having a chance to "autograph" the bulkheads, as others had done as far back as the mid-1970s, when the very same plane carried the last known POWs from Vietnam.

Because of the SIU's role as part of America's fourth arm of

defense, I've probably never looked at news reports on the war in Iraq quite the same way as the average American does. Our own SIU brothers and sisters repeatedly have sailed into harm's way to support our troops in Operations Enduring Freedom and Iraqi Freedom. Our SIU brothers and sisters have sailed side by side with military security teams aboard our U.S.-flag ships. So it has always been personal.

Still, after spending time on that plane, I'll never view the war reports the same way. It's different now, even closer to the heart.

We've often said in the SIU, we deliver the goods. As we enter the New Year, I want everyone to know that the people we deliver for – the men and women of the United States Armed Forces – are the finest individuals on this planet:

God bless us all in 2005 and beyond.

**[GCMA Comment: Mike Sacco is President of the Seafarers International Union. Mike is one of the mariners strongest advocates in Washington commanding respect for the accomplishments of U.S. Merchant mariners.]**

**THE DUTIES OF A DECKHAND  
ON A SMALL INLAND TOWBOAT  
By Captain David Whitehurst**

These are some of the duties of a deckhand on an inland towing vessel. The smaller boats carry a four man crew.

First, the Captain is in charge of everything and is held responsible for anything that goes wrong. Most Captains take this responsibility seriously, but, unfortunately, some don't.

Next, there is the Relief Captain who is in charge of everything when the Captain is home on leave. When the Captain is on board, the Relief Captain becomes the Pilot (or second in command) and has the worst shift because he goes from "front watch" to "back watch" in the middle of his hitch – often putting in an 18-hour day in the process.

Finally, there is the Pilot who may be the least experienced of the three licensed wheelhouse personnel. He rotates onto the boat when either the Captain or Relief Captain are not there.

Now we get to the deckhands. Usually there are only two of them, and both may be young and inexperienced. Yet, they are the backbone of the crew. Their job is one of the most dangerous jobs in any field of work. The highest number of deaths in the towing industry occurs when a young, inexperienced deckhand falls overboard into the water and drowns.

A deckhand has many duties to perform. He has to set out barge rigging and then pick it back up. He has to put the barges together and break them apart. This can be very dangerous when there is only one deckhand on watch at any given time. The point when this can be most dangerous is where one deckhand must put together a high-low coupling. This occurs where a loaded barge is coupled to an empty barge; and, if one barge is wider than the other it is even worse. This lone deckhand has to climb up onto the high empty barge and put on the wire rope and chain-sling, ratchet in the slack, then move back down onto the lower barge and put the wires around the deck fittings and then climb back up on the higher barge to pull the slack and tighten the ratchet. This can be a long and dangerous process for a new deckhand because the difference in heights between the two barges may exceed 10 feet and require the use of a ladder. Dragging cable and

loadbinders up that ladder any time of day or night in any weather conditions is dangerous. Working alone like this is also the cause of many falls and back problems. It is often hard to make the coupling right the first time because the wires, usually second-hand elevator cables, are usually very kinky and hard to handle.

Then there is the task of "making locks," handling lines and bumpers as well as and serving as the eyes for the wheelhouse personnel and talking them through bridges and landings.

There are also "emergencies" when one of the barges in the tow starts to leak and the deckhand is told to "shingle" (i.e., plug) the barge to keep it from sinking. This may involve entering a "confined space," which, in itself, is a serious and often a dangerous matter. Ignorance may be bliss unless you understand the dangers that lurk in these confined spaces. Then the deckhand must pump the water out of the barge by dragging a gasoline or diesel "jigger pump" out on the barge – sometimes many hundreds of feet out on the barge along with heavy hoses, a supply of gasoline or diesel fuel.

There are also longer term "projects" like chipping and painting the boat inside and out as well as the eternal battle of fighting rust. The deckhand often finds he is the only person fighting this battle!

Another task is bringing the running lights for the barge (s) on the head of the tow every evening and bringing them back to the boat every morning to charge the batteries for the next night's work. On some tows, the deckhand must run an electric cable from the boat to the head of the tow and see that the electrical connections are secure and protected. He must also replace bulbs in the fixtures on the towboat and is often expected to troubleshoot inoperative light fixtures.

In addition, many deckhands are expected to cook the meals for the crew and serve as the janitor to clean inside and outside of the boat – with special emphasis on the weekly crew change. On many boats, the deckhand also has to take care of the engine room including pumping the bilges, changing lube oil filters, fuel filters and air filters as well as making oil changes when the boat has no regularly assigned engineer.

The deckhands are expected to keep the water drained out of the air receivers in the engine room as well as to tighten and pack the stuffing boxes. The Captain or Pilot must rely on his deckhands to perform these duties since, when the vessel is underway, he is trapped by his duties in the pilothouse. Often, the Captain or Pilot has no assurance that a "new" deckhand has any training or experience whatsoever to perform these tasks correctly or safely. Often, there are so many jobs that must be done that one wonders how many hours there really are in a deckhand's day?

The deckhands usually work in rotation six (6) hours on six (6) hours off duty. However, there are Captains that may work both deckhands at the same time. This leaves both deckhands sleeping at the same time with nobody looking after the engine room or standing a fire watch. The only one that is awake is the Captain or pilot depending on whose watch it is. This is an unsafe practice but is quite common!



## NTSB CHAIRMAN ANSWERS GCMA CRITICISM

[The January 2005 GCMA newsletter printed an article titled: GCMA Blasts Safety Board Over Mariner Work-Hour Abuses. NTSB Chairman Conners replied in a letter dated Feb. 15, 2005 as follows. Emphasis by underlining is ours.]

Dear Mr. Block:

Thank you for your letter dated January 1, 2005, concerning Safety Board report NTSB/HAR-04/05, Towboat ROBERT Y. LOVE Allision with Interstate 40 Highway Bridge Near Webbers Falls, Oklahoma, May 26, 2002. In your letter, you disagree with a statement made on page 36 of that report' and appear to raise two different points. Each of these points is addressed separately below.

First, you state the Board is mistaken when it makes the following statement:

*"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. [emphasis added] To support your contention, you cite 46 United States Code §8104(a), which 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 it immediately before the time of leaving."*

The Board believes the quoted statement to be factually correct. The regulation you cite specifies time off-duty, but does not specify rest. A crewmember could be engaged in any number of activities unrelated to his or her employment (therefore being "off-duty") that would not be considered "rest."

Second, you believe the Board erred by excluding the Captain's travel to the vessel ("commuting time") from his working "on-duty" time. You offer a number of documents in support of this belief, including Coast Guard Policy Letter G-MOC 04-00, Coast Guard investigation report MISLE Case 156409, and others.

You believe the Board's exclusion of this time to be at odds with the conclusions of Coast Guard investigation report MISLE Case 156409. As a party to the investigation, the Coast Guard was invited to comment on the factual information developed by the Board and agreed with this exclusion; the MISLE case to which you refer had not been released and did not reflect the position of Coast Guard at the time NTSB report NTSB/HAR-04/05 was adopted.

In your general discussion of fatigue, you note that fatigue is no longer on the Board's "Most Wanted" list. This is incorrect; fatigue remains an item on the intermodal "Most Wanted" list, and can be found on the Internet at: [http://www.nts.gov/Recs/mostwanted/intermodal issues.htm](http://www.nts.gov/Recs/mostwanted/intermodal%20issues.htm).

The Safety Board continues to aggressively address the issue of fatigue in all modes of transportation.

Thank you for your commitment to transportation safety.  
s/ Ellen Engleman Conners, Chairman

**[GCMA Comment: We appreciate the NTSB's continued interest in the fatigue issue because greater attention to this subject can improve safety, health and welfare of our mariners.]**

**[GCMA Comment: GCMA discussed the Coast Guard's investigative findings at the September TSAC meeting. Based upon those findings, we asked the Coast Guard to change its policy letter G-MOC-04-00 and its mention of "neutral time" – a term it never defined. The Coast Guard placed "neutral time" or "deadhead time" on the TSAC agenda.]**

## TOWING VESSEL INSPECTION DOCKET: GCMA REPORT #R-276

**Those who fail to learn the lessons of history are destined to repeat them.** –Winston S. Churchill

### Background

The towing industry bills itself as a "quiet" industry in that it does not usually attract a great deal of public attention. However, when spectacular accidents occur in public places, these events attract attention from the media and the public.

In the 1960s there were a number of towboat and barge allisions with the new Lake Pontchartrain Causeway near New Orleans. Repeated accidents knocked down spans of the roadway and killed a number of people. The most publicized event occurred when a Trailways motor coach on June 16, 1964 plunged into the lake along with a 226-foot section of the roadway after a tow took out support pilings. This was not the first time but the **fifth time** that the bridge was hit. In documents furnished us by the Greater New Orleans Causeway Commission in 2002, the toll of towboat rammings of the 24-mile twin spans alone now exceeds sixteen.

In 1972 Congress considered two separate pieces of legislation – one to license tug and towboat Captains and Pilots and the other to inspect their towing vessels.

Considering the testimony revealed in the New Orleans area newspaper clippings before 1972, the public saw towboat captains in a very unfavorable light. The public called on Congress to regulate the mariners that the public believed were responsible for these accidents.

These mariners, portrayed as incompetent, irresponsible people who failed to pay sufficient attention to what they were doing, fell asleep on the job, and evaded answering tough questions posed by investigators as they sought protection under the "fifth amendment" to the Constitution.

The public, the taxpayers, had good reason to be unhappy as their tax dollars rested with broken concrete, mangled vehicles and drowned bodies on the bottom of Lake Pontchartrain. Other accidents still dog this same 24-mile stretch of highway.

Congress gave the Coast Guard the task of licensing towboat operators in 1972. The Coast Guard approach to licensing was to cause as little disruption to the business community as possible. Any person who believed he was qualified for a license had a deadline to obtain letters of sea service from employers and take a 20-question multiple-choice

test on the “Rules of the Road” contained in pamphlet CG-169. The Coast Guard gave oral tests to mariners unable to read or write or who did not speak English as their first language.

Coast Guard licensing turned out to be little more than a paperwork shuffle to crank all wannabee Captains into the existing licensing system by restricting their licenses to service on towing vessels. This restriction remains in place today and locks in much of the towing industry’s workforce – just the “captive audience” the companies always wanted. Only those mariners who opted for a “100-ton” inland, near coastal or Great Lakes license do not have the towing industry restriction and can work aboard other types of vessels.

The Coast Guard cranked out new “Operator of Uninspected Towing Vessel” (OUTV) licenses faster than newly baked cookies at the thousand-window bakery exceeded only by the number of sea service letters generated by hundreds of businesses large and small!

The offshore oil industry obtained a special exemption from the licensing regulations from Congress for mariners operating towing vessels between various oilfield locations. The industry’s trade association (OMSA) feared that most of its tugboat operators were not capable of passing any written examination. This, rather degrading view of its workforce, proved to be unfounded when the vast majority later passed tests far more difficult than 20 “Rules-of-the Road” questions. However, this special exemption still lives on today but is used (or rather, abused) for special purposes Congress never intended.

In 1972, Congress also asked the Secretary of Transportation to determine whether requiring engineers to serve on towing vessels while underway would improve the safe navigation of the vessel. A rather shallow Coast Guard report<sup>(1)</sup> dismissed the idea that trained engineers would reduce the casualty rates on towing vessels. The Marine Engineers Beneficial Association (MEBA) countered in their own report and described in detail a number of important reasons for training towing vessel engineers.<sup>(1)</sup> [<sup>(1)</sup>We present and discuss these historic documents to our mariners in GCMA Project #R-401.]

The Coast Guard report prevailed because the Coast Guard is the Coast Guard and has the power to do pretty well whatever it wants to do to keep the lid on any situation.

Congress must depend upon the Coast Guard for guidance and information and trust its reliability. Consequently, Congress chose NOT to enact legislation that would require the Coast Guard to formally inspect towing vessels. All remained quiet in the towing industry throughout the rest of the 1970s, 1980s and into the 1990s. In 1980, Congress established the Towing Safety Advisory Committee (TSAC) to solicit views from all segments of the towing industry including boat owners, shippers, port authorities, labor unions and members of the public. The towing industry, through its trade association, soothed the public and Congress with talk about the industry’s outstanding safety record and kept out of public view while conducting “business as usual.”

The first “spectacular” towing accident occurred in New Orleans when a one-barge tow knocked down the Judge Seeber Bridge (1993) killing one person. Within months, a major accident at the railway bridge crossing Big Bayou Canot, Alabama, wrecked AMTRAK’s Sunset Limited taking 47 lives.

Following this accident, the National Transportation Safety Board justifiably humiliated the Coast Guard for its substandard licensing program. There was enough blame for

all towing companies and the Coast Guard to mull over and then pass along to their mariners.

The following year, the Coast Guard discovered to their chagrin that industry’s touted safety record simply was not true.<sup>(1)</sup> They were bamboozled by relying upon industry statistics that were not backed with factual information. While this information was not exactly “covered up,” neither was it widely disseminated because of its potential embarrassment to both the Coast Guard and the towing industry’s trade association. [<sup>(1)</sup>Read GCMA Report #R-351, *How Safe is the Towing Industry?*]

The Coast Guard gave the industry a chance to reform itself. In 1994, the Commandant sent a message through the Secretary of Transportation to Congress to the effect that undertaking the formal inspection of uninspected towing vessels would NOT be the best use of Coast Guard limited resources. Perhaps inspecting towing vessels would have taxed existing Coast Guard resources, but seen in the light of the record of disasters over the next ten years, it is clear that the Commandant gave Congress bad advice.

To keep a lid on things, the Commandant signed a “Partnering” agreement with the American Waterways Operators that led the trade association to prepare its Responsible Carrier Program (RCP).

The Coast Guard even established its own “Commercial Towing Vessel Examination Program” (CTVEP). This program turned out to be little more than a paper palace the Coast Guard constructed but never funded so it could operate properly. The intent was to help industry validate its Responsible Carrier Program with Coast Guard decals to post on its vessels. In turn, the Coast Guard encouraged its boarding teams to by-pass boats plastered with these decals and concentrate on boarding those vessels that had not completed a “voluntary” safety check. CTVEP looked great on paper and worked well in some places but, in hindsight, for the most part became a meaningless exercise and faded away.

Unfortunately, for the dreamers in the Coast Guard, the lid rested uncomfortably on a boiling pot. The tragedy at Bayou Canot was not the end but rather the beginning of a string of tragic accidents that played out in full public view, each headline progressively attracting more attention than its predecessor.

- T/B Martin J. Berman pollutes San Juan beaches (1994).
- Scandia-North Cape grounding pollutes Rhode Island (1996).
- Queen Isabella Causeway allision kills 8 motorists (2001).
- I-40 bridge allision kills 14 motorists (2002).
- Buzzards Bay oil spill pollutes Massachusetts coast (2003).
- Elizabeth M drowns 4 crewmen near Pittsburgh (2005).

In the light of all this seemingly uncontrolled carnage and pollution and resulting narrowly-focused regulations that made no more sense than swatting a fly with a sledge hammer, Congress finally said that enough is enough and directed the Coast Guard on September 9, 2004 to inspect towing vessels.

### **USCG: Too Busy to Pay Attention to Towing Vessels**

With hindsight, we can boast 20/20 vision. A reasonable Bill presented in Congress to inspect towing vessels in 1972 had the support of the Coast Guard at the time. However, the Bill did not pass and never became law.

The result, over time, was that the Coast Guard lost sight of that portion of the maritime industry they were not required to regulate, namely over 5,200 uninspected towing vessels.



“Uninspected” meant just that – the Coast Guard did not have to devote its work force and its limited resources to regulate the towing industry unless Congress directed it to do so.

Over the years, Congress assigned the Coast Guard other important missions and kept them occupied. Licensing towing vessel operators and mineral and oil industry personnel filled much of the 1970s. Inspecting offshore support vessels, drilling rigs, and liftboats filled most of the 1980s. The late 1970s saw the beginning of pollution regulations and MARPOL 73/78 followed by OPA-90 after the EXXON VALDEZ spill in 1989. STCW stumbled across the stage briefly in the early 1980s, was ignored, and reappeared with a vengeance in the mid-1990s catching our offshore mariners off guard. Drug regulations appeared in the late 1980s and affected large numbers of mariners throughout the 1990s. Drug and immigrant interdiction punctuated the late 1980s and early 1990s. The Gulf Wars I & II, and homeland security diverted much attention from the towing industry’s disasters and occupied the Coast Guard.

Congress, like the Coast Guard is a body that is constantly changing. Both are alike in that they are a human parade with new people marching up, taking positions of authority, and passing on their duties to others. It is useless to blame “Congress” or “The Coast Guard” because the blame simply bounces off. We must live with both good and bad decisions.

### The Significance of GCMA Report #R-276

As an Association, it is our duty to bring the issues of our members to the attention of the authorities or public bodies that can help us solve these issues. We are the “Voice for Mariners.” We hope we are not the only voice. We understand why “speaking out” in public is not a wise for mariners who are “employees at will” to take, so we will try to fill the void and speak for our mariners until such time as they can speak for themselves.

We listened to our most experienced mariners over the years describe important towing industry issues. In 2001 we approached the Coast Guard and the Towing Safety Advisory Committee (TSAC) with a plan to inspect towing vessels. We provided and constantly updated a description of that plan as it evolved in GCMA Report #R-276.

TSAC did not provide the solution we were looking for and neither did the Coast Guard. Consequently, we took the 7th Revision of GCMA Report #R-276 directly to Congress in March 2004.

Although we asked the Coast Guard to inspect towing vessels, the Coast Guard took a Legislative Change Proposal to Congress on behalf of AWO and without our knowledge. Although GCMA and AWO may appear to be strange bedfellows (and certainly are not intimate partners), at least Congress was persuaded to inspect towing vessels.

### Why Inspect Towing Vessels?

While there are a large number of regulations that govern towing operations and license towing vessel personnel, there are very few safety regulations that govern the vessels and their equipment or protect the mariners who work on them from common workplace hazards. You may ask: “Where is OSHA” to protect our occupational safety and health? It is a

good question and needs a straight answer. We explain this in GCMA Report #R-276.

In order to protect our mariners, we must first see that they have a safe boat to work on and adequate equipment safely installed on the boat. We must also be concerned over the barges and equipment on them as well.

The Coast Guard has 50 years experience in inspecting commercial vessels comparable in size and horsepower to the towing vessels we work on including small passenger vessels, offshore support vessels and even fishing vessels. Why don’t they inspect towing vessels? That question now has an answer: “They will inspect towing vessels.”

GCMA Report #R-276, **Revision 8**, lists and describes 75 different areas we are concerned about. These are areas reported by our mariners – Masters, Mates, Pilots, Engineers, Tankermen, and Deckhands.

GCMA submitted **Revision 8** of our report to the Coast Guard Docket. A docket is a large file that contains all the papers that pertain to any given regulatory project. By submitting this report to the docket, the Coast Guard will consider our views along with those of every other individual, company, association, labor union etc. that also submits comments. The Coast Guard also considers all verbal comments received at public hearings as part of the docket. Each public meeting was recorded by a court reporter. We invite every mariner to contribute his or her ideas to the docket.

Since we prepared GCMA Report #R-276 after listening and discussing the views of experienced towing vessel crewmembers for the past 5 years, **we hope that our efforts will receive your support**. If you are a working mariner and disagree with us, we would like to know about it. Tell us.

### The Rulemaking Process

The rulemaking process is a public process that many mariners may not understand. Since towing vessel inspection is a very important rulemaking project, to learn more about the process refer to GCMA Report #R-222, Federal Regulations: The FR/CFR System (What the Hell is a CFR?). If you are in the marine industry, it’s worth spending a few minutes to understand how the federal government’s administrative machinery works.

In any event, we are now at the start of the towing vessel inspection rulemaking process. There will be definite guidelines to follow. GCMA Report #R-276, **Revision 8**, contains our mariners’ point of view. **These are the things that our mariners expect the Coast Guard to do to protect our interests**. These interests are not always the same as our employers’ interests although many are. Be alert and learn to spot the differences.

You may find that this report is “tough reading.” Unlike many of our other reports, we prepared this report for members of Congress and the Coast Guard. We sent copies to members of Congress and to every Coast Guard Marine Safety Office in the country.

We want to assure the Congressmen who ordered towing vessel inspections that we are concerned about an industry that has spun out of control. We want to assure them that responsible mariners are interested in supporting reasonable reforms to the towing industry.

We want Coast Guard regulators to take every necessary step to make the industry safer. We want to inform their

“Project Officer” of our point of view on each important issue that may arise. The only effective way to do this is in writing. It’s not a matter that we can hope to cover adequately in 5 to 10 minutes at some public meeting.

GCMA Report #R-276 is NOT a “Wish List.” You will find that many items reference other GCMA reports that go into more detail about the problems our mariners face. We prepared these reports over the years confident that someday Congress would give the Coast Guard its “marching orders” to end the “wild west” era in marine towing that has lasted far too long.

### **We Are Not Happy Campers**

We do not need to remind our readers that many mariners in the towing industry are NOT happy campers. Corporate executives prefer to overlook the “Pilots Agree” strike of 1999 as a misguided attempt by licensed pilots and labor unions to force them to pay higher salaries to certain employees.

Industry management never extended the courtesy of sitting down with the leaders of the movement to discuss their grievances. Mariners who followed this work stoppage closely understood that these grievances extended far beyond the popular salary issues that caught the thrust of the headlines. The industry’s current shortage of trained

personnel reflects management’s lack of attention to important employee issues. Unless needed reforms appear quickly, the situation is likely to deteriorate further.

The issues GCMA brings to the attention of the Coast Guard and Congress in #R-276 do not mention wages, benefits, or job satisfaction. These are issues are best handled by experienced labor union negotiators chosen by mariners themselves. Unfortunately, the towing industry chose to short-circuit that process.

GCMA, on the other hand, deals with basic issues of workplace safety and health of our mariners. This is an area that unions could handle well – except that many of our mariners were deprived of the right to union representation by outright intimidation in the aftermath of the Pilots Agree movement. The issues GCMA tackles are, for the most part, traditional vessel inspection issues.

Large segments of the towing industry are 30 years behind the time because of their own reluctance to accept government regulation that would level the playing field. We realize it will take many years for this industry to reach the level attained by comparable inspected vessels. We seek to put in place the same standards for our mariners that every mariner who works on an inspected vessel either has today and for a number of years!

### **TOWING VESSEL INSPECTION PUBLIC MEETING IN WASHINGTON, DC**

Captain Joe Dady, GCMA member and founder of United Mariners, attended the first of four scheduled public meetings designed to provide public input “...on the extent of items to be considered for inclusion in any towing vessel inspection/safety management program(s).”

Joe reported that there were 10 or 11 speakers from management. However, there were no speakers at the Washington meeting to represent the views of working mariners.

Much the same picture emerged from a “Working Group” meeting of the Towing Safety Advisory Committee (TSAC) that is preparing to offer its recommendations to the Coast Guard. Company executives from American Waterways Operators member companies overwhelmingly dominated that meeting as well.

Following the meeting, Captain Dady presented the following document to the Coast Guard to include in the Docket. The Coast Guard must consider all items submitted to the docket before it closes on March 23, 2005.

**UNITED MARINER  
3616 Hartland Drive  
New Port Richey, FL 34655**

January 26, 2005

Docket Management Facility  
U.S. Department of Transportation  
400 Seventh Street SW,  
Washington, DC 20590-0001  
ATTN: Thomas Kuhaneck (202)-267-0240

Subject: Docket #USCG-2004-19977  
Reference; 69 FR 78471-78472, Dec. 30, 2004  
FAX TO: (202) 493-2251

Dear Sir or Madam,

My name is Joseph Dady. I am a tugboat Captain with nearly 30 years experience working upon uninspected towing vessels. I am attending the Public Meeting in Washington today to represent members of United Marine Division Local 333, United Mariners and the Gulf Coast Mariners Association. I wish to make these statements in response to the Federal Register notice cited above:

- The Coast Guard and Maritime Transportation Act of 2004 added the words “Towing Vessel” to the list of 14 other classes of vessels that now must be inspected. We ask that the Coast Guard raise the level of safety for all mariners working upon all towing vessels to the same level required on inspected vessels of comparable size and horsepower. We deserve the same protection provided to other mariners upon the fourteen other types of vessels currently inspected by the United States Coast Guard.
- We ask that Safety Management Systems such as the AWO’s Responsible Carrier Program (RCP) and others do **NOT** become a substitute for a physical inspection. We believe that a physical inspection of towing vessels is clearly what Congress intended. We know that such comprehensive safety inspections are long overdue.
- Although the Responsible Carrier Program brought about improvements in safety awareness aboard towing vessels and mariners appreciate the AWO’s hard work, this awareness does not compensate for the industry practice of “downsizing” boat crews over the years. Those of us who remain in the industry had to absorb the duties of those terminated. We are not aware that there was any research or impact study done by AWO on the effects of the additional workload and the shifting of responsibility from corporate offices to our working crews. The Responsible Carrier Program along with additional administration requirements of both industry and the Coast Guard left our

Captains, Mates and their crews with a program they could not always complete in the time available along with all their other duties.

- There is a place for Safety Management Systems already provided by recent rule changes such as at 46 USC §3306 where “[The Secretary may establish by regulation a safety management system](#)”. We emphasize the word “MAY.” The new rule change should not become a one-size-fits-all package by placing all the eggs in the RCP basket so that it overlaps other areas that still need to be regulated but fall outside the existing RCP.
- Mariners have been waiting for this rule change for thirty years. This change must finally close the regulatory gaps and loopholes in existing regulations such as 46 CFR parts 24, 25 and 26 and other rules that contain confusing and incomprehensible tables. Regulations that cover towing vessels are scattered over Titles 33 and 46. These regulations, when applicable to vessel inspection, should be collected and placed in the new rule to clarify them and reduce overlapping regulations.
- We ask that the new regulation restore a **proper lookout** to the wheelhouse so that we can fulfill the requirements of International and Inland Rule 5. Beepers and blinking lights and other fancy automation gimmicks are of little value when your deckhand is out on deck operating a needle gun, wearing ear protectors and goggles or concentrating on some other non-navigational duty while the vessel is underway. Recent maritime accidents (e.g., the M/V Robert Y. Love accident in Oklahoma and the M/V Andrew Barberi accident in New York harbor) show that lives could be saved and disasters averted by simply having a **proper lookout** present in the pilothouse while the vessel is underway. We emphasize that the safe navigation of any towing vessel, as well as the safety and health of its crew requires an alert deckhand on duty to serve as a proper lookout.

- We note the letter from your office dated January 4, 2005 that states: “We do not anticipate that we will address Part 15 regulations, namely manning, with this rulemaking project.” When will you address these problems? The minutes of the last TSAC Work Group Meeting on Towing Vessel Inspection held on December 8, 2005 agrees that manning, watchstanding and training should be required. It recommends many procedures and administrative record keeping that would clearly impact the duties of the crew and overburden the existing manning levels. Mariners want no additional, meetings, drills, maintenance or duties placed on an already overburdened system without safe and comprehensive manning requirements.
- Mariners who live and work aboard towing vessels want the new rule change to include:
  - Design and construction standards
  - A clear maintenance standard for all towing vessels
  - A housekeeping standard stressing health and sanitation in accommodation spaces and galley
  - Adequate heat, air conditioning, potable water, interior air quality, and asbestos mitigation standards.
  - Manning and maximum work hour rules for every crewmember not to exceed 12 hours in each 24-hour period including on days of crew change.
- Since the primary duty of a tug or towboat is to push or pull another vessel, each commercial towing vessel should undergo a Bollard Pull test to determine its effective horsepower as part of the inspection process.
- Any inspector or group of inspectors must be either be a trained Coast Guard employee or meet the existing requirements of 46 CFR part 8 and inspect vessels to a regulatory standard comparable to those governing other commercial vessels of comparable size and horsepower.

We appreciate your attention to our request.

Sincerely,

s/ Captain Joseph Dady

### TOWING VESSEL INSPECTION: NEW ORLEANS PUBLIC MEETING

The Coast Guard hosted a public meeting to listen to comments from the public on their rulemaking project to inspect towing vessels. Approximately 140 to 150 persons attended the meeting and 33 speakers signed up to speak. Since the time allotted for the meeting was only three hours, the time allocated to each speaker was five (5) minutes.

Coast Guard Captain Michael B. Karr chaired the meeting and introduced Mr. Scott Kuhaneck who is the Project Officer (i.e., coordinator) for the project. The New Orleans meeting was the third of four public meetings. The first two meetings in Washington and Oakland, CA, according to reports were similar to this meeting. Captain Joseph Dady, a tugboat captain in New York harbor and head of United Mariners and

a GCMA member, represented our mariners in the Washington meeting.

Members of the towing industry’s trade association, the American Waterways Operators (AWO) clearly dominated the meeting. The Offshore Marine Service Association (OMSA) representing the owners of approximately 200 towing vessels in the offshore oil industry turned out approximately 40 participants – based on the numbers asked to stand up by their representative, former Coast Guard Commander and OMSA Vice-President Ken Parris. Captains J. David Miller, Roland Rodney, Richard Block Gary Hensley and Murray Rogers represented GCMA along with Gwen Block.

The first speaker represented the AWO. He was followed by approximately 30 other speakers, usually company that generally followed the following pattern:

- Introduced themselves and presented information about the size of their fleet including the number of tugs, towboats,

barges and employees they owned or managed. **[GCMA Comment:** AWO represents only about 200 of 1,100 towing companies the Coast Guard knows exist. However, nobody spoke on behalf of the 900+ non-AWO members. If AWO and GCMA do not represent these towing vessel owners, who does? Does the Coast Guard even have a clue? These companies employ many mariners – some under very questionable working conditions.]

- Most speakers praised the AWO's Responsible Carrier Program as being responsible for the industry's great safety record and their company's satisfaction in participating in the program. **[GCMA Comment:** The Coast Guard needs to study the industry safety record carefully. It is abominable. It has been more than an accident waiting to happen. The public relations bonanza has turned into an unrelieved series of accidents that kills and maims our mariners every day. For a "reality check" read GCMA Report #R-351, How Safe is the Towing Industry as well as Captain Bill Beacom's letter to the editor of the Waterways Journal.]
- Many speakers stated that most existing Coast Guard inspection regulations were off-target and using them to regulate tugs and towboats would be counter-productive. **[GCMA Comment:** Congress ordered the Coast Guard to regulate the towing industry in the same way it regulates 14 other classes of vessels. The Coast Guard can give the towing industry its own tailor-made "Subchapter" in the Code of Federal Regulations but they can no longer regulate the industry without enforceable rules. Mariners know that RCP rules are voluntary and seldom enforced effectively on member companies. However, the Coast Guard CAN enforce RCP rules on mariners under 46 CFR §§5.27, 5.29, and 5.31 alleging Misconduct, Negligence or Incompetence for not following a company policy. While the RCP can embellish regulations, it is not a substitute for them.]
- Most AWO speakers endorsed the "Strawman" that AWO presented to the Towing Safety Advisory Committee (TSAC) in December as the right path to follow. **[GCMA Comment:** TSAC is a Federal advisory committee. Members of 40 AWO companies flooded the "working group" (i.e., sub-committee) with volunteers who traveled to Arlington in December 2004 and will meet again on March 2<sup>nd</sup> and 3<sup>rd</sup> to feed their views to TSAC to pass on to the Coast Guard. Their views are contained in this "Strawman." You can examine the preliminary "Strawman" proposal and some of its History we had to learn the hard way in GCMA Report #R-410. Mariners need to understand that the first draft of the "Strawman" proposal does **NOT** include 75% of the items our mariners told us were important for the last 5 years.]
- Many speakers pointed out that every company should be required to follow a Safety Management System. As AWO members, they consider that the Responsible Carrier Program is an example of such a system. 33 CFR Part 96 contains an example of the Safety Management System the Coast Guard applies to certain vessels on an international voyage. Companies that do not belong to AWO could hire consultants and/or create their own Safety Management System. **[GCMA Comment:** With some specific exceptions

(for example, the 15-hour workday for unlicensed personnel), we agree that companies should conduct themselves in an orderly, organized and safe manner under an established Safety Management System. However, the RCP should not take the place of any of the new vessel inspection regulations the Coast Guard must draft. The RCP is the dog's tail; and the tail must no longer wag the dog! GCMA is the mariners' watchdog and we know when we are wagged.]

The high point of the meeting for our mariners concerned were the comments of GCMA member Captain Gary Hensley near the end of the meeting. He drove from Mobile, Alabama and "spoke from the heart" after losing a his best friend, David Jordan, in a recent barge accident.

In just the past month four mariners died on the towboat ELIZABETH M at Montgomery Lock and Dam below Pittsburgh, one in an accident in North Carolina, one in Chicago, and two in the New Orleans area.

With two exceptions, all the accidents occurred in the Eighth Coast Guard District, a district with a horrible record. This district has a long standing tradition of ignoring our mariners. Four towboats sank in the MSO New Orleans area alone in just the past week. Minutes after the meeting in New Orleans began, the "CSS ARKANSAS" was rammed by a freighter and sunk. To read the Coast Guard's press release, it was just another routine event with a boat sunk, a "coke" barge sunk and Good Samaritans routinely rescuing the crew. The final report of the investigation will be available in a year or two.

The day before, a downbound ship, the ARABELLA, reportedly tearing downstream at a reported 17 knots grounded near a barge fleet. One of our alarmed mariners monitored the situation over Channel 77 and believed it was a preventable accident. In any event, the prop wash from multiple high-powered tugs called to the scene caused at least three multiple barge breakaways from the nearby fleet.

All these events merely punctuated Captain Hensley's remarks that too many of our friends are dying out here and that they are needlessly placed at risk of dying by the absence of enforceable regulations and the greed of the industry. Captain Hensley "spoke from the heart" and, when asked later to reconstruct his comments, choked with emotion and said he would try to do so but wanted to dedicate his remarks to his best friend, David Jordan, who died recently in a barge accident on the river. As a direct result of his comments, several attorneys are looking into this matter.

Neither Captain Hensley nor GCMA's webmaster, Captain J. David Miller, who drove overnight from Memphis to attend the meeting, spoke from prepared remarks. Captain Miller pleaded with the Coast Guard to support our mariners who are dying on towboats and barges in alarming numbers. He called for more honesty and transparency in the industry and a greater commitment to safety in place of empty talk that gives way when the next business opportunity comes knocking at the door.

### GCMA's Prepared Remarks

Aside from Captain Hensley, most of the presentations were routine. Most speakers, whether they filled the allotted five-minute time slot or not, sent their prepared statements "to the Docket."

Richard Block delivered GCMA's prepared remarks and forwarded these remarks "to the docket" for further consideration of the points raised.

**Introduction:** GCMA is a mariner membership association. Our concerns are mariner health, safety, and welfare.

**Goal:** Every protection and benefit already accruing to all mariners on inspected vessels of comparable size and horsepower (should accrue to our mariners on towing vessels).

**Public Meeting Notice:** "The rulemaking process and its associated opportunity for public input will provide us with the information on the extent of items to be considered in any towing vessel inspection/ safety management program(s). *[GCMA Comment: We submitted an annotated copy of GCMA Report #R-276, Revision 8, to the Coast Guard's docket. Our position is now in the public record.]*

I will limit my comments to vessel inspection programs I have participated in for 46 years except to say that if a Safety Management System is built on a solid, enforceable regulatory base it can make a positive contribution.

**Background:**

- GCMA worked on this towing vessel inspection project continuously since 2000 when we first presented it to TSAC as Project #R-276.
- On request of the Public member of TSAC, we compared our request to AWO's RCP.
- Findings: RCP met every existing USCG requirement at the time (2002) although few of these requirements were vessel inspection requirements.
- Then, as now, the USCG has few towing vessel inspection requirements that are enforceable by law. Congress directed USCG to change this.
- We brought GCMA Report #R-276 as an appeal for regulatory protection for our mariners to Congress on March 1, 2004 in Revision 7.
- As a result of §415 (of the Coast Guard and Maritime Transportation Act of 2004) we revised #R-276 both to update Congress and to assist USCG regulators.

**GCMA Report #R-276:**

- Contains a Table of Contents, an updated Preamble and 75 specific "Items" for regulatory consideration and response.
- Many of the 75 "Items" are supported by GCMA Reports developed over past 5 years and posted on our internet website for our members and the public to read.
- GCMA presented a copy of GCMA Report #R-276 to Captain Karr and our reference reports to the Coast Guard to assist in their future deliberations.
- GCMA furnished a copy of #R-276 to TSAC with its references on the internet.
- GCMA encourages mariners to follow entries in the Coast Guard Docket . We will and supplement #R-276 as required.

**Other "Items" to Consider:**

- OSH Act of 1970 (§651): "The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several states ... and to provide for the general welfare, to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources."
- Our human resources in the towing industry are estimated to number 32,000 of which 12,000 to 15,000 mariners hold Coast Guard licenses.

- Our mariners tell us shortages of personnel will continue unless mariners on towing vessels are treated fairly and achieve the same level of regulatory protection as all other mariners on inspected vessels.
- The Coast Guard, OSHA, and Department of Health and Human Services failed to protect our mariners with enforceable regulations in these areas: **Hearing Protection; Clean Potable Water, Asbestos Protection; Working on Uninspected Barges, Sanitary Inspections, Sanitary Food Service, Fall Protection; Confined Space Entry Protection.** These neglected areas need correction – if necessary by "Incorporation by Reference" of existing regulations of other Federal agencies.
- The NTSB called for revised "Hours of Service" regulations in all modes of transport. Permitting deckhands to work 15 hours per day is unconscionable. In addition, the Coast Guard and Congress must reconsider the 84-hour workweek for licensed mariners on towing vessels.
- Mariner views deserve equal treatment from the Coast Guard as those of industry trade associations. We expect this treatment will be accorded in this rulemaking.
- Provide adequate equipment to recover a man from a fall overboard such as the Personal Retriever and Jason's Cradle.
- Congress and the Coast Guard need to reconsider the need for trained and "designated" engineers on towing vessels and an end to the "call watch."

**Captain Gary Hensley's Remarks**

I would like to thank Capt. Karr and the Coast Guard for holding this meeting here in New Orleans on towing vessels becoming inspected vessels.

My name is Gary Hensley, and I have been involved in the towing industry for 27 years. I hold a Master's License Upon Near Coastal Waters, Inland Waters, Western Rivers and Great Lakes.

I stand before you today with a heavy heart because I just buried my best friend. I would like to make a few comments on a few items I have heard discussed today at this meeting.

First, I would like to comment on what the AWO Representative who is also with the Kirby Corporation said here today. You stated that you do not believe that fleet boats need to be inspected vessels. I disagree with that statement.

Mr Hamby with McDonough Marine stated that some of your boats run with a 3-man crew. I disagree with that statement as well. Those are two reasons why my friend is dead. Those are the two reasons he will never see his wife and three children again. Those are the reasons that he will never see his children grow up. He worked on a fleet boat and was the only deckhand onboard.

Mr. Corgey of the Seafarers International Union stated that there was a problem in the towing industry with manning, hours of service, fatigue, qualified personnel, and industry's ability to retain them. I agree with all those statements.

There is a critical shortage of men in our industry. This used to be a fun and prosperous industry. I used to be proud of what I did for a living and encouraged my friends to join our industry. However, today, I discourage anyone from working on boats.

On the hours of service regulations and the qualified personnel, I am forced to violate them daily. Yes, I must break the law because I have to do it. I work for a company



here in New Orleans on a 4-man boat. There are times when I only have two green deckhands onboard. I have to leave the mounds of paperwork that needs to be filled out daily and must do that on my "off-duty" time.

On the matter of retaining qualified people in our industry, policies need to change. We need to improve working conditions where folks want to stay in the towing industry.

I sat here all morning listening to each and everyone of you talk about how great your company is, how many boats you have and what you have accomplished. Nevertheless, I have only heard one man, Mr. Warren Christenson of E.N. Bisso and Son, give praise to the crews on their boats. Mr. Christenson, where are you, Sir? My hat is off to you sir. You know who makes your company what it is today, and that is the men and women on your boats.

Most of you have forgotten whom it is that makes your company so great. It is us, the men, and women on your boats. We are the ones that put food on your table. We are

pilothouse and help them build tow on my watch. I have

the ones that put clothes on your back. We are the ones who make it so you can spend \$269 a night to stay in this hotel. We are the ones that sweat to give you your paycheck. We are the ones that put your kids thru college – the men and women that work on your boats! So when you go to make these new rules and regulations, think of your crews, the ones that pay your salary. Stop putting greed above safety. It is the families of the men and women on the boats, which suffer. Our families have to deal with us when we lose our arms, legs and sometimes our lives. It is high time to put safety above the almighty dollar. Put our safety first on your agenda!

When you go home tonight and you see your wife and children, look into their eyes, give them a hug, and tell them you love them, because it just may be you who are not going home tomorrow night.

Thank You.

### **TOWING VESSEL INSPECTION: ST. LOUIS MEETING**

The fourth and final meeting to hear the public's views about inspecting towing vessels heard little from the "general public" but a great deal from corporate management.

Captain Bill Beacom, speaking for mariners, asked how many people in his audience of approximately 60 to 70 persons held a license and made a recent 30-day hitch on a towboat. Only one person in the audience raised his hand.

Notably absent from both the New Orleans and St. Louis meetings were members of the AWO's professional staff from Arlington, VA. Instead, top level corporate executives put their authority and prestige on the line to push AWO's Responsible Carrier Program and the "Strawman" devised largely by the AWO with back door assistance from the Coast Guard.<sup>(1)</sup> [<sup>(1)</sup>Refer to GCMA Newsletter #26, p.1 and new GCMA Report #R-410.]

As in the New Orleans meeting and likely a result of the formal and longstanding AWO/USCG "partnership" with the Coast Guard, the AWO spokesman Craig Philip of Ingram Barge Line was the first speaker who presented the AWO's message. From all reports, this was the same message delivered in both New Orleans and Washington and was echoed by most of the 32 speakers that each had a equal five-minute shot to reinforce the convictions of the audience. One mariner described this as a "mind numbing" experience. Unlike the New Orleans meeting where the Coast Guard team from headquarters received little visible support from uniformed personnel, there was a significant local Coast Guard presence in St. Louis.

The second speaker, Royce Wilken of American River Transportation Company (ARTCO), noting his company's corporate connection with agricultural giant Archer-Daniels-Midland (ADM) cited the towing industry's great safety record and urged the Coast Guard to build on it. This statement appears to be in stark to his company's own abysmal safety record that he apparently is not aware of as recorded in these pages as well in GCMA Report #R-340.

Unfortunately, the Eighth District still shows its unwillingness to look at ARTCO's unfavorable accident statistics that just keep rolling in.

Captain Beacom, commenting upon the low mariner participation and the large number of corporate executives at the meeting, stated in effect that: "I saw the AWO "choir" was a substantial majority of the attendees. I estimate there were about 30 AWO members from industry management for every pilot who actually made at least one 30-day trip as a crewmember of a towing vessel in the last year. A show of hands revealed only one other pilot in attendance. The meeting started with the first speaker singing the AWO anthem with bountiful praise for the Responsible Carrier Program and all of its accomplishments, both real and perceived. I was in the wrong church, didn't have the same hymnal and chose a different hymn."

He then stated that few mariners, who are employees-at-will, would want to risk their jobs, their homes, and their livelihood by coming forward and making a public statement. By implication, this blight could affect the entire public rulemaking process by cutting down on written mariner comments to the docket.

The Coast Guard docket our mariners can access on the internet, already contains a number of interesting and informed comments. Two of the most interesting letters were written by retired Coast Guard Captain P.A. "Barney" Turlo,<sup>(1)</sup> the officer that had to live with the aftermath of the SCANDIA – NORTH CAPE pollution incident and Richard C. Hiscock,<sup>(2)</sup> a marine historian and safety consultant. [<sup>(1)</sup>USCG-2004-19977-13 (i.e., letter #13 in the docket). <sup>(2)</sup>Letter #18 in the docket.]

The AWO "steamroller" hit several bumps it will have trouble flattening. The first was in the person of Mrs. Mary Duncan, a widow whose husband was a licensed Chief Engineer when he died on American Commercial Barge Line's (ACBL) towboat MISS KAE D on May 31, 1999. He was the only engineer on the boat.

MISS KAE D is a triple-screw 195-foot, 9,000-hp river towboat. Maintaining three screaming EMD 16-645 locomotive engines, pestered with their alarm bells, lights, and horns on a 24-hour basis literally wore her husband out and

worked him to death. ACBL expected Chief Gary Duncan to of the vessel expected from four (4) people – two chief engineers and two assistants.

Mrs. Duncan, herself, worked on the river for 12 years and enjoyed doing it during a period when the job had union protections and benefits. However, when corporate greed drove the unions off the river, her husband told her to come ashore because he knew the quality of the workplace would deteriorate. He was correct. GCMA documents the problems engineers face in **GCMA Project #R-401**. We plan submit a report to Congress later this year for their enlightenment and consideration.

Mrs. Duncan displayed a picture of the large towboat her husband died on and posed an open question to the audience of corporate executives as to whether making her husband accept responsibility for maintaining this huge 22-year old boat was really too much to ask of any one person. Of course, this public meeting was not structured so that any person had to respond to her question.

The second bump was Mr. William Hulen who arose to speak for himself, his wife Lisa, and in memory of his son Joe. Bill Hulen, an Arkansas native, was also an Engineer for ACBL. His son, Joe was 18 years old when he, too, went to work for ACBL on a different boat than his dad.

Joe was a “green” deckhand who went to work after only four days of training and corporate indoctrination. He worked two full tours of duty. He spoke to his dad about his satisfaction with life on the river and aspired to a long-range goal of becoming a towboat Captain.

Tragically, Joe’s life ended in a fatal accident when he slipped, fell, and was crushed to death between a barge and a towboat while attempting to pass a line.

There is precious little a father and mother can say in five minutes to an audience that comes well primed to hype its sterling “safety” record and mislead both the general public and the Coast Guard.

The Coast Guard was well aware of the industry’s true safety record<sup>(1)</sup> in 1994 when Admiral Kramek advised Congress that inspecting towing vessels was not the best use of Coast Guard resources. Our mariners suffered and died because of that decision. For this blatant act of insufferable stupidity we lay the blame on the Coast Guard and not Congress. After all, the Coast Guard is supposed to be the source of good advice to Congress.

do the same amount of work for them as the previous owners

The important thing is that Mr. and Mrs. William Hulen were physically present at the meeting to speak in memory of their son and to give hope to thousands of other “lower-level” mariners that were so intimidated into silence over the years that they still cannot stand up for themselves. Bill Hulen, like Mary Duncan, know all the corporate shortcuts that ACBL takes first hand. Although we point out ACBL in two separate fatalities, clearly this company is not alone.

Almost as a premonition of things to come, Bill Hulen watched another young, green ACBL deckhand drown before his eyes as he operated the towboat’s yawl (skiff) without proper instruction. This account will now be reflected in an addendum to GCMA Report #R-276 that will closely examine the subject of rescue boats on inland towing vessels.

We note one difference between Mrs. Duncan and the Hulens. Mrs. Duncan had her day in court. She faced ACBL’s lawyers, told her story and won her case.<sup>(1)</sup> When ACBL dragged her through the appeals process to try and overturn the judgment, the appeals court unanimously affirmed the jury’s verdict in her favor and she was awarded interest on the judgment during the appeal delay worked by ACBL. [<sup>(1)</sup>GCMA Newsletter #16, p.12. Worked to Death in the Engineroom.]

The Hulens are awaiting their day in court. On their behalf, we ask that any mariner who has information on or knowledge of Joe Hulen’s accident to come forward and share this information with us. You may also contact Attorney Nelson G. Wolff who represented both the Hulens and Mrs. Mary Duncan toll-free at 1-800-873-5297.

Of all the companies at the St. Louis meeting, only Captain Tom McWhorter, Safety Director of Florida Marine, stated that the industry needs to look at our own people who need a voice. This thought summarizes the entire purpose of the Gulf Coast Mariners Association. Perhaps the Coast Guard will come to the same conclusion someday although a change in that mindset is hard to imagine after the Eighth Coast Guard District’s record for the past 35 years.

At this point, unless there are sweeping changes in the way that the Coast Guard deals with the towing industry and with all its lower-level personnel, the shortage of lower-level mariners will continue. As Captain Hensley said in New Orleans: “There’s nothing in it for us anymore.”

### MARINERS QUESTION USCG LEADERSHIP, DIRECTION, KNOWLEDGE, AND COMMITMENT

“It’s like the wild west out there and the Sheriff’s still sitting on his butt in the office,” exclaimed one mariner in an excited phone call following another accident on the river.

What is clear is that the Coast Guard is not on top of the situation, especially here in the Eighth Coast Guard District. Unresolved problems have come home to roost.

Of course, the Coast Guard “investigates” these accidents, but the causes, if they are ever determined, will never overcome the sheer impact of the mariner death toll over the past two months. Each mariner has a name, a family, and

loved ones he leaves behind. We know the names and are starting to hear from the widows, the orphans, the parents, brothers and sisters of these and previous accidents calling for immediate changes. Complaints that once fell on deaf ears of Admirals in Washington and New Orleans are now going directly to members of Congress. More of our mariners are fed up for a number of reasons and are taking things into their own hands.

### Counting the Accidents – A Litany of Disasters

GCMA exists to serve our mariners and reflect their concerns and opinions. We listen to our mariners. Here are some of the accidents that our mariners reported to us and asked us to look into in the past two months. This is just “raw

data” and still needs to be refined, investigated by the Coast Guard and then probably be filed away and forgotten unless we turn it into “lessons learned.”

We usually wait to examine USCG accident reports or court transcripts and avoid rushing to judgment. However, the sheer number of recent incidents raised the alarm among mariners from Pittsburgh to and including the Gulf of Mexico. These incidents deserve immediate attention in light of the changes needed to bring towing vessels under inspection. We apologize for any inaccuracies in reporting the raw information we received from dozens of our mariners on the water.

- M-520 Collision between two towboats on Ohio River Mile 500 on or about Dec 23, 2004. (AWO/RCP; Crouse Corp. & AWO/RCP: B&H Towing Co.)
- M-521 Fire aboard the towboat **Elizabeth Marie** (Millennium Trading Corp.), on or about January 6, 2005. (Only one of more than 494 of the reported towing vessel fires in the past 10 years).
- M-522 Fire and fatality reported on Tug **Dolphin 3**, on or about 27 Dec 2004 near mouth of Mississippi River.
- M-523 Towboat **Elizabeth M** (AWO/RCP; Campbell Towing Co.) pushed over Montgomery Dam, Industry, PA, with loss of four lives.
- M-524 Tug **James J. Pereira** (Settoon Towing Co.) aground and partially capsized in Bayou Magill, LA, Jan. 2005
- M-525 Capsizing and sinking of towboat **M/V Jessie Flowers** and loss of tow at Smithland L&D Spring 1997. (We request further information on this accident to check parallel between this accident and file #M-523 above).
- M-526 **M/V Jon J. Strong** (AWO/RCP; B&H Towing) tow breaks up at Belleville L&D, Ohio R. 1/10/05
- M-527 Fleet Boat **M/V Baton Rouge** reported burning at Convent, LA, Jan. 17, 2004.
- M-528 Towboat **M/V Robert A. Knoke**, (AWO/RCP; American Commercial Barge Line) with chemical tow strikes bridge at Memphis, TN on Jan. 19, 2005.
- M-529 Explosion and sinking of inspected **Tank Barge** with 500,000 gallons of slurry oil in the Chicago Sanitary and Ship Canal Jan. 20, 2005 with one fatality. (AWO/RCP; Egan Marine)
- M-530 **M/V Daniel MacMillan** (AWO/RCP; ARTCO) strikes Vicksburg Bridge, LMR Mile 435, Jan 24, 2005 with reported 29 barges and another towboat in tow.
- M-531 **M/V John 1:1 (American Tugs)** sinks at LMR mile 130 with one fatality on Jan 25, 2005 with loss of Captain Chester Cheramie. Suspected work-hour abuse and “downstreaming.” This accident occurred at the time of the public meeting in Washington.
- M-532 **M/V Zeus** (AWO/ RCP: Kirby Inland Marine) and tow strikes Bayou Sorrel Bridge, Port Allen-Morgan City Alternate Waterway, Jan 24, 2005 knocking bridge out of commission.

- M-533 **M/V Billy Waxler** (AWO/RCP: Waxler Towing Co.) collision with the Algiers Ferry, Jan 24, 2005.
- M-534 **M/V Joyce Hale** (AWO/RCP: ARTCO) Strikes the Vicksburg Bridge, LMR Mile 435, sinking three barges and damaging others, Jan 27, 2005. Second ARTCO boat to hit the same bridge.
- M-535 **M/V Jessie Rushing**, (AWO/RCP; McKinney Towing) fleet boat sinks at LMR mile 157, College Point while doing fleet work, Jan. 29, 2005.
- M-536 **M/V Donna T**, fleet boat, sinks at LMR mile 157, College Point while doing fleet work, Jan. 29, 2005.
- M-537 **M/V Cecil** (Maryland Marine) pushing a red-flag tow and **M/V Brigit Callais** with 6-pack collide near Algiers Locks Forebay, LMR Mile 88, Jan 29, 2005 with 1 cargo barge sunk.
- M-538 **M/V Miss Enola** (Jefferson Marine Towing) pushing a crane barge. Crane boom strikes LA 182 Bridge at Morgan City, LA damaging bridge and dumping crane into the water, Jan 30, 2005. LA Highway 182 Bridge in downtown Morgan City closed for 10 days. Morgan City-Port Allen Waterway and Atchafalaya River shut down
- M-539 **M/V Hortense B. Ingram** (AWO/RCP; Ingram Barge Co.) and tow strike Vicksburg Bridge, LMR mile 435, Feb. 2, 2005 sinking 1 barge. Coast Guard issues advisories after repeated crashes into bridge.
- M-540- **M/V Viking Queen** (AWO/RCP; ARTCO) (northbound) rams **M/V Jo Ree** (Weber Marine) at Whitehall, LMR 164, Feb. 8, 2005.
- M-541 Foreign-flag **M/V Arabella** grounds near CGB fleet at La Place, LA, LMR mile 152 causing approximately 100 barges to breakaway, Feb. 8, 2005
- M-542 **M/V CSS Arkansas** and **M/V CSS Virginia** pushing a 7-barge tow southbound at LMR Mile 181 struck by northbound ship sinking **CSS Arkansas** and possibly two barges. This accident occurred while the USCG public meeting in New Orleans was in progress.

#### **Time to End the Wild West Show on the Water**

After trying to work with the Coast Guard through Federal advisory committees like TSAC, NOSAC, and MERPAC, our association put its case to Congress in March 2004 in GCMA Report #R-276 that calls for the inspection of towing vessels. We believe that implementing **all** the recommendations in this report will help to set the towing industry on a new course. Our challenge to the Coast Guard is plain and simple: Regulate towing vessels just the same way as you do every other inspected vessel – no more, no less, sooner not later. Any “Safety Management System” industry wants to devise is just Lagniappe to adorn enforceable regulations.

#### **Coast Guard – Part of the Problem**

Our mariners see the Coast Guard as part of the problem. A significant part of the problem is that most Coast Guard

commissioned officers have no first-hand knowledge of the towing industry. They only think they know it. All that many of these officers learn about the industry is gleaned from meetings and telephone conversations with industry management. This is a shortcoming that the Coast Guard shows little interest in overcoming. The answer is reasonable: Spend some time riding the boats before you try to regulate them!

The Coast Guard has started to play hardball with mariners. Among the new duties thrown at mariners as a result of “Homeland Security” is the requirement to report the movement of “certain dangerous cargo” (CDC) barges on the western rivers. A lengthy set of regulations with check-in points covers the western rivers system above Baton Rouge, LA in both the Eighth and Ninth Coast Guard Districts. If you push any CDC barges in your tow, you must call in at regularly established checkpoints.

To make this point, the Coast Guard reportedly handed out at least one “Letter of Warning” to a mariner who forgot to make a call at the Robert Byrd Lock and Dam. This message already made the rounds before we heard it. We will pass the message along in this newsletter.

We have a return message from our mariners to the Coast Guard. Enforcing “rules” on our mariners just will not hack it until you start enforcing rules on companies. Trouble is that, in the towing industry there are very few rules of any type the Coast Guard has been willing to enforce on industry. It is easier to enforce rules on mariners because they cannot afford lawyers. There is no better way to “run off” a mariner than to entangle him in the administrative law system with “Letters of Warning” and “S&R” hearings.

Two GCMA Directors in the past month spoke with a number of licensed towing vessel officers to ascertain whether a Coast Guard officer ever rode with them on their towing vessels for any length of time for any reason. We specifically asked them to keep track of the number of mariners they contacted. The number was 42.

One of our Directors spoke to 25 licensed mariners. The only voyage he recalled was when a Coast Guard petty officer, who was preparing to take charge of a buoy tender, spent a day on his boat with him a number of years ago. Otherwise, all other replies were negative.

The other Director said that of the 17 licensed mariners he spoke to that only one person reported a Coastguardsman made a trip across Berwick Bay on his boat to check on buoy placement. That mariner had no idea of that person’s rank.

### **Boat Owners – Part of the Problem**

Most decisions involving the towing industry come from commissioned officers. Many of these officers seek employment in the towing industry in positions far removed from the boats. In these positions, they are no closer to knowing what life afloat is really like than they did while they were in the Coast Guard.

The “big” decisions that concern the towing industry take place in Washington. For the entire towing industry, these decisions are influenced by the American Waterways Operators, the towing industry’s trade association. The Offshore Marine Service Association (OMSA) speaks for towing vessel owners in the offshore oil and gas industry. AWO has been around for the past 60 years fighting for the interests of the towing vessel owners – and OMSA for nearly 40 years.

The boat owners were there to argue against designating engineers for towing vessels in 1972. Many boat Captains now have to work with untrained “deckineers” instead of engineers – and some even have to pull engine room duty themselves when they are assigned “green” deckhands. Authorities overlooked a factor that led to the fatal accident that knocked down the Judge Seeber Bridge in New Orleans on May 28, 1993.

Boat owners’ Associations lent their weight to imposing a two-watch system on our mariners and the Coast Guard was their willing partner. As a result, our licensed mariners now work an 84-hour workweek. When this system is abused, our mariners may work an unlimited number of hours. Some do it cheerfully albeit illegally, resigned to the fact that they have little chance of ever changing the system and secure in the belief that the Coast Guard will never find out. Some mariners even adapt themselves to it – or at least think they do. When something goes wrong, work-hour abuse is the part of the story the boat owners do not want to acknowledge. Work-hour abuse was part of the story at Webbers Falls, Oklahoma, in 2002 that left 14 fatalities and 3 serious injuries – and the taxpayers holding the bill for \$30,000,000. Testimony the Captain gave the Coast Guard showed that he adapted himself to working without much sleep. NTSB board member Ms. Debbie Hersman found the Captain’s work schedule incredible. So do we!

Years ago, boat owners also convinced the Coast Guard and Congress that towing vessels only needed to carry one mate (pilot) regardless of the length of the voyage whereas offshore supply vessels of comparable size and horsepower must carry two mates on voyages of over 600 miles. Where this 600-mile figure came from is also a mystery. It is sufficient to say that when the law was enacted and the regulation promulgated, the vast majority of OSV voyages in the Gulf of Mexico were less than 600 miles and two mates were seldom necessary. How convenient for boat owners and hard on the mariners. This is one reason that mariners are becoming an endangered species.

AWO’s Responsible Carrier Program” finds nothing wrong with a 15-hour workday for unlicensed mariners or even abusing it by putting some deckhands and engineers on a “call watch” that keeps them working around the clock – whenever an engine alarm sounds or the mate knocks on the door.

### **Mariners Are Ignored**

In the winter of 1998-99, tug and towing vessel officers protested existing working conditions on the western rivers and along the gulf coast. It became a sizeable protest that turned into a “work stoppage” in early April 1999. This was the “Pilots Agree” strike – a spontaneous, grass roots uprising that eventually involved almost 1,400 mariners.

The boat owners summarily crushed the movement without really understanding it. Afterwards, they minimized the importance of the Pilots Agree movement by punishing many of the mariners who participated in it – blackballing many of them for a number of years, and driving many experienced Pilots from the industry.

The boat owners viewed Pilots Agree as a labor movement and pointed their finger at the International Organization of Masters, Mates, and Pilots (IOMM&P) that came to the aid of the mariners after Pilots Agree formed.

In fact, this true grass roots effort had nothing to do with unionization until after it formed as spontaneous protest. It exposed the belief attributed to the head of one of the nation's largest towing companies that "A Captain is just a warm body with a license."

The protests cited the industry's abominable safety record that was plainly evident to the average person. Dozens of mariners stood up to protest the poor health insurance coverage their companies provided for their families. Work-hour abuses were rampant. The fact that towing companies pulled cooks off many of the boats was an important issue as was the "call watch" that took advantage of both deck crews and engineroom personnel. The way that companies treated their personnel, especially injured personnel are legends presented at many of the meetings held in public parks all up and down the river.

When Pilots began walking off their towboats, the Coast guard got amnesia about the 12-hour rules and turned a blind eye to our mariners. Whenever the Coast Guard does not want to protect mariners, it inevitably finds a "labor dispute" as a convenient excuse for staying aloof.

These grievances were never resolved. They were simply crushed. The "strike" was broken and mariners browbeaten into submission. Many mariners left the industry for good. Many more became disgruntled with the treatment they received. The IOMM&P brought a number of cases before the National Labor Relations Board on behalf of aggrieved mariners. Some of these cases remain unresolved before the NLRB today after more than 5 years – a sad commentary on the government's commitment to resolving labor disputes.

In the past, the towing industry had the luxury of drawing from an almost unlimited pool of individuals looking for a "good job." This is no longer the case.

### **Drugs: Enough is Enough!**

When two experienced river Pilots working on two different towboats discovered that crewmembers on one fleet boat transferring barges to and from their tow approached their crew to sell drugs, they unleashed the genie from the bottle.

Here we are with high water season on the river. Boat handling and seamanship are at a premium. At this precise moment in time when all sorts of hell is breaking loose on the river, and our mariners are dying out there, we do not need

some druggie to make a mistake and endanger him and other crewmembers because he is high on drugs.

Several years ago, GCMA sent a sizeable delegation to Washington for an advisory group meeting and spoke at some length with the Coast Guard's "Drug Czar." Our mariners are familiar with the Coast Guard's drug testing program – and it is pathetic. The program itself makes sense; but relying on certain boat companies to serve as its watchdogs turns the whole program a pathetic and dangerous farce.

Companies must run their own drug programs. However, these programs tend to fall into a rut. Companies need "live bodies" on their boats or they cannot stay in business. "Live bodies" are becoming hard to find these days because the word is out..."...there's nothing in it for us anymore." Without live bodies, a boat owner will not stay in business long. If a deckhand is killed on the job, that is an insurable risk. If a person is hurt on the job, the first test he receives in the emergency room is a drug test – to see whether the company can avoid liability for his injury. If it is a serious injury, many companies will try to beat the mariner out of his maintenance and cure. Deckhands are truly expendable – and they now know it.

All the wishful thinking, maneuvering, politicking that AWO can do cannot hide the fact that 10 years after their Responsible Carrier Program was inaugurated that as many mariners have died in the last two months as in all of 2004.

Mariners know they have no recourse under the RCP and, until the Coast Guard corrects the situation with rulemaking, they have precious little protection under the law.

### **Where does this leave us?**

Jobs in the towing industry are fast becoming jobs that American workers no longer want. Even experienced mariners are withdrawing in droves. They can't have unions; they have no voice in the industry, no representation in Washington and must add repressive security duties to their long list of collateral tasks.

Mariners we know who have left the industry sell cars, dig swimming pools, drive trucks, do landscaping work, retrain for other jobs with more of a future, go into business for themselves or work at Wally World and go home at night to take care of their families.

### **REPORT ON BARGES HITTING BRIDGE MONTHS AWAY Three towboats involved in accidents**

THE ASSOCIATED PRESS

**VICKSBURG** - Coast Guard officials say it will be months before a final report is completed on barges hitting the Mississippi River bridges here.

In an eight-day period beginning Jan. 24, barges being pushed by three different towboats struck one or both of the bridges. As a result, two barges were sunk and several were grounded on the riverbanks.

No one was injured.

Two of the tows were being pushed by the motor vessels Dan McMillan and

Joyce Hale, owned by the American River Transportation Co., on Jan. 24 and Jan. 29. The third was being pushed by the motor vessel Hortense B. Ingram, owned by Ingram Barge Co., on Feb. 2.

After the first two incidents, the Coast Guard imposed restrictions on the number of barges that boats could maneuver while headed downstream through a safety zone that extended from upstream of the mouth of the Yazoo Diversion Canal to south of the 75-year-old U.S. 80 bridge and the nearby Interstate 20 bridge. They also imposed minimum horsepower requirements per barge.

After the third accident, the Coast Guard increased the restrictions on tow size and horsepower and said southbound tows had to check in by

radio with an industry-provided traffic information center before entering the safety zone.


"We are conducting a casualty inquiry," said Lt. Cmdr. Paul Dittman, commander of the Coast Guard Marine Safety Unit in Baton Rouge.

The Coast Guard can take enforcement action against the pilot of the vessels involved in hitting the bridges as well as the company that owns or operates the boats, Dittman said.

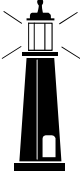
He said information being gathered will be incorporated in plans for the next time the river conditions are so dangerous.

**[GCMA Comment: When will the Coast Guard become "proactive" and stop being "reactive"?)**





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