

GCMANews

The Voice for Mariners

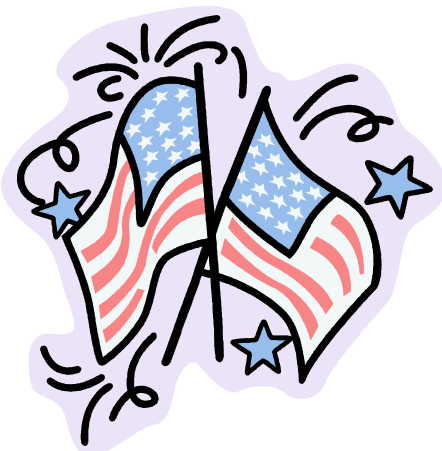
Number 31

June 2005

INSIDE THIS ISSUE

2	"ARTCO Six" Trial July 25
2	Uninspected Means Neglected
4	Towing Vessel Inspection
4	Unsafe Work Practice Disables Mariner
6	Fatigue
7	CG Letter To Senator Vitter
7	Murdered Deckhand
8	More on Queen Isabella Causeway Accident
9	Towing Company Tries To Change License Rules
12	Captain Bruch's Letter
13	Houma Bridge Crash
15	Updated Brown List

Happy Fourth of July



UNINSPECTED MEANS NEGLECTED – Article on page 2



BARGE CRASHES INTO DOWNTOWN HOUMA BRIDGE – Article on page 13

**“ARTCO SIX” CASE SET FOR TRIAL
IN EAST SAINT LOUIS, IL
JULY 25–29, 2005**

Six experienced towboat river pilots are taking their former employer to federal court.

These six mariners, citing serious safety concerns in pushing oversize and overloaded tows, were fired after they would not accept the challenge of pushing tows of up to 48 barges, six barges long, down the Mississippi River between Cairo, Illinois and New Orleans, LA. The case goes to trial in Federal District Court for the Southern District of Illinois in East St. Louis, Illinois on July 25th.

The case, formally titled Larry Gwin, et al. v. American River Transportation Company, Cause No: 03-862MJR, promises to bring a number of serious mariner employment and safety issues to the forefront.

Captain Larry Gwin, a GCMA Director, spoke before the Towing Safety Advisory Committee on March 17, 2004 at Coast Guard Headquarters in Washington and outlined the serious nature of the problems facing many mariners working on the western rivers. His prepared remarks are included in GCMA Report #R-340, Rev. 8, pages 1-5, titled Oversized and Overloaded Tows.

The Eighth Coast Guard District steadfastly refused to step in and put reasonable limits on tow size and towing vessel horsepower in spite of numerous accidents. They ignored GCMA Report #R-340 that details many of these accidents.

ARTCO, a division of the corporate giant Archer-Daniels-Midland, stubbornly persists in its determination to push often-unmanageable tows with their powerful towboats at all river stages. This large corporation appears to be oblivious to the damage their large towboats cause in the river channels at low river stages. They leave the Coast Guard and the Corps of Engineers to repair and replace the large numbers of buoys

their tows 8-barges wide drag off station at public expense. Their tows strike and damage numerous bridges, docks and private property along their route. These oversize tows delay and inconvenience other river traffic that our mariners working for other towing companies are simply expected to live with in silence.

Our concern at GCMA lies primarily with the issue of safety. As we reviewed a large number of accident reports, it was clear that the Coast Guard seldom held the masters or pilots of ARTCO vessels, unlike employees of other towing companies, accountable for the resulting accidents. In fact, we find this trend quite remarkable and worthy of further investigation – perhaps by the National Transportation Safety Board. For example, in one accident where an ARTCO tow ran over a towboat pushing dangerous liquid cargo barges, the Coast Guard never even sent investigators to the scene of the accident.

The Coast Guard appears to be willing to do little more than accept existing conditions, tally the damages, and not offend the large corporations it is supposed to regulate.

Aside from safety, other issues in this case involve the long-term intimidation of experienced river pilots. These pilots took a stand against pushing tows they considered unsafe. Standing in the wings is a labor dispute that the National Labor Relations Board has left unsettled for over 5 years.

The “ARTCO SIX” case will highlight ARTCO’s poor accident record with the large number of oversized tows it dispatches and allege a number of unfair employment practices. The revelations in this case should be particularly significant in light of the growing personnel shortages in the towing industry, the number of skilled and experienced mariners withdrawing from the industry, and the difficulty of recruiting entry-level candidates to work in one of America’s most dangerous and uncaring industries.

We expect this case to be a landmark case. We will report its outcome in subsequent newsletters.

**“UNINSPECTED” MEANS NEGLECTED;
TOWBOAT POLARIS SINKS IN
NEW IBERIA CANAL – PART 1**

A regional newspaper reported that civil and possibly even criminal charges could be filed after an oil spill from the sunken towboat M/V POLARIS in the channel leading to the Port of Iberia.

LCDR Andrew Sheffield, senior investigating officer for the Coast Guard Marine Safety Office in Morgan City, said 5,052 gallons of diesel were recovered from the tugboat Polaris with about 2,700 gallons recovered from the water. Of the amount that escaped into the canal, about 50 percent of it evaporated.

Long History

The M/V POLARIS is an antique single-screw towboat built in 1955 by St. Louis Ship. The vessel’s date of construction becomes significant whenever a vessel is not maintained properly throughout its lifetime.

The vessel first came to GCMA’s attention about a year ago when it leaked so badly that a diver had to be hired to

plug a hole in the bottom. The vessel’s pumps were able to keep up with the flow until the diver inserted an all-thread rod and made a “sandwich” patch to keep it from sinking. There also were reported to be several wooden plugs driven through the hull in other places as well.

The Coast Guard boarded the vessel in Morgan City on June 10, **2004** (i.e., a year ago) and issued a verbal Captain of the Port Order for the vessel to remain in port until they corrected the deficiencies.

On learning of the boarding and the decrepit condition of the vessel, GCMA wrote to the Commanding Officer, MSO Morgan City, stating in part:

“We respectfully request a copy of the boarding team report of their findings as well as any follow-up of the work completed when such work is complete.

“GCMA is a mariner advocacy group. One of our primary projects (#R-276) is a request to Congress to bring all towing vessels under Coast Guard inspection standards.

“We believe that mariners working on uninspected towing vessels do not receive the same protections under law and regulations that are accorded mariners working on inspected vessels of comparable size and horsepower. We understand that the M/V POLARIS is a particularly egregious case that your office is vigorously pursuing. We would like to follow

this case as closely as possible with the full revelation of all actions taken your office has taken.

“We also want to review the case to see if there were any unsafe or unhealthy conditions that your boarding team encountered that could not be addressed because there were no regulations governing those areas.

We received the draft summary cited below from Coast Guard Headquarters (G-MRI-1) dated July 22, 2004. The deficiencies were divided into two groups as follows:

Deficiencies to Correct Before Leaving Port

[Source: USCG Activity #2094085. GCMA File #M-477.]

- 1) Provide a valid Certificate of Documentation.
- 2) Provide a valid radio station license.
- 3) Furnish a current Light List.
- 4) Furnish current Notices to Mariners.
- 5) Give portable extinguishers their annual inspection.
- 6) Mount protective machinery guards as specified.
- 7) Remove excess oil from bilges and remove oil-soaked rags from the engineroom.
- 8) Install flame screens on fuel tank vents.
- 9) Replace household navigation lights with Underwriters Laboratory UL-1104 approved lights.
- 10) Man the vessel with the required number of properly licensed operators

Deficiencies to Correct Within 30 Days

- 1) Log all required vessel tests and inspections.
- 2) Replace or repair the general alarm system and supplemental red light.
- 3) Post employee-assistance program hotline info.
- 4) Post a marine sanitation device placard and instructions.
- 5) Install remote fuel shut-off valves.
- 6) Insure that the vessel's official numbers are clearly visible on interior structural part of hull.
- 7) Install protective globes on all exposed lights.
- 8) Install bug screens on potable water tank vents.

What Was Omitted and Why

A Coast Guard regulation supports each of the 18 items that appears on the deficiency list. Unfortunately, there were no Coast Guard regulations that require the Coast Guard to inspect the hull and machinery of an “uninspected” towing vessel.

GCMA was aware of the large number of “sinking, flooding, and capsizing” towing vessels from our large number of accident files. We asked the Coast Guard to provide the raw data on a number of occasions. We published the raw data in GCMA Newsletter #28 (Feb./Mar. 2005, p.6). We then asked Headquarters to evaluate the raw data as part of its work on creating the new towing vessel inspection regulations. Whether they do or not, Congress expressed its concern on the public record on the **“607 reported sinkings, 593 floodings, 115 capsizings, as well as 41 explosions and 103 abandonments”** as reprinted in GCMA Newsletter #29 (Mar./Apr. 2005, p.4). This is a big problem the Coast Guard ignored for years. It speaks volumes about the Coast Guard's “superintendence” of uninspected towing vessels – and **our mariners** who serve on them.

Since there are no regulations governing the hull, the Coast Guard made no mention of the temporary hull patches and wooden plugs. We do not know what expenses or inconveniences the owners of the vessel experienced as a result of having their **2004** voyage terminated, but we know their **2005** voyage may have been an even larger disaster. The rest of what we know we gathered from the newspapers.

Newspaper Accounts

The boat sank about four miles from the port's public dock in 11 feet of water, (Sheriff Sid) Hebert said during a trip to the spill site Thursday afternoon. The 93-foot tug jugged half out of the water, its hull resting on the bottom and blocking two-thirds of the width of the channel. The water around the tugboat had an iridescent sheen and appeared darker near the boat's hull where clean-up workers in small boats used special sponges to soak up the oil.

The canal is the only water access to the port and was closed for over 4 days. The public boat dock is also closed, he added.

After the tugboat sank, Iberia Parish Sheriff Sid Hebert said the pilot was Daniel Bashinelle, 46, of Franklin and that he did not have a valid operating license. A spokesman for the tugboat's owner, Viking Marine of Chalmette, said Bashinelle was the engineer, not the pilot, and that the pilot was James McCray, who was licensed by the Coast Guard. Sheffield would neither confirm nor deny that information, but said the incident was still under investigation. Pending the investigation, the company and personnel could face civil penalties for the accident and revocation or suspension of their licenses, “if they do have licenses,” Sheffield said.

Viking Marine Transportation will, at the least, face fines for “pollution aspects,” Sheffield said, but environmental damage appears to be minimal.

“The charges will possibly be civil penalty violations, and any criminal referrals will be made to the U.S. attorney,” he said.

The sunken tugboat was finally removed from the canal June 5th and taken to Morgan City where it may eventually scrapped.

“Marine traffic in the port was at a standstill since June 1st when the accident occurred but returned to normal four days later.” said Roy Pontiff, executive director of the port. Many of the 100 businesses at the port reportedly used trucks to get their products to customers, mostly pipe and oilfield equipment. The Port Director said it would be difficult to estimate the economic impact of the accident. About 100 supply boats, barges and pleasure boats use the port's channel.

Our Mariners Report

While we have heard from a number of our people about this accident, one reliable mariner with contacts in the port of New Iberia passed along information that the cost of salvaging the M/V Polaris was \$117,000 PLUS the cost of cleaning up the oil spill. He also opined that the person operating the vessel had never held a Coast Guard license and that the Coast Guard was investigating the matter very carefully.

[GCMA Comment: We will prepare Part 2 of this article when we receive the final USCG Report – probably sometime next year.]

**TOWING VESSEL INSPECTION:
TIME FOR THE "GREAT AWAKENING"**

[GCMA wrote this "Letter to the Editor" The Waterways Journal as a on June 2, 2005 To date, it has not appeared in print. GCMA recently requested the Commandant of the Coast Guard review the operation of the management-dominated the Towing Safety Advisory Committee.]

In 1994-5 following the Amtrak Sunset Limited disaster, the towing industry skillfully dodged the towing-vessel inspection bullet when the American Waterways Operators (AWO) created its Responsible Carrier Program (RCP) and signed a "partnership" agreement with the Coast Guard.

Self-regulation under the RCP did NOT prevent a series of high-profile pollution and bridge allision accidents.

In 2000, the Gulf Coast Mariners Association (GCMA) urged the Coast Guard's Towing Safety Advisory Committee (TSAC) to press for adequate regulation of towing vessels. Reluctantly, TSAC placed "vessel inspection" on their agenda. GCMA left a paper trail that outlined why we believed specific changes were necessary. The paper trail consisted of a report we called GCMA Report #R-276 and other supporting documents.

TSAC, dominated by AWO-member companies, has only three out of 16 members who claim to have ever operated a towing vessel. TSAC did its best to delay, derail, divert, and table the discussion for almost four years. During this time, we revised GCMA Report #R-276 a total of nine times. We handed out updates at TSAC meetings and distributed copies to the

Coast Guard and to Members of Congress. It would be very hard to argue that TSAC did not know exactly what inspection involves.

A May 2004 article in a trade publication [**Enclosure #1**] disclosed that AWO changed course and now favored inspection of all towing vessels. Coast Guard Captain Joseph Brusseau was quoted in a trade magazine as saying, "Without them, we would have had to go it alone, and we probably wouldn't have done that." On September 9, 2004, President Bush signed legislation adding "towing vessels" to the list of inspected vessels.

The Coast Guard held four public meetings last winter to plan their rulemaking procedure. They opened a docket at www.dms.dot.gov (search #19977) to record public comments. The docket filled with letters from executives from many AWO-member companies. Many of these letters and most of the public statements transcribed at the public meetings indicated that AWO members viewed vessel inspection as merely an extension of the existing Responsible Carrier Program. They failed to grasp the fact that a Safety Management System (like RCP) and vessel inspection are two very different things.

We respectfully submit that GCMA Report #R-276 (9th Revision) [**Enclosure #2**] presents a picture of what is wrong with the towing industry and why (and how) the Coast Guard's towing-vessel inspection regulations must correct it. We cite both statute and regulation to support our views as well as information contained in a

number of our research reports. These old problems never were resolved because the towing industry and the Coast Guard went out of their way to ignore our mariners for years. We detail how the towing industry abused its workforce and why many mariners are leaving the industry. Our mariners, including many respected veterans of "Pilots Agree," observed and reported on these problems over the years. Captain J. David Miller posted it all on our internet website over the years in newsletters and research reports for the world to read.

Towing vessel inspection, if done properly, can correct many of the abuses in the towing industry. Aside from our "forgotten" working mariners, the Coast Guard never solicited the views of the hundreds of small companies that are not AWO members. Like our mariners, these interests have no representation on TSAC. We respectfully suggest that these boat owners pay close attention to developments or face huge problems with "vessel inspection" and the proposed "Safety Management System."

It is time for the "Great Awakening" to begin!
s/Richard A. Block, Secretary, GCMA

[GCMA Comment: GCMA Report #R-276, Revision 9 is now on our internet website. It consolidates all our previous issues and summarized GCMA goals for towing vessel inspection rulemaking ordered by Congress.]

**\$700,000 FEDERAL COURT VERDICT
AGAINST ACBL IN FAVOR OF
MATE INJURED WHILE JERKING WIRE**

[For more information, contact: Nelson G. Wolff of Schlichter, Bogard & Denton at 1-800-873-5297.]

On May 13, 2005, an Illinois Federal Court ordered American Commercial Barge Line, LLC. (ACBL) to pay almost \$710,000 to Dennis Shreve for back injuries he suffered from a work related injury in November of 2002. Shreve, 43, of Hartford, Kentucky, was working as a mate crewed to the M/V TOM FRAZIER when he injured his back while attempting to "jerk" slack out of a steel wire at a "high-low coupling" after

passing through a lock on the Mississippi River at Winfield, Missouri. The judgment is believed to be the largest ever against a barge company involving this work practice, which was described by ACBL at trial as "customary" and "ordinary" in the maritime industry.

At the time of the injury, Shreve had worked for ACBL for over 20 years, and his family had a history of 75+ years of service for the company. Shreve was used by ACBL as a safety trainer of other deckhands for years before the incident and was the boat's safety representative.

After coming through the lock, Shreve and two deckhands attempted to secure two of the fifteen barges in the tow together with a 35-foot fore/aft 3-part wire, extended an additional 10 ft. with chain links, cable strap, shackles, and pins. After the cable had been wrapped around several barge

deck fittings, it was to be secured to a ratchet and tightened to another fitting on the barge.

Pursuant to ACBL work rules and procedures, the crew was required to "jerk" slack out of the wire before securing it to the ratchet. Shreve was required to stand on the upper barge, 2 1/2 - feet above the lower barge where the other two crewmembers were trying to synchronize their jerk. In the process, Shreve had to bend his back at waist level to reach down to grab and jerk the steel cable and felt immediate and excruciating pain that caused him to fall to his knees with a low back injury.

After ACBL terminated maintenance and cure payments and health insurance, Shreve filed suit under the Jones Act alleging a failure to provide a safe workplace based on unsafe work methods and the failure of ACBL to provide winches to remove the wire slack.

The evidence at trial showed that ACBL employees previously had suffered injuries jerking wire and had complained about this work method and had requested barge winches, but that ACBL had chosen to provide winches on new barges only. The evidence also proved that the stationary 45-foot wire with which the barge had been originally equipped had not been replaced and Shreve was required to work with a more cumbersome and heavy set of boat rigging.

Shreve's treating doctors diagnosed a herniated disc in his low back but declined to perform spinal surgery since that would not allow him to return to work. A functional capacity evaluation suggested that Shreve was capable of performing heavy work. ACBL admitted that he was not capable of returning to work, yet did not offer him any other employment. Shreve did not hire any experts to testify at trial.

ACBL denied the existence of any unsafe conditions, methods or inadequate equipment. Its maritime expert, Capt. Samuel Schropp, of Ingram Barge Co., contended that jerking slack from wires, instead of using a winch, remained a common maritime industry practice which he believed to be safe. He claimed that Shreve was contributorily negligent for failing to ask the captain to rearrange the barges to avoid the high-low coupling, if Shreve thought there was a hazard.

However, every company official and employee who testified at trial admitted that Shreve had done nothing wrong, had not violated any safety rules, and was simply using the company's methods.

ACBL's medical expert claimed that Shreve had only suffered a back strain and that he had pre-existing degenerative disk disease exacerbated by multiple prior and unrelated motor vehicle collisions. ACBL's vocational expert claimed that Shreve was physically qualified to return to 92% of all jobs, including as a tow boat pilot or truck driver, despite the fact that Shreve had chronic pain and was taking Darvocet. At the end of the trial, ACBL's lawyers asked the jury to deny Shreve any compensation for his injuries.

The jury of eight men and women from throughout southern Illinois deliberated for only two hours before returning a unanimous verdict for Shreve in the gross amount of \$874,332. The itemized verdict ordered ACBL to pay over \$730,000 to Shreve for future medical expenses and past and future wage loss, with the remainder going for non-economic damages of loss of a normal life, pain and suffering, and emotional distress. The jury reduced the gross verdict by 19% on account of what it determined to be Shreve's contributory negligence, resulting in a net verdict of \$708,208.92, upon which judgment was entered.

Shreve filed a motion with the court asking it to reinstate the

entire verdict, since the finding of contributory negligence was not supported by the evidence and constituted assumption of risks inherent in the employment, which is not allowed as a basis for offset under the Jones Act.

It is also noteworthy that following the date of injury, defendant (ACBL) filed for bankruptcy under Chapter 11 and sought to discharge this claim as unsecured. The plaintiff challenged same and successfully obtained secured status, such that the claim will not be subject to any discount. Prior to trial, ACBL had only offered a settlement of \$275,000, which was rejected. Shreve was represented by Attorney Nelson G. Wolff of the St. Louis, Missouri firm Schlichter, Bogard & Denton.

According to Mr. Wolff: "The verdict vindicated Dennis, a worker with 20 years experience who had been blamed by the company for causing his own injury. The disabling injuries could have been prevented if ACBL had learned from previous similar incidents and just spent some of its profits on safety equipment."

The Honorable Michael J. Reagan presided over the trial in East St. Louis, Illinois.

The Significance of This Case

The common industry defense that this type of work is "customary" and not out of the ordinary demonstrates a clear need to satisfactorily regulate work on barges since they are often unsafe and dangerous workplaces.

In GCMA Report #R-276,⁽¹⁾ our mariners ask that Congress "inspect dry cargo barges for workplace safety."
[⁽¹⁾Item #72]

Each year a number of mariners fall overboard from or otherwise injure themselves in other ways while working at making and breaking tow and pumping and maintaining dry cargo and other barges that are not subject to USCG inspection. Our mariners report that the barge owners maintain some of these barges in deplorable condition.

In this case, the failure to maintain the "standing rigging" (i.e., winches and cables) on the barge in this case led mariners to use the only available "portable rigging" that resulted in a serious back injury for the experienced Mate, Dennis Shreve.

Dry cargo barges, and even some manned barges, still remain as uninspected vessels and managed to escape effective government safety regulation. Even though barge accidents like this are not uncommon, few ever reach the public's attention even in industry trade journals.

Although workplace safety on these uninspected vessels falls to the Occupational Safety and Health Administration under DOL Directive CPL2-1.20, the Coast Guard rather than OSHA has the waterborne transportation (e.g., patrol boats) and presence on the waterway necessary to board these vessels and check for workplace safety issues before mariners are injured and killed. Consequently, our mariners maintain that workplace inspection, safety regulation, and proper maintenance of all barges must become a Coast Guard rather than an OSHA function – as long as the Coast Guard remains in control of marine safety.

We believe that Congress must assign the USCG authority to inspect and regulate all barges since OSHA has not been effective in protecting our mariners. In fact, Congress recently placed the inspection of previously "uninspected" towing vessels in the Coast Guard's hands in September 2004.

It is reasonable for Congress to bring all barges under USCG numbering, identification, and inspection to provide a

safe workplace for the merchant mariners who must work on these barges in light of the many injuries and falls from uninspected barges, some of which are fatal.

GCMA reviewed several depositions taken in this case – one by ACBL’s Safety Director and the other an experienced back surgeon and medical expert hired by ACBL’s lawyers to testify on their behalf.

Essentially, ACBL’s Safety Director admitted that his company failed to follow its own procedures that required it to assess the "root cause" of all injuries, since according to their policy statements, "All injuries are preventable." He admitted that ACBL knew that other employees previously were injured attempting to jerk slack from barge wires as a result of an "unsafe method." He further acknowledged that only 10% of barges used by ACBL had winches, although barge winches were available for at least 40 to 50 years. He cited cost as the factor why not all barges were fitted with winches. He pointed out that all new barges had winches. He also pointed out that ACBL had a "program" to retrofit existing barges when they were dry docked for repair. Nevertheless, the fact that after a five-year period that only 10% of ACBL’s barges had winches installed on them did not support their alleged safety concern for their employees. Although the company’s Safety Director denied any increased risk of injury from “jerking” as compared to “winching” the wires to tighten them, the medical expert admitted this fact and that the work method that involved in “jerking” the slack out of the wire was unsafe.

The fact is that not only ACBL but also the rest of the towing industry has failed to adapt modern technology and safe work practices in building barge tows. “Steamboat ratchets” as an example indicate their historical roots from a bygone era. River steam towboats vanished about the same time as steam railroad locomotives about 50 years ago. The steamboat ratchets did the job in an age of cheap and plentiful labor – a situation that has clearly changed today.

Even the term “cheater pipe” as used to increase the force a person can apply to work these ratchets and tighten the slack in wire rope couplings indicates by its name that it subjects the equipment it is used on to a force beyond its manufacturer’s design limit. Double or triple even that “cheated” force by having two or three deckhands try to synchronize applying even more force. The risk of slipping, falling, losing your grip multiplies and makes it more likely that there will be some unexpected and undesirable outcome as there was in this case. If not the case, why aren’t these ratchets manufactured with longer levers? Is it a matter of product liability?

This case shows that the “portable rigging” that must be dragged around the deck and then assembled piece by piece to build a tow ought to be subjected to close OSHA examination and evaluation for workplace safety. Even ACBL’s own evaluation shows their preference for winches as a cost-effective method of coupling barges – even considering the savings from recycling used elevator cable rather than new wire rope as is a common practice.

Another safety hazard exposed in this in barge-coupling work results from ACBL’s use of different size barges in the tow, including at the “break-coupling” where the 15 barge tow had to be separated to fit into the lock. There was a 2 1/2 foot height differential at that coupling that required Dennis to bend at his waist to handle the wire, in "tug of war" fashion, synchronized with the other two crewmembers on the lower

barge. The safety hazard could be eliminated with winches or by a requirement that barges of uniform size be used and loaded to the same or similar level. This type of regulation of freight container size is commonplace in the rail and highway transport industries and certainly is warranted in the barge transport industry.

An even more basic consideration involves the use of wire cable in making up tows. Even a brief review of a wire rope manufacturer’s safety manual shows that the use of wire rope as barge couplings violates just about every one of the manufacturer’s cautionary statements. The fact is that wire rope, especially used elevator cable, is relatively cheap and expendable. The same is NOT true of our mariners who work as deckhands. This case shows that abusing our mariners by not installing or maintaining safe, modern equipment is not cheap either.

The case brought up another point of interest. Although Dennis undisputedly followed company procedure in performing this hazardous work, the company at trial attempted to blame Dennis for not identifying the safety hazard and working differently. However, ACBL’s law and maritime experts were unwilling to say Dennis did anything wrong.

The case also illustrates to every single one of its employees how a poorly this company that claims to be a leader in the industry treats a long-term valued employee. Unfortunately, ACBL does not stand alone in this regard.

There is no telling how many previously injured employees were denied compensation by ACBL and other towing industry barge lines using this logic. Accordingly, the under-utilized civil tort system, by itself, does not provide an adequate incentive for employers to be proactive in providing a safe work place. Most injured workers do not know when or how to obtain the legal advice they need and lack the resources to sustain themselves in pain and without pay for the legal system to decide their case.

[GCMA Comment: ACBL is a GCMA “Brown List” company.]

**BRITISH UNION WARNS:
SAFETY AT SEA COMPROMISED BY FATIGUE**

[Source: IOMM&P, May 19, 2005]

Safety at sea is being compromised, because officers on merchant ships do not get enough rest periods, the British maritime union NUMAST has warned. Researchers working with the union said that 2-percent of masters and officers were clocking 16 hours per day, and 2.4 percent worked over 100 hours a week. Almost a third could not regularly get 10 hours of rest every 24 hours, and almost 12 percent did not regularly get at least 6 hours of continuous rest every 24 hours.

The General Secretary of NUMAST, Brian Orrell, said, "Fatigue has been a problem for far too long, and it is appalling that there is no concerted effort to address the consequent dangers to shipping and the health of seafarers. Ship owners are putting insufficient number of seafarers on their ships, and administrators are in competition with each other on the issue of minimum safe manning certificates.

[GCMA Position: Vessels in 24-hour service need to follow a three-watch system.]

**U.S. SENATOR DAVID VITTER
CONTACTS EIGHTH DISTRICT
ABOUT OUR MARINERS CONCERNS**

[Coast Guard reply to Senator Vitter dated May 2, 2005]

The Honorable David Vitter
Member, United States Senate
858 Convention Street
Baton Rouge, LA 70802

Dear Senator Vitter;

I am writing in response to your letter of February 24; 2005 in which you request information on behalf of your constituents, Mr. ■■■ and Mr. ■■■■. Mr. ■■■'s and Mr. ■■■'s letters address some key concerns regarding the overall safety of the maritime environment.

My review of these letters identified the following areas of concern:

1. The need to establish work-hour limits for unlicensed mariners working on the inland waterways, specifically deckhands and tankermen.
2. The need for better enforcement of the 12-hour rule on licensed Masters and Pilots.
3. The need for inland towboats to have the same work-hour limits as comparably sized ocean-going inspected vessels.
4. Concerns that licensed officers may be regularly violating the 12-hour rule by performing additional engineering, deckhand or tankerman duties outside of their standard watch responsibilities.
5. Concerns that the practice of blending diesel fuel with other petroleum substances after a barge has left a refinery may create an inferior fuel and pose a risk to vessel machinery or the environment.
6. The need for enforceable logbook regulations and Electronic On-Board Recorders to eliminate the potential abuse-of current or future work-hour limitations.
7. The need to maintain anonymity of individuals who bring forward information relating to inappropriate actions or violations of the law.
8. The need to reevaluate the authorized tank barge mooring arrangements near MM 99 W of the Gulf Intra-Coastal Waterway.
9. A report of a solicitation for the sale of illegal drugs by crewmembers of a vessel on board a vessel operating in the Lower Mississippi River.

The issues raised by these letters are valid and of grave concern to me. Items 1 through 4 fall within the realm of current legislation mandating the inspection of towing vessels. The regulatory development process has started and the initial public comment period ended on March 23, 2005. I will be forwarding these concerns to Coast Guard Headquarters for consideration during the regulatory development process.

The concerns expressed in items 2 & 8 have been passed to our field offices to investigate and determine the appropriate action to be taken. In addition, the Captain of the Port Morgan City is actively working on item 8 and will personally respond to the Gulf Coast Mariners Association with any actions taken as a result of their inquiry.

Items 3 & 6 have also been forwarded to Coast Guard Headquarters with recommendations that they develop a viable method for preventing work hour abuses among Coast Guard licensed individuals.

With regard to item 5, the Coast Guard's scope of authority regarding potentially hazardous fuels is limited to their safe transfer and carriage. Therefore this information has been forwarded to the U. S. Attorney's office for review and action as appropriate.

Regarding item 7, the Coast Guard appreciates the concerned and conscientious members of the maritime community and the public at large who assume the responsibility for championing the safety of life at sea. The U.S. Code of Federal Regulations require the Coast Guard to maintain the anonymity of confidential informants, and we will continue to make every effort to protect the identity of these concerned citizens.

Regarding item 9, the Captain of the Port of New Orleans reported the alleged drug sale to the Coast Guard Investigative Service for criminal investigation. In addition, the operating company was notified, which resulted in drug testing of the crew and an audit of their chemical testing program.

As always, it is a pleasure assisting you with Coast Guard matters affecting your constituents. If you have any additional questions regarding this issue, please contact Lieutenant Commander Stewart, a member of my Marine Safety Division staff, at (504) 589-3642.

Sincerely,
K.L. Marshall
Captain, U.S. Coast Guard
Acting Commander, Eighth Coast Guard District

Copy: Commandant (G-MOA)
D8 Coastal/ Inland MSOs/MSUs
U. S. Attorney's Office, New Orleans, LA

**HOUMA MAN GUILTY OF
MURDERING DECKHAND**

[Source: By Liz Hackenburg, N.Y. Times Regional Newspapers. The Daily Comet, May 4, 2005. GCMA File #M-565.]

[GCMA Position: GCMA reiterates its strong support of Zero Tolerance policies for drug and alcohol use on

commercial vessels. See GCMA Report #R-315 (series).]

NAPOLEONVILLE (LA)-- A Houma tugboat captain who told police he shot his deckhand in the head to "make him see God" was convicted of second-degree murder by an Assumption Parish jury.

Louis Ledet, 42, 18 Waco Ave., Houma, shot Ryan Andras, 26, 1220 Winder Road, Thibodaux, with a .30-

caliber pistol nearly two years ago after a bout of horseplay turned into a deadly disagreement between the two.

Ledet and Andras were aboard the Captain EJ in the Gulf Intracoastal Waterway near J. Ray McDermott Fabricators in Amelia in June 2003, when Andras entered the boat's pilothouse and tried to play with the gun, according to a news release from the Assumption Parish District Attorney's Office.

Ledet refused to let the deckhand touch the gun and became angry after the two started roughhousing. A third man, deckhand Alvin Dardar, told jurors that Ledet told Andras, "I'm going to make you see God," then fired the pistol at Andras' head.

All three men worked for Rainbow Marine Contractors in Bourg.

During his trial, Ledet told jurors the shooting was accidental, but witnesses provided a different account.

A police officer who took Ledet to prison after the shooting also testified the boat captain told him he would "make (Andras) see God" when the deckhand would not stop roughhousing.

The officer asked Ledet what he meant, and Ledet replied, "I was going to kill him," states the release.

A forensic pathologist testified that he saw a muzzle imprint on Andras' head while performing the autopsy. The imprint indicated the gun was in direct contact with Andras' head when it was fired.

State District Judge Pegram Mire presided over last week's one-day trial, and the jury deliberated 30 minutes before returning the guilty verdict.

Ledet faces a mandatory life sentence for the second-degree-murder conviction. No sentencing date has been set.

Prosecutor Robert Menuet said the jury reached the right verdict.

"He deliberately killed him," Menuet said.

Authorities say the exact motive for the shooting isn't clear because another crew member testified that Ledet brought a large amount of cocaine on the boat and threatened to kill Andras if he took any.

Ledet told jurors he had used cocaine the morning of Andras' death. He also testified that he doesn't remember what happened after he held the cocked gun to Andras' head.

"VOYAGE PLANNING" AND THE QUEEN ISABELLA CAUSEWAY ACCIDENT

The Accident: At 2110 on September 14, 2003, the M/V BROWNWATER V departed Brownsville, TX pushing four loaded hopper barges ahead of it, lined up in a straight line, single file.

At 2400, the Pilot, Captain ■■■, took the helm. The tow successfully cleared the Long Island swing bridge at 0145 on September 15th, and at 0200 struck the Queen Isabella Causeway Bridge approximately 375 feet west of the channel almost head on. The allision caused two 80-foot sections of the bridge to collapse. Following the collapse, nine vehicles entered the water through the missing bridge sections resulting in eight deaths and three injuries.

Formal Investigation. Following the accident, Captain ■■■ voluntarily surrendered his license. The Coast Guard conducted a "One-Person Formal Board of Investigation" and submitted its report several months later. The report was reviewed by MSO Corpus Christi, Eighth District Headquarters, and finally by the Commandant with all sorts of agreements, disagreements, and suggestions for future actions. The formal report finally was released on April 28, 2005 – more than 3½ years after the accident. The final report, tagged with comments by everybody under the sun, leaves us with a mixed message.

Voyage Planning: Only One Aspect of This Case

The USCG accident report touched upon "voyage planning" in its formal Safety Recommendation #5714: Voyage Planning for Towing Vessels that we extracted from this report:

"It should be noted that the regulatory proposal on "Fire-Suppression Systems and Voyage Planning for Towing Vessels" outlined in the Notice of Proposed Rulemaking, October 6, 1997 (62 FR 52057) (originally) contained requirements for voyage planning analysis that are directly connected to this particular case.

"The proposed regulations required that companies should have documented policies and procedures in place to address decision-making criteria related to risk and route analysis of voyages including equipment size, suitability, and special equipment needs. All towing vessels would have been required to complete a voyage plan that included minimum

requirements. The following proposed regulations may have prevented the casualty:

- a.) Navigation charts for the intended route, applicable extracts from publications including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the area;
- b.) Applicable current and forecasted weather conditions for the duration of the voyage including visibility, wind, and sea state;
- c.) Extracts from tide and tidal current tables;
- d.) Intended speed and estimated time of arrival at the anticipated waypoints; and
- e.) Master's standing orders for closest points of approach, special conditions, and critical maneuvers.

"Unfortunately the proposed rule was modified by the April 29, 2003 Interim Rule contained in Federal Register (68 FR 22604) to require voyage planning for only those towing vessels operating in unprotected waters, beyond the baseline of the territorial sea. In light of this accident, we recommend that Commandant reconsider applying the Voyage Planning requirements to all towing vessel voyages."

Missed Opportunity

Following the SCANDIA-NORTH CAPE oil spill disaster off the Rhode Island coast in January 1996, Congress was on the right track when it demanded "voyage planning" (as well as "fire suppression"). Unfortunately, the Towing Safety Advisory Committee gutted the "voyage planning" requirement by pointing out that detailed voyage planning would be a nuisance on the western rivers.

GCMA watched the voyage-planning proposal as TSAC killed its application to inland waters and rivers. Voyage planning on the western rivers was a nuisance because it was clear that the committee, dominated by large river barge line interests, did not want anyone to challenge their corporate decision-making relating to the size of a tow in the number of barges or tonnage, towing vessel horsepower as related to tow size or route, or to inject factors like weather conditions, the effect of tides or currents on their desire to move more cargo and make more money. It is clear that the Coast Guard allowed the towing industry too much leeway in self-regulation. Our mariners expect the new towing vessel inspection regulations to set meaningful and enforceable vessel operation standards.

This case essentially involved dispatching an overloaded tow that was caught in strong and unfavorable currents of 4 to 5 miles per hour and an exceptionally high tide resulting from the passage of a hurricane offshore. At the time of the bridge allision, the tow had just enough headway to “tap” the unprotected causeway bridge supports as its lead barge was swept over the flats by the current far outside the channel. Expressed differently, the tow with its existing power plant reported by GCMA-member investigators to be in poor condition and unable to deliver its advertised horsepower, was unable to take headway off in time to prevent striking the bridge.

Of the two licensed officers, the Captain, who was off duty and asleep at the time appeared to have significantly greater “local knowledge” of the waters at the important turn before passing under the bridge than the Pilot on duty. However, when manning a vessel, each licensed officer must have the requisite skill and knowledge that conditions call for. In a two-watch system, as exists on most towing vessels, there are no licensed, qualified personnel available to assist the pilot who encounters a difficult situation.

[GCMA Position: GCMA favors a three-watch system in company with the 12-hour rule to provide a vessel in 24-hour operation with adequate back-up of licensed officers who work reasonable work-hours.]

Another Aspect of This Case

[Source: E-mail, 06/10/05 – Letter to the Editor]

Thank you for your comments concerning the Brown Water V and Queen Isabella allision. At the time of this incident I was the skipper of a local headboat (Fishtales). Our dock is located at the west end of the causeway in Port Isabel.

I just wanted to send you a note concerning the current issue.⁽¹⁾ While “unexpected” high water was present and the current was stronger than normal, one point of interest has

never appeared in any print. [⁽¹⁾GCMA Newsletter #30, May 2005, pgs 21, 22.]

You see, this curve is not an “S” curve but an “L”. (of) almost 90 degrees. The techniques used by the towboats to make this turn are unique. On the northbound leg, just after leaving the swing bridge, a pilot will pick up a current from the southeast. Because of the shoal areas, you can pretty much guess when you will pick up the current. So, you take that into consideration when deciding how you will approach the turn. Unfortunately, this night, the current came as a surprise. Why?

Well, in keeping with the federal mandate that the (Intracoastal Waterway) ICW be maintained at 12 ft., approximately two weeks prior to this allision, the ICW from the Queen Isabella Causeway to the Port Isabel Swing Bridge was dredged. The spoil from this dredging activity was directed to the aforementioned shoal.

The effect of this is two-fold. (1)The current usually expected was not there because of the increase in the shoal. This caused the current to slow and/or get redirected. (2)This redirection could have possibly caused the pilot to not feel the effect of the current until he was farther north. When it hit him, whatever action he took wouldn't have made any difference and because of the possible venturi effect, the current probably picked up speed.

Just thought you'd like to know.

Do you know where I can go to get the full final USCG report on this allision?

Sincerely, s/ Capt. Pat Kelley, MidWest Maritime, Inc.

[Editor's note: The Coast Guard report on pages 16-21 discusses the currents in the area. The information you presented does not appear in their report. I enclose a copy of the USCG report.]

GCMA OPPOSES MOVE BY A LARGE TOWING COMPANY TO CHANGE LICENSING RULES

At the March 16, 2005 meeting of the Towing Safety Advisory Committee (TSAC) in Washington, Delta Towing Company petitioned for rulemaking to establish a “...process by which a master of steam or motor vessels of not more than 200 gross register tons may obtain a license as mate of towing vessels.” The Towing Safety Advisory Committee agreed that the task of examining this matter should be expanded to examine other related issues as outlined in the following “Task Statement.”

The TSAC Working Group on Licensing is headed by Mrs. Jennifer Carpenter, American Waterways Operators' Executive Vice President. The working group will meet on July 14th at Buffalo Marine Service offices from 8:30 AM to 3:00 PM. All advisory group meetings are open to public participation. This is the “task” the working group will discuss at the meeting.

Towing Safety Advisory Committee Task Statement Task # 05-01

I. TASK TITLE

Requirements for License as Mate of Towing Vessels.

II. BACKGROUND

The 2001 rulemaking for the Licensing and Manning for

Officers of Towing Vessels revised the process used to obtain the license required to operate towing vessels. Part of the revised regulations removed the equivalence authority of those individuals licensed as masters/mates of steam or motor vessels of not more than 200 GRT to act as operators of towing vessels. As of Nov. 21, 2003, anyone seeking a license as mate of towing vessel had to meet the new licensing requirements, which require 18 months experience on deck, completion of a written examination, and then 12 months as an apprentice mate (steersman) as they complete a Towing Officers Assessment Record (TOAR).

III. PROBLEM STATEMENT

Portions of the towing industry operate other classes of steam or motor vessels (e.g., crewboats and supply boats) as well as towing vessels and experience difficulties in managing their personnel between the two fields of employment. There is also a perceived shortage of individuals who are in training to become officers of towing vessels. Additionally, the current rule requires 30 months to reach the position of mate of towing vessels, during which time the individual spends 18 months in entry level positions and 12 months in a training position. This makes it impractical for an experienced master of steam or motor vessels of not more than 200 GRT to

become a master of towing vessel.

TSAC should examine this issue and consider the need to establish a bridging process by which a Master, Steam or Motor Vessels of not more than 200 gross tons can obtain a license as Mate of Towing Vessels. TSAC may also identify other issues associated with the new licensing system for towing vessel officers that may require amendment or clarification as a result of initial Coast Guard-industry experience with the new rules. Issues that TSAC may [wish to](#) address include, but are not limited to, TOAR requirements for harbor tug operators and the need for consistency between the licensing regulations and Navigation and Vessel Inspection Circular 4-01 on the question of TOAR format requirements.

IV. TASK

Reconvene the Licensing Implementation Working Group to perform the following tasks:

- a) Consider the petition for rulemaking by Delta Towing that a master of steam or motor vessels of not more than 200 GRT with three years experience obtain the license as mate of towing vessels.
- b) Consider the necessary training, assessment and experience that should be required of such individuals.
- c) Identify any other issues related to implementation of the towing officer licensing rules that require amendment or clarification at this time.
- d) Submit a report to the Coast Guard outlining findings and recommendations.

V. ESTIMATED TIME TO COMPLETE TASK

The working group should provide a report to TSAC that includes its findings and recommendations by the fall 2005 TSAC meeting.

VI. COAST GUARD TECHNICAL REPRESENTATIVES

Luke Harden; MSO-1; Ph.: 202-267-1838; Fax: 202-267-4570; lhardenaa.comdt.uscg.mil

VII. TSAC CONTACTS

Ms. Jennifer Carpenter; American Waterways Operators; Ph: (703) 841-9300; Fax: (703) 841-0389; [Carpenter @ vesselalliance.com](mailto:Carpenter@vesselalliance.com)

Mr. Chuck King; Buffalo Marine Service, Inc.; Ph: (713) 923-5571; Fax: (713) 923-5304; chuck@buffalomarine.com

GCMA Position on This License Issue

[Source: GCMA outlined its position in a letter to the Chairman of the Working Group and supported our views with research reports available on our internet website and other documents cited in "Enclosures."]

June 6, 2005

Mrs. Jennifer A. Carpenter
American Waterways Operators
801 North Quincy Street, Suite 200
Arlington, VA 22203

Subject: TSAC Task Statement #05-01 for TSAC Working Group on Licensing Implementation

Dear Jennifer,

Thank you for your e-mail of June 2, 2005 inviting our continued participation in the TSAC Licensing Implementation Working Group. We would like to comment on the problems presented in the TSAC Task Statement # 05-01 as follows:

Prove Skill to a Designated Examiner. During the process leading up to final towing-vessel licensing rule that went into effect on May 21, 2001, the Coast Guard conducted a series of public meetings with lengthy comment periods. I recall that there were in excess of 800 written comments; and 175 people, including a very significant number of working mariners who attended one of the public meetings in New Orleans presided over by LCDR Don Darcy.

A recurring theme expressed by many towing vessel officers was the inability of some licensed mates/pilots they worked with to safely handle a tow. The new licensing regulations that came into force after May 21, 2001 required a candidate for mate/pilot license to prove to a qualified "Designated Examiner" that he actually knew how to handle the boat and its tow. This was a provision that our experienced mariners wanted to be put in place. I do not recall any opposition from the companies represented on the TSAC working group. We are opposed to changing this requirement.

The Delta Towing Problem. Although certainly not a "selling point" of the 2001 licensing rulemaking, was the understanding that "somebody" was going to have to hire a "third man" who earned one of the new apprentice mate/steersman "learners permits" to 12 months training in the pilothouse.

Although not spelled out in detail, if a company was unable to "steal" licensed officers from another towing company, it would have to train its own candidates. The nature of this problem finally just dawned on Delta Towing. They apparently have a number of licensed crewboat captains that expressed an interest in "advancing" to work on towing vessels.

If Delta Towing wants to use these licensed masters and mates with 100/200-ton licenses, they should become fully qualified in all respects to operate these towing vessels by serving a full 12 months as an apprentice mate/steersman under the supervision of a fully licensed master or mate/pilot of towing vessels. Since Delta is a large company and has many towing vessels of all sizes that work both inland and offshore, assigning their Captains as a "third man" on to learn about towing vessels and towing seems to be exactly what the new regulations envisioned.

I respectfully suggest that Delta Towing "bite the bullet," train their licensed mariners for a year on a variety of towing vessels to give them maximum exposure, and simply pay them for the licenses they already have. Don't expect them to work for half-pay or "learn on their time off."

I suggest that Delta Towing train a number of Designated Examiners to handle the need to train their own employees.

On December 21, 2003 the National Maritime Center (under our FOIA request) sent us a 28-page list of Designated Examiners for towing vessels containing about 240 names. **[Enclosure #1]**. That number did not contain a single Designated Examiner for Delta Towing. Perhaps their management needs to keep up with the regulatory projects that affect them directly. Their request to TSAC reflects neglect in

prepare for the future 2½ years after the regulation was promulgated. Certainly, five years to prepare for this regulation to go into effect is a very generous time-frame. Unless they learn to pay better attention, even worse may be in store for them in the future.

The equivalence authority for those individuals licensed as masters/mates of steam and motor vessels of not more than 100 GRT (with “mates” expanded to 200-tons) to operate as operators of towing vessels was dropped for many valid reasons as thoroughly discussed in the working group.

I also believe the “training” record of Delta Towing speaks for itself in regard to one of our mariners. I enclose a copy of GCMA Report #R-370, 12-Hour Rule Violations: The Verret Case, [Enclosure #2] that shows this company sent an unqualified mate-trainee as the second licensed officer on an anchor-handling tug in the Gulf of Mexico. The strain of handling the vessel for 12 hours watches **plus** additional duty of supervising the mate’s training in anchor handling during off-duty hours caused the master to suffer a paralytic stroke and to become permanently disabled. The vessel should have carried two fully competent officers and a “third man” in a training slot. This oversight cost Delta Towing well over a million dollars and a loss of any sympathy from our mariners for their current problem

Problems with Towing Officer Assessment Records (TOARs). I am certain that you will recall LCDR Harden’s persistence in “persuading” our TSAC working group to create a series of lengthy and all-inclusive TOARs. A clear majority of the group, 6 or 7 to 1 as I recall, wanted to be less specific in the TOARs’ details. However, the implied threat was that if TSAC did not do the job to that degree of detail the Coast Guard would hire an outside firm to do it. You may recall that I did not attend the final meeting – because of this “pressure.” However, you and other committee members came back to Arlington at a later date and gave the Coast Guard exactly the product they wanted. As a “work product,” it was commendable.

I heard several mariners recite problems where they left one or two spaces blank on their TOARs for what they believed were valid reasons. Yet, the REC was not interested in listening to their stories and found their TOARs “incomplete” and “not acceptable.” That puts any mariner between a rock and a hard place. It also puts pressure on a designated examiner to “pencil in” his initials. After 35 years of trying to deal with the petty bureaucrats at the RECs, I guess I could foresee a problem like this.

Towing companies must view the TOAR as an opportunity for training and not as some arbitrary form of monetary penalty. The wider the experience under a TOAR, the more opportunities the mariner has for improvement. This may be his only chance before accepting full responsibility for carrying out all his watch responsibilities as a licensed mate/pilot.

Perceived Shortage of Personnel in Training. There appear to be a number of reasons why there may not be enough mariners in the training cycle. They include:

1. As we mentioned at the last TSAC meeting – and not for the first time, the Responsible Carrier Program finds nothing wrong with a 15-hour day for unlicensed

personnel. Many of these individuals could be a towing company’s future towing vessel officers.

I enclose a copy of GCMA Report #R-375, Crew Endurance: The Call-Watch Cover-up. [Enclosure #3]. Only third-world countries treat their mariners like this. Until towing companies man their vessels properly, they will continue to have high turnover rates. Our mariners **expect** this to change when towing vessels come under inspection.

2. Neither the Coast Guard nor the industry treat unlicensed personnel on the western rivers and those who work on towing vessels under 100 GRT offshore as bona fide “mariners.” Most cannot obtain entry-level documents (MMDs). The Coast Guard has no record of who they are or their background. Consequently, the Coast Guard has virtually no authority over them. Although acceptable in the past before 9/11, this is likely to change.

Green deckhands,” who may acceptable to some employers, may no longer be suitable for the Coast Guard and may not pass criminal record checks. One of the complaints our experienced mariners often report but must cope with on board the vessel is their deckhands’ lack of training. Now they also learn that many deckhands also have drug abuse and violent criminal records.

3. NVIC 1-95, based on the TSAC report of February 7, 1994, recommended Voluntary Training Standards for Entry-Level Personnel on Towing Industry Vessels. [Enclosure #4]. Several towing companies have impressive training programs. However, this appears to be the exception rather than the rule other than for company “orientation” programs.

We suggest that a program such as that recommended by TSAC in 1994 become mandatory and that the National Maritime Center approve formal deckhand training curricula and facilities. The training should be offered in “approved courses” at fixed locations set up for deckhand training since most mariners hired “off the street” need basic seamanship training once in their career.

Deckhand training should be under USCG supervision in an approved course. The curriculum should be separate from company “Orientation” programs based on company policies and the Safety Management System.

4. The use of “deckineers” by many towing companies should involve **additional safety training**. I enclose a copy of GCMA Report #R-401, Crew Endurance and the Towing Vessel Engineer – A Direct Appeal to Congress [Enclosure #5] that makes our case for adequate safety training. This, too, should follow the “approved course” route.

GCMA Report #R-412, Towboat Engineer’s Death Points to Need for Changes in the Law [Enclosure #6] explains a number of changes in the statutes our mariners believe are absolutely necessary to protect our mariners who work in the engine rooms of towing vessels.

5. The Regional Exam Centers discouraged, misinformed, and harassed a number of license candidates and renewal applicants. Unfortunately, the landmark towing licensing regulations of May 21, 2001 competed for the RECs’ attention with the time-consuming STCW regulations that

went into effect on February 1, 2002. Consequently, we heard of a number of improperly processed towing license renewals. RECs did not tune in for many months to identify vessels on sea-service letters as "towing vessels." Consequently, many individuals had to go back to the REC to add the magic word "towing" to their licenses.

6. The Pilots Agree work stoppage of 1998 purged many experienced mariners from the ranks. Industry never met with representatives of its own workforce to determine the nature and severity of the problems that existed at the time. These problems are real, still exist, and appear in GCMA newsletters and research reports.

Shortly after a widely attended industry-wide meeting several years ago verified personnel shortages, a major article in the Waterways Journal denied that any shortage existed. Our mariners report an acute shortage now exists.

7. Mariners are tired of paying "headhunters" exorbitant fees to obtain jobs on towing vessels as we allege in [Enclosure #7]. If towing companies need mariners, let the companies pay the fees! Even though the Eighth District did not appear to have a clue as to what is happening on their doorstep, we continue to seek maritime attorneys in this and other districts to build these cases.

8. Many mariners are not good teachers and are not interested in training others. Others have no intention of training a potential mate/pilot to take their jobs. Some mariners see training a pilot as an "additional duty" or an "extra assignment" – and unpaid at that. The same is true of the extra pay for obtaining "Designated Examiner" status. Some mariners find this as "honor" while others find it an imposition. The basic difference is between "to volunteer" and "to be volunteered." The TSAC working group never addressed the issue of extra "pay."

Some mariners prefer not to "put their name on the dotted line" on any paper that goes to the Coast Guard – like a TOAR. Consequently, most towing companies

cannot count on anything like 100% participation in any organized pilot training program. Others companies (e.g., Cenac Towing Company), signed up dozens of Designated Examiners early in the game. It may be a matter of good corporate management – or it may be something else entirely.

In the past, some Captains were willing to volunteer their time to train a friend, family member, or a candidate that really wanted to learn the trade – at no personal gain other than, perhaps, a degree of satisfaction. Often, these trainer/trainee connections were broken when the company assigned the two officers to different vessels.

9. Many mariners do not believe their employers have their best interests at heart – and often for good reason. For example, in the Verret case, personnel apparently saw no need to cut any slack for an older worker (and a good, conscientious skipper) with a history of heart problems but put him in a preventable situation and drove him into the ground.

10. Many mariners recognize that the towing industry is not a suitable job they can hold until retirement and, therefore, make other career choices. The towing industry does not appeal to many academy graduates as a career at sea.

TSAC Licensing Working Group. How many members of the working group represented companies that were not AWO members – the smaller "Moms and Pops" who must live with the new regulations? The same is true of the current towing vessel inspection working group? GCMA does not represent these companies; but it is a serious failing of TSAC to leave these folks without representation.

I hope that these comments will be helpful. Please share them with the members of the working group and, if you wish, with AWO. Copies of GCMA reports submitted as enclosures are available on our website.

Very truly yours, s/Richard A. Block, Secretary, GCMA

DREDGE SOUTH PASS; CLOSE MRGO

[A Letter to the Editor by Captain Dean Bruch]

May 8, 2005

The Times-Picayune
Letters to the Editor
New Orleans, La. 70125

In regard to the Times-Picayune May 1st Money Section entitled "Still Waters" there are three viable solutions in making the Port of New Orleans more competitive.

(1) An immediate development of the Ship and Barge Cargo Transfer Station known as Sea Point LLC with a proposed location in the Mississippi River near Venice.

This would create a fast turn around for Container Ships by not being required to call at the various berths on the Mississippi River and Mississippi River Gulf Outlet. This could be a possible "hub" for container barges in calling at various berths on the Mississippi Delta area including the container complexes in the Industrial Canal.

(2) Close the Mississippi River Gulf Outlet to deep draft vessels with the Federal Government paying for relocating of those vessels presently calling at berths in the MRGO area. This action will assist in satisfying the serious environmental concerns associated with this channel.

(3) The U.S. Army Corps of Engineers addresses the feasibility of using the expensive ongoing dredging operations for MRGO be transferred to

dredging South Pass to the deepest depth possible. It was formerly a 30-foot deep channel, and I believe with the advanced techniques in dredging it could possibly be deepened 35-40 feet.

Distance and time are the concerns of deep draft shipping in this age of increased port costs.

This progressive action would allow many ships to use South Pass when serving ports to the east of the Passes. Ships calling at ports to the west of the Passes could continue using Southwest Pass.

With closure of MRGO vessels would not have to frequently proceed to South Pass sea entrance to pick up or drop off a bar pilot. This indeed would become a welcome relief for shipmasters and their operators.

s/ Dean Bruch

BARGE CRASHES INTO DOWNTOWN

HOUMA BRIDGE

Although Houma residents used to accept the inevitability of tows crashing into their bridges, they question why a \$25,000,000 highway improvement project specifically designed to remove an antique bascule bridge and its less obstructive companion, a parallel lift span, did not end the assault on the twin bridges.

For years, the vintage 1936 bascule bridge on Main Street with its 76-foot horizontal clearance was out of service for days and even weeks as 70-foot wide tows failed to clear its fender works. Now, the Intracoastal Waterway is open to its fully authorized 125-foot width.

Recent History

In December 1989 a propylene barge struck the East Park Bridge at the end of the workday with cars waiting for on both sides releasing a cloud of noxious and explosive gas that blanketed the area and led to the overnight evacuation of several thousand residents in freezing mid-winter temperatures. Fortunately, the entire area did not erupt in one huge fireball – fortune in this case being a knowledgeable Coast Guard inspector managed to control the release.

The junction of Bayou Terrebonne and the Intracoastal Waterway was (and is) within several hundred yards of the Terrebonne General Medical Center. An accident here, as could have occurred with the propylene barge, would have been a major disaster to this community of more than 40,000.

In the years following that, Houma has spent over a million dollars to build and landscape a downtown park and marina. A new Cardiovascular Institute of the South building and the Terrebonne Parish Coroners office now line the waterfront next to the bridges along with blocks of doctors' offices with more to come in the future. The Terrebonne Parish Government Tower is several blocks away from the bridges.

Other "obstructive bridges" in Houma also were replaced over the years, among them the old railroad bridge and the Bayou Dularge Bridge. In the case of the latter, even after the new bridge was built, an entirely new fender system costing in excess of \$600,000 had to be installed after the original fender works were repeatedly destroyed.

On November 2, 1990, the tow of the M/V Nancy D. Spanier failed to negotiate the bend beyond the Bayou Dularge Bridge while pushing three loaded tank barges at 22:40 hours spilling 2012 barrels of crude oil that took two weeks to clean up at a cost approaching \$1,000,000 –within a mile of the city's water intake. All of this makes the point that Houma, like the states of Massachusetts, Rhode Island, Oklahoma and the Commonwealth of Puerto Rico have probably had quite their fill of towing vessel accidents. The significance of the latest local towing vessel accident made front page headlines with a large color photograph in the local newspaper.

Houma's First Salt Tow Accident

The new twin concrete high rise spans give a full channel width of 125 feet for tows to pass through, eliminating many of the challenges – and excuses – for towing vessel pilots.

Shortly after the new bridges were completed, and only a few months after the Gulf Coast Mariners Association was established, the M/V JESUS SAVES pushing six loaded barges from the salt mines slammed into the concrete-capped steel bulkhead protecting the new bridge supports of the Park

Avenue Bridge. The accident report we received seven months after the accident stated in part:

"19 Sep. 1999. M/V JESUS SAVES pushing 6 loaded salt barges eastbound at 3 mph allided with the southeast breakwall of the East Park Avenue Bridge resulting in the grounding of the barge #AT-156. No injuries reported. Damage to barge consists of 20-foot gash in starboard void. Damage to bridge was extensive. The operator at wheel was an unlicensed mate. A licensed master, Mr. ■, along with two deckhands were the only crew on board. Mr. ■ previously held a USCG issued license as master. The vessel was en route from the salt mines at Weeks Island to Terre Haute in a voyage in excess of 12 hours.

"The vessel's owner, Mr. Autry Dufrene, stated that he had two licensed masters on board when the vessel started its voyage but that one of the masters departed the vessel on 18 September 1999 at about 1200. The vessel continued on its voyage with Mr. ■ and Mr. ■■ on board. Mr. ■■ departed the pilothouse after a 12-hour watch leaving Mr. ■ at the helm at approximately 23:30.

"Mr. ■ assumed the watch just prior to making the approach to the East Park Bridge. The vessel, pushing 6 loaded barges...was eastbound on the ICW entering the intersection with Bayou Terrebonne at 3 mph.

"Mr. ■■■ stated that he felt the range lights on the bridge are not sufficient to allow proper alignment for tows to transit safely and that all of his masters have made this complaint. He also believes that Mr. ■ may not have been using the vessel's searchlight in accordance with company policy.

"Mr. ■ stated that as he approached the underpass, the vessel started to swing right at which time he applied hard port rudder to compensate before the vessel could respond, it allided with the breakwall.

"(Mr. ■) was operating vessel as an unlicensed mate. (Mr. ■) previously had a license which was surrendered to the Coast Guard in 1990."

"Total damage \$211,000."

USCG Conclusions

The Coast Guard accident report reached these conclusions:

- The owner allowed the vessel to proceed on a voyage in excess of 12-hours with only one licensed master on board.
- The master, Mr. ■■ allowed an unlicensed person to assume control of the vessel without direct supervision.
- Mr. ■ assumed the watch just prior to making a difficult transit under a bridge.
- Mr. ■ may not have been using the vessel's spotlight in accordance with company policy.
- Mr. ■ was most likely not in full control of the tow as he transited under the bridge.

It took seven months for GCMA to receive the accident report. However, a few months later, we received information from a reliable source that the towing company in question did not tell the Coast Guard that it often dispatched its vessels in 24-hour service with only one licensed officer on board. However, the Coast Guard was not willing to re-open the case.

The same issue of improper vessel manning involving the same company may have emerged again earlier this year when

one of their vessels sank in the Mississippi River above New Orleans taking the life of the Captain who just happened to be the only licensed officer on the boat. Again, a Coast Guard investigating officer, this time in another Marine Safety office, expressed no interest in "connecting the dots."

Houma's Second Salt Tow Accident in Houma

[By Tom Bonnette, The Courier, June 21, 2005].

A barge being pushed on the Intracoastal Waterway by a tugboat crashed into the foundation of the downtown twin spans Monday morning, halting water traffic for most of the day.

More than 50 boats were backed up for more than two miles after the tug captain lost control of his vessel around 4:30 a.m. (Monday) and plowed the barge, carrying 1,400 tons of salt, through the bridges' south-east concrete bulkhead, U.S. Coast Guard officials said. No one was injured during the crash, according to the Coast Guard.

"I heard it this morning and it almost knocked me out of my bed," said Allen Bergeron, who lives on Park Avenue next to the bridge, which spans the Intracoastal near Terrebonne General Medical Center.

"I knew what happened, but I was afraid that it was an oil barge and would blow up," he said.

The Coast Guard said the barge was the lead of six 195-foot loaded hopper barges bound for New Orleans, being pushed by the TAKO INVADER, owned by Tako Towing of Harvey. The tug captain lost control after his steering failed, but officials said they don't know why that happened.

"Our primary concern when something like this happens, is safety of the crew and residents," said Ensign Paul Steiner, chief of the Coast Guard's Houma response branch. "Damage to property comes next."

The Intracoastal Waterway was closed to east- and west-bound boats from 5 a.m. to 7:30 p.m., and the remaining five barges were towed to the northeast side of the twin span. In the meantime, the Coast Guard worked with the Department of Transportation and Development on ways to dislodge the barge from the bulkhead, according to Steiner.

The tugboat moved several times from the stern to the bow of the barge, demolishing concrete and twisting metal, in a futile attempt to dislodge the barge. Those efforts were abandoned after the Coast Guard decided the barge was entrenched too deeply.

"It takes lots of planning and logistics to solve a problem like this, and often you have to result to a Plan B." said Chief Petty Officer Jeff Lewis.

Deciding it was too risky to salvage the barge overnight, the Coast Guard halted efforts about 6 p.m. and ordered the tugboat to push the barge's stern closer to the northeast bulkhead so the waterway could be reopened. The barge still blocked part of the waterway however, so vessels 54 feet wide and smaller were the only ones allowed to pass. The remaining five barges were then moved to port in Acadia, according to Steiner.

After the barge was secured, the Terrebonne Parish Sheriff's Water Patrol guided boats around it until 10:30 p.m. The Coast Guard then placed personnel on scene to monitor boat traffic.

Coast Guard officials said there is no cost estimate available for crash damage at this time.

Following Monday's failed attempts to free the barge, the Coast Guard is working on a revised plan, Steiner said.

Crews could begin work, pending approval by Morgan City headquarters, during high tide about 9:45 this morning.

Steiner said this morning's work would involve "plans B and C."

The first option, he said, is to bring in a second tugboat to add more power in hopes of dislodging the barge. If that doesn't work, a second barge will be brought in from New Orleans and a crane will be used to offload 50 tons of salt from the stuck barge, Steiner said. That will lighten the load and make it easier to dislodge the barge, he said. ■

Connecting the Dots

To quote one sentence from the article: "The tug captain lost control after his steering failed, but officials said they don't know why that happened."

It makes a big difference to a licensed mariner whether a mechanical fault occurred or whether he did something that could be cited as "negligence, incompetence, or misconduct" in a suspension or revocation hearing before an administrative law judge. Consequently, a physical inspection by a trained inspector (or, in his absence, a report certified by a competent steering repair facility) of the entire steering system is an important component of any investigation.

Steering systems often fail in service for any of dozens of reasons. Steering systems on many towboats are particularly complex because they must operate not only the rudders aft of the propellers but also flanking rudders as well. Most steering systems are redundant and have more than one set of electrical components. Hydraulic pumps fail, hydraulic hoses burst, steering rams leak, circuit breakers trip, filters clog, electrical components like relays and proximity switches fail, electric motors go up in smoke – and can do so at any time! The more components there are, the more chances are for them to fail.

To quote from the article: "The tug captain lost control after his steering failed, but officials said they don't know why that happened." When you don't know why there was a failure, you find out by examining it. In our conversation with MSO Morgan City, they indicated they are doing just that...but it will take some time before the final accident report is complete and available for issue to the public.

Uninspected vs. Inspected Vessels

The vessel in this accident is an "uninspected" towing vessel. Among other things, that means that although the Coast Guard may have boarded the vessel in the past and "examined" it, they have no detailed records on its hull and machinery condition as they would have if they visited the vessel for annual vessel "inspections." (Examinations and inspections differ).

Perhaps this will herald one of the major changes we expect to occur within the next few years as the new law that brings all towing vessels under inspection goes into effect.

If an inspected vessel has an accident, the Coast Guard investigators determine the cause of the accident and Coast Guard inspectors follow-up the progress of the repairs after the accident to ensure that the vessel is properly restored to the same condition as before the accident. (Investigators and inspectors also differ). When the vessel is repaired, its Certificate of Inspection is back in force and the vessel can go back to work. This may be a shocking change for some substandard towing companies that put a boat back to work if its pumps can keep it afloat and its engine pushes it through the water!

Connecting the Dots

For what they are worth, one of our mariners pointed out to us that internet records show that this is not the first time the M/V TAKO INVADER has experienced expensive steering problems. To quote: "On March 19, 2004, the lead barge of the M/V TAKO INVADER, (O/N 574379) allided with the OSV RITA CANDIES (O/N 1071958). The TAKO INVADER experienced a loss of steering at mile marker 36 of the Gulf Intracoastal Waterway and allided with the RITA CANDIES, which was moored at Bollinger Shipyard Dock in Larose, LA. (There was) no damage to the lead barge of the TAKO INVADER's tow. Damage estimate of \$60,000 to RITA CANDIES (3 foot dent in port bow and dent on starboard bow where OSV impacted the dock), and damage to drydock. Repairs were made to TAKO INVADER's steering system. RITA CANDIES proceeded to drydock for repairs."

Did Coast Guard investigators call on trained inspectors to determine why the steering failed in this case? Or was this just an instance of "data collection" where the Coast Guard took the word of the Pilot that the steering failed, accepted the report that the steering was repaired after the accident, and accepted the

\$60,000 damage estimate? Quite possibly we could find out the answer to these questions if we dug deeply enough.

When towing vessels finally come under inspection, these questions may become unnecessary because the inspection system as it exists for other inspected vessels today will ensure that the vessel is fully repaired before going back in service after an accident like this since a Coast Guard inspector will confirm its condition. And "the system" will also ensure that a vessel's hull and machinery are properly maintained as long as the Certificate of Inspection remains valid because there are penalties involved that substandard towing companies should be unable to ignore.

Inspection will protect our mariners.

46 U. S. Code §3315(a) states: "Each individual licensed under part E of this subtitle shall assist in the inspection or examination ... of the vessel on which the individual is serving, and shall point out defects and imperfections known to the individual in matters subject to regulation and inspection. The individual also shall make known to officials designated to enforce this part, at the earliest opportunity, any marine casualty producing serious injury to the vessel, its equipment, or individuals on the vessel."

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

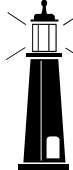
employers. As a service to dues-paying members of GCMA (only) we can inform you of some of the specific incidents that led us to "Brown List" a company. Then you can decide whether you want to learn the same lessons the hard way by working for a "Brownlisted" company.

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**
- **Torch, Inc**



MARINE EDUCATION TEXTBOOKS, INC.
 124 North Van Avenue
 Houma, LA 70363-5895
 Phone: (985) 879-3866
 24 Hr. Fax: (985) 879-3911
 E-Mail: namenet@triparish.net



INFORMATION CENTRAL

We Publish License Study Books

- Master, Mate & Operator (up to 1600 Tons)
- Able Seaman & Lifeboatman
- Workboat Engineer
- Tankerman
- Towing Vessel Officer's Guide
- QMED General, Oiler, Electricity, Boiler & Machine Shop
- Marine Safety Markings and Signs

GCMA Members are always welcome.
 Get a 20% discount
 Just Show us your membership card.

Lafourche Training

GCMA members get a 10% discount on courses under \$500 & 20% discount on courses \$500+.

Offers you the courses you need!
License upgrades, radar and celestial endorsements help you stay at the top of your career!
 Let Lafourche Merchant Marine meet your training needs. Here's a sample of our Courses:

- 500/1600 Gross Ton Master or Mate prep class
- 100/200 Gross Ton Master/USCG-approved (testing done on site)
- Upgrade 100 Gross Ton Master to 200 Gross Ton Master/USCG-approved (testing done on site)
- Radar Observer/Radar renewal /USCG-STCW approved (testing done on site)
- Able Bodied Seaman/USCG-approved (testing done on site)
- Celestial Navigation 200/500/1600/STCW Gross Ton/USCG-approved (testing done on site)
- Basic Safety Training/STCW-approved/USCG-approved (testing done on site)

*** The following modules are available: Elementary First Aid and CPR, Personnel Safety and Social Responsibility.**

- Visual Communications (Flashing Light)/ STCW-approved/USCG-approved (testing done on site)
- Shipboard Coordinator (Fishing Industry)/USCG-approved (testing done on site)
- American Red Cross First Aid and CPR/USCG-approved
- Master of Towing Vessels/USCG-approved (testing done on site)

Assistance with U.S. Coast Guard paperwork \$75.00 per consultation.
 This service is only \$30.00 for those enrolled in LMMTS courses.

CALL US AND ENROLL NOW.

LAFOURCHE MERCHANT MARINE TRAINING SERVICES, INC.
 4290 Hwy 1
 Raceland, LA 70394
 PHONE: (985) 537-1222
 FAX: (985) 537-1225

GULF COAST MARINERS ASSOCIATION
 P. O. BOX 3589
 HOUMA, LA 70361-3589
 PHONE: 985-879-3866
 Email: info@gulfcoastmariners.org
 Website: www.gulfcoastmariners.org



The Voice for Mariners

ADDRESS CORRECTION REQUESTED