The Voice for Mariners

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INSIDE THIS ISSUE

Biting On A Project Too Big To Swallow

The Department of Homeland Security went after the whole TWIC project that proved to be too much for it to handle just as this aggressive flathead catfish who tried to swallow a basketball that became stuck in its mouth. The fish was totally exhausted from trying to dive, but was unable to do so because the ball would always bring him back to the surface. Perhaps DHS needs deflation or just a taste of reality before it chokes on TWIC. The TWIC story appears inside this issue. *(Pix thanks to Doreen Badeaux)*

See TWIC article on page 10

ARTCO CAPTAIN PUTS 10,500 HP TOWBOAT HARD AGROUND HANDLING OVERSIZE TOW

Pushing a 36-barge oversize tow on the Upper Mississippi River between St. Louis and Cairo, Illinois came to a disastrous conclusion in broad daylight at 11:15 AM on Saturday morning July 8, 2006.

The 36-barge tow of ARTCO's 200'x50' 8,400/9,000 horsepower towboat M/V INEZ ANDRES got out of control and completely blocked the river leaving ARTCO's aging 190'x 54' 10,500 M/V DAN MAC MILLAN hard aground in a rocky area between two dikes and listing heavily to port at UMR Mile 28. Three red-flag barges reportedly were in the tow with serious damage to a number of barges. The vessel, whose lightest draft is reported to be nine feet, three inches and whose normal loaded draft exceeds eleven feet was reported to be stranded in only four feet of water and pumping out her ballast as the river continued to fall.

Reports reaching GCMA were that ARTCO's M/V INEZ ANDRES a was southbound from St. Louis with the tow and was in the process of handing it over to the higher-powered M/V DAN MACMILLAN when the tow got away from them. The mighty M/V DAN MAC MILLAN with all its 10,500 horsepower making her one of the most powerful towing vessels on the entire Western Rivers system apparently was unable to straighten the tow in the narrow channel and was herself pushed hard aground. Speculation was that she may have damaged her flanking rudders or other underwater areas in the grounding following her vain attempt to corral the tow. After the vessel was dragged off the bank into deeper water, it was able to continue pushing the tow in spite of any damage it may have received. However, if this was an inspected vessel, the Coast Guard could have ordered an underwater inspection if damage affecting her propellers, steering, or possible fuel tank punctures was suspected. We have alerted our members to monitor the vessel on the remainder of its voyage so that we can "connect the dots" if subsequent and apparently unrelated accidents, either reported or unreported, occur.

It appeared from reports we received that the Master of the M/V DAN MAC MILLAN, who we decline to identify, put his crew of as many as ten mariners in harm's way as a result of his actions in attempting to retrieve the drifting tow. However, in the interest of fairness, we welcome the Master's written rebuttal for future publication. Maneuvering a towboat that size in a channel that narrow at a low river stage can be a challenge by itself without 36 loaded barges complicating matters.

The river stage at the time was

The river stage at the time was reported to be about 12 feet at Cape Girardeau and 14 feet at Cairo with a negative reading upstream at St. Louis and the river falling. Experienced pilots on the scene of the accident reported that while bringing an oversize 210-foot wide tow down a channel whose advertised width is only 300 feet may be possible but is seldom safe or prudent. It certainly does not lend itself to sharing the river with towing vessels of other river carriers traveling either upstream or downstream. Mariners frequently complain about the slow pace of these oversize tows even on the Lower Mississippi River where the advertised channel is up to 500 feet wide. Even there, ARTCO tows eight barges wide (280-feet) and up to six barges long still take up more than one-half of the navigation channel. However, ARTCO consistently "encourages" its pilots to push the envelope with oversize tows without any apparent criticism by regulatory authorities or any penalties recorded against the Masters and Pilots who chose to do so.

Pilots point out to the Coast Guard that waterways like the Gulf Intracoastal Waterway require special Coast Guard permits for oversize tows that take up more than one-half of the width of the navigation channel. The rules for "All waterways tributary to the Gulf of Mexico **except the Mississippi River, its tributaries, South and Southwest Pass and the Atchafalaya River** from St. Marks, Florida to the Rio Grande" (specifically 33 CFR 162.75(a)(5)(i) place these requirements on oversize tows:

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

GCMA believes the time has arrived for the Coast Guard to determine the meaning of an oversize and overloaded tow. We made the case long ago to the Coast Guard in GCMA Report #R-340 and before the Towing Safety Advisory Committee to blind eyes and deaf ears. Unless we completely ignore this issue, the next logical step will be to present the issue directly to Congress.

From our perspective after attending the recent ARTCO-Six trial in East St. Louis, that company has a clear policy of terminating its licensed mariners if they question the wisdom of pushing oversize and overloaded tows that they consider unsafe. ARTCO is on the GCMA "Brown List."

While this article reflects calls from concerned GCMA mariners with knowledge of this accident, we followed our normal procedures and requested a complete report of the accident and the ensuing Coast Guard investigation assuming they conduct a meaningful investigation. Such reports generally take up to two years to assemble and release to the public and often differ from the initial reports in newspapers and trade journals often in substantial ways. We will report later when we receive additional information on this particular accident.

UNINSPECTED MEANS NEGLECTED. TOWBOAT POLARIS SINKS IN NEW IBERIA CANAL PART 2

[Source: MISLE Activity #2383735, MISLE Case #235164, June 1, 2005. Release Date, June 22, 2006. FOIA #05-1781. GCMA File #M-477 & M-574. Excerpts, necessary rewording, opinions, comments, and emphasis are ours. Part 1 of this story appeared in GCMA Newsletter #31, June 2005, pages 1-3.]

The Uninspected Towing Vessel POLARIS, Official # 270483, was built in 1955 in St. Louis, Missouri. The vessel was 211 Gross Tons (143 Net Tons) and was 93.2 feet in length.

In 2004, ownership of the vessel was transferred from ACME Towing of Paducah, Kentucky to K. P., Inc of Baton Rouge, Louisiana. K-P. Inc. acquired the POLARIS along with two other vessels, the UTV MAMA LERE (Official # 264863) and the UTV ELIZABETH MARIE (Official # 264533).

¢ [(1)] of Baton Rouge owns K.P., Inc. However Mr. ¢ was not involved in the day-to-day operations of these tugs.[(2)] Mr. ¢ purchased the tugs to lease for operation. The POLARIS was leased to Viking Marine Transportation of Chalmette, LA. This lease also covered the MAMA LERE. ¢ ¢ was the President of Viking Marine Transportation and leased the vessel from K-P., Inc. Viking Marine Transportation was operating the vessel at the time of the sinking. *[(1)Information shown by these symbols was redacted from the report. These redactions challenged us to keep the story straight. (2)These vessels are inland towboats, not tugs.]*

MISLE History of the UTV POLARIS

The POLARIS has a Coast Guard MISLE record going back to 1987. In October of 1997, the POLARIS was documented under the name RED MARVEL. In that month, MSO Paducah issued a Captain of the Port Order (COTP) to the RED MARVEL. Among the citations in the COTP order were "...leaks in hull, excessive amounts of slop oil in bilges, and inadequate fire fighting appliances.''

On June 1, 2004**,** MSO Morgan City boarded this scruffy vessel, now named the POLARIS, and issued another COTP order. One of the deficiencies listed in this case was that the vessel was not under the control of an individual licensed for that vessel. The vessel was also cited for rigging a submersible pump in the engine room to pump an oily water mixture directly overboard.

On January 22, 2005, the POLARIS was involved in a marine casualty where one of the barges the POLARIS was pushing allided with a bulkhead in MSO New Orleans' Area of Responsibility (AOR). Further investigation after the casualty revealed that the POLARIS was under the control of an unlicensed individual at the time of the allision. MSO New Orleans initiated civil penalty action on the owner of the POLARIS because of this investigation (MISLE Activity

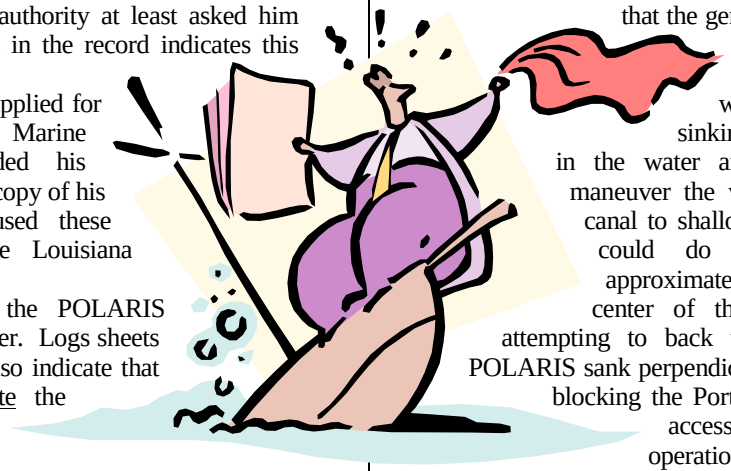
2326400). We have no idea how large this civil penalty was, or whether it was ever collected, but it apparently was not sufficient to dissuade the owner of the vessel from manning the vessel with unlicensed personnel. Two violations of the same law within a year and a half within a hundred miles of each other should have raised red flags and sounded alarm bells. However, the towing industry in the Eighth District has had perpetual immunity to such scrutiny.

Personnel Onboard POLARIS on June 1, 2005

There were four persons on-board the POLARIS on the night of June 1, 2005. The person at the wheel of the vessel was ¢ ¢ ¢ who had assumed the identity of his brother who was issued a Coast Guard License in February of 1995. ¢ ¢ ¢ never had a Coast Guard license of his own. In 1999, the Coast Guard revoked his brother's license. The MISLE activity indicates that the original copy of that license was destroyed by MSO New Orleans.

On the night of June 1, 2005 ¢ ¢ ¢ was operating the UTV POLARIS with a forged copy of his brother's original license in which the dates had been ""x"-ed over and altered. The brother is currently in prison for life on double murder convictions, narrowly avoiding execution for the crimes. It is unknown how ¢ ¢ ¢ came to possess his brother's altered documents. We can only assume that someone in authority at least asked him about this forgery, but nothing in the record indicates this ever happened.

On May 24, 2005, ¢ ¢ ¢ applied for a job as a pilot for Viking Marine Transportation. He provided his brother's birth certificate and a copy of his Coast Guard License and used these documents to obtain a false Louisiana identification card.



¢ ¢ ¢ ¢ was on board the POLARIS serving as an unlicensed engineer. Logs sheets obtained from the POLARIS also indicate that ¢ ¢ ¢ ¢ was paid to operate the POLARIS for 53 days although he did not have a valid Coast Guard license to do so. At one time ¢ ¢ ¢ ¢ did possess a valid Coast Guard license but it was revoked in 1995 for refusal to submit to a reasonable cause drug screen.

There were two unlicensed deckhands on board the POLARIS. Neither had a prior record with the Coast Guard and, as deckhands on an inland towing vessel, neither was required to have a merchant mariner document. In this time of heightened security, GCMA expresses our concern that the "cast of characters" found on this particular vessel can continue to exist without adequate safeguards to protect the thousands of qualified, trained, and law-abiding mariners who follow the rules.

The UTV POLARIS Sank on June 1, 2005

According to POLARIS logs for that date, the vessel arrived in the Port of Iberia at or about 1230 and offloaded its barges. This was the last logbook entry anyone bothered to make for the day. The POLARIS logs were handwritten on unlined computer paper. They did not list such details as who was operating the vessel or any kinds of drills or required tests.

According to crew interviews after the accident, the POLARIS departed the Port of Iberia "light boat" and was to transit southbound on the Port of Iberia Canal to the Intracoastal Waterway where it was to pick up a load of four rock barges. At least that was the extent of the "voyage plan" if that is the term for the regulations that the inland towing industry neatly avoided several years ago.

At or about 2020 that evening, ¢ ¢ ¢ was at the wheel of POLARIS. The other three crewmembers were in the galley preparing dinner. At that time, ¢ ¢ ¢ ¢ noticed that the stern was lower than usual. Upon further examination of the aft lazarette and engineroom ¢ ¢ ¢ ¢ noticed a large amount of water coming into the vessel. Because the flooding had already progressed into multiple compartments, the source of the flooding could not be located. Other crewmembers were then alerted and they began rigging a three-inch pump. However, the pump, once operable, was not effective. ¢ ¢ ¢ was not immediately notified of the problem while at the wheel. This would have been a significant oversight on any vessel other than the raggedy POLARIS.

The vessel's history shows that the POLARIS had an outstanding deficiency for not having a General Alarm. There is no record of installation of a General Alarm and the crew stated that no such alarm was in place. This could have had serious consequences if the vessel had sunk in deep waters of the Atchafalaya or Mississippi Rivers.

At or about 2025, ¢ ¢ ¢ lost power on the bridge and assumed that the generator had failed. He exited the pilothouse, at which time ¢ ¢ ¢ ¢ told him the vessel was flooding and possibly sinking. ¢ ¢ ¢ noticed the stern low in the water and then began to attempt to maneuver the vessel to the west bank of the canal to shallow waters. However, before he could do this, the vessel sank in approximately eight feet of water at the center of the channel. As ¢ ¢ ¢ was attempting to back the vessel into the bank, the POLARIS sank perpendicular to the waterway effectively blocking the Port of Iberia Canal. This brought access to many businesses and operations at the port to a halt and generated considerable local interest in the fiasco.

After the vessel settled on the muddy bottom, the crew was able to launch a small skiff with an outboard motor. The crew also had a small boom available. They deployed this inadequate boom downstream of the vessel to attempt to control the diesel fuel and oil that was beginning to leak from the engineroom and vents. In particular, the starboard side vent was leaking diesel fuel into the waterway. The boom was not large enough to reach around the entire vessel. The crew did not attempt to light or mark the POLARIS to warn approaching vessel traffic. The crew then took the skiff back to the Port of Iberia.

The crew traveled to MSO Morgan City where a Coast Guard Investigating Officer interviewed them. At the time of the casualty, ¢ ¢ , the owner of Viking Marine told the Investigating Officer that the required drug and alcohol testing had taken place. This later proved to be false. Verbal conversations with ¢ ¢ on June 5, 2005 revealed that no organized drug testing was completed. However, ¢ ¢ ¢ ¢ did submit a sample of his own to Bourgeois Marine Clinic in Morgan City, LA. The custody and control form from ¢ ¢ ¢ ¢ was shown to the Investigating Officer on scene for the salvage. However, the Coast Guard received no evidence

regarding any other drug and alcohol testing for the other POLARIS crewmembers. ¢ ¢ was asked repeatedly to submit a CG-2692B (Report of Chemical Testing Following a Marine Casualty but none was ever received. We assume that this must have raised some doubts as to his credibility. It is no wonder that the Coast Guard instituted tough new alcohol testing requirements for all mariners effective June 20, 2006 because of cases like this one.

At 0430 on June 2, 2005, the Iberia Parish Sheriff's Department closed the Port of Iberia Canal to marine traffic and the Coast Guard issued a Broadcast Notice to Mariners. An Investigating Officer from MSO Morgan City arrived on scene at the POLARIS at or about 0600 on June 2nd. The officer observed the vessel partially submerged and boomed. The contracted pollution clean-up company AMPOL of Lafayette, LA was on scene and started containment operations.

Because the vessel was only partially submerged, the Investigating Officer was able to get on the oily wreck and do a visual inspection of the bridge. At this time, the Coast Guard removed the vessel logs, Certificate of Documentation, and Radio License from the POLARIS for further investigation.

Salvage Operation of June 4 & 5, 2005

Salvage of the POLARIS began on June 4, 2005. One crane, the SALVAGE CHIEF, was on scene for the operation. The plan for salvage submitted to MSO Morgan City by Coral Marine Services of Amelia, LA indicated that the plan would be first to lift the vessel off the bottom. Once the first deck was above the waterline, the salvers planned to use a six-inch pump to dewater the vessel. They would then secure and patch any leaks and make the vessel ready for transport by tow.

Attempts to lift the vessel off the bottom on June 4th were unsuccessful, and it was determined that the SALVAGE CHIEF was not rated to lift the vessel. On June 5th, a second crane arrived on scene to aid in the salvage. The cranes worked together to lift the vessel at which time dewatering operations commenced. After dewatering, personnel were able to begin a visual inspection of POLARIS and its hull. The investigation report contains no mention of the vessel owner's participation in the salvage efforts – if it even occurred.

Visual inspection of the POLARIS revealed that the towboat was in an extreme state of disrepair. There was evidence of deteriorated steel plates both above and below the waterline. In particular, one approximately 18"x12" hole was found on the starboard quarter of the vessel. Further investigation found that someone had attempted to patch this hole in the hull with a makeshift soft patch. This patch consisted of boards with rags nailed to the bottom. The boards were then secured by 2"x4"s. ¢ ¢ ¢ ¢ stated he did not know who installed the patch. Apparently, nobody pursued that issue so we conclude that the patch was applied by a benevolent tooth fairy.

There also was evidence of damage to the port side accommodation space. ¢ ¢ ¢ ¢ told the Investigating Officer that this damage was the result of an allision with a moored barge while the POLARIS was transiting through New Orleans in February 2005. There is no evidence that anyone ever reported this incident to the Coast Guard in New Orleans. The damage caused a large puncture hole to the accommodation space covered by a tarp that was weighted down with old tires – plainly visible for months.

Enclosure (5) to COMDTINST 16200.3A shows under "Table 5-A" recommends a maximum civil penalty of $1,000 for failure of a marine employer to report a marine casualty in writing to the OCMI in violation of 46 CFR §4.05-10. Yet in both POLARIS cases the allision in New Orleans and the sinking there is no mention of the Coast Guard even seeking a minimum civil penalty for failing to report the accidents.

At a recent TSAC meeting GCMA attended, the use of CG-form 2692 was treated by participants in the meeting as an open joke! GCMA watched the Coast Guard wave its magic wand when ENSCO failed to report 44 personal injuries to the Coast Guard that were serious enough for maritime workers to take to court.(1) Our mariners need adequate protection offered by adequate penalties to ensure that employers report each and every accident and injury promptly to the Coast Guard. It is about time that accident reporting be no longer treated as a joke. Cut the slack for the scofflaws. GCMA recommends that Congress set a statutory penalty of $10,000 for an employer who fails to complete a full and complete written accident report within 5 days of an accident or personal injury. [(1)GCMA Report #R-277.]

Conclusions

The POLARIS was a vessel in substandard condition when it left the Port of Iberia on June 1, 2005. ("Substandard" is a euphemism for vessels that do not have to meet enforceable inspection standards. GCMA and the Coast Guard both knew POLARIS was in deplorable shape before it ever arrived in New Iberia.) Prior MISLE history and on-scene inspection after the sinking show a repeat pattern of violations of law and regulation to ensure safety of life at sea. GCMA questions why nothing effective was done to curb the rogue operations of this unreliable outlaw towing company.

Prior to the POLARIS sinking, further evidence surfaced that the vessel was in a state of disrepair. After the POLARIS sank, Captain £ , a licensed towing vessel Master who worked on POLARIS a year earlier, submitted a written statement to the Coast Guard. It appears that on June 3, **2004** (a year earlier) Captain £ began work on the POLARIS. From his own logs, he explained on June 9, **2004**, he was relieving the watch when he noticed an unusually large amount of water in the lower engineroom in fact, water was up to the deck plates. When Captain £ alerted the officer on duty, he was told that a wooden plug had likely worked out. This statement is perfectly logical since the Coast Guard did not have the job of inspecting the hulls of "uninspected" towing vessels for at least the past 33 years. On that same date, a diver came to the vessel and installed a soft (sandwich) patch consisting of two steel plates, all-thread, and rubber gasket. (Could the same diver be the benevolent tooth fairy that patched POLARIS with 2"x 4"s a month before it sank?)

As stated previously, the Coast Guard boarded the POLARIS on June 10, **2004** and issued a COTP order. As a result, POLARIS went into dry dock in November 2004 to repair holes in the bottom of the hull. Evidence of hull deterioration from this drydocking appears in photographs enclosed in the Coast Guard report.

After salvaging the vessel from the Port of Iberia Canal, a survey revealed that the vessel's hull was in disrepair. Surveyors located two holes in the bottom of the hull toward the stern of the vessel. It appears as if this is where the flooding originated as described by ¢ ¢ ¢ ¢ . Evidence of a makeshift soft patch was found on the largest hole. The survey also revealed that the vessel had no watertight integrity below deck. Wiring for

electricity and cable for the rudder created holes in the bulkheads that allowed flooding to progress through compartments. This is quite common on uninspected towing vessels simply because these vessels do not have to go through the rigors of a thorough Coast Guard inspection. This hides accumulations of unsafe practices by vessel owners unwilling to spend the money to make proper repairs, renovations, maintenance, and equipment installations.

On June 10, 2005, the Coast Guard cited the POLARIS for not having an operable General Alarm or Public Address System. It is fortunate that all the crewmembers were awake at the time of the sinking, since no alarm could alert them of any danger. There was also evidence of damage to the accommodations spaces because of an unreported marine casualty. Rather than make a proper repair to the superstructure, the company chose to cover the space with a tarp and caulk it. According to ¢ ¢ ¢ ¢ , the damage to the space occurred in February 2005, approximately five months before the sinking. Survey of the vessel also shows that water entered through holes in the tarp thereby facilitating flooding.

The logs from the POLARIS also show repeated violation of law and regulation by use of unlicensed individuals as Masters of the vessel. On these logs, ¢ ¢ ¢ identifies himself as being on the wheel of the vessel. ¢ ¢ ¢ did not have any Coast Guard license.

The evidence in this case reveals misconduct on the part of the crew and the operator of the POLARIS. Management addressed repeated vessel safety and integrity problems in a substandard manner that led to the condition under which the vessel sank. The crew knowingly violated regulation in relation to operation without proper documentation. Civil Penalty violations were filed against the lessee of the POLARIS, but ¢ ¢ passed away in an auto accident on September 21, 2005. The Coast Guard initiated civil penalty action against ¢ ¢ ¢ ¢ for unlicensed operation.

On June 1, 2005, the UTV POLARIS, owned by Viking Marine Transportation, discharged 3,000 gallons of diesel fuel into the Gulf Intracoastal Waterway, a navigable waterway of the United States, in a harmful quantity in that it created a sheen of oil on the water's surface. The incident occurred because of the vessel sinking due to the failure of the bottom plating of the vessel's hull in which holes were patched improperly with boards and rags. The responsible party reportedly conducted the site cleanup.

Part 3 of this Soap Opera

We would like to wrap up the POLARIS story since cutting torches have already reduced this rust bucket to scrap iron. However, like a good Keystone Cops drama from the 1930's, the movie just keeps bouncing across the screen.

- We are still awaiting word on whether the proposed "slap on the wrist" civil penalty against ¢ ¢ ¢ ¢ was effective. Did this former druggie ever have to pay for operating POLARIS for 53 days without a license?
- We are waiting on a reply to our letter to the National Pollution Funds Center in Arlington, VA, to see whether the company or its insurer (if any) ever paid to clean up the pollution POLARIS created. On the other hand, did Viking stiff the American taxpayer to clean up its mess?
- We were also told that the Coast Guard turned its case against ¢ ¢ ¢ over to the elite Coast Guard Investigative Service for forging and falsifying his brother's license. We will ask them if their investigation is complete and whether they ever did anything to the "bad guys."

All of this is of more than casual interest to the "good guys" who often have the impression that they are treated worse than the "bad guys" by the Keystone Cops.

Serious Lessons for the Future

At a recent meeting of the Towing Safety Advisory Committee (TSAC) at Coast Guard Headquarters, GCMA brought up the necessity of making proper hull repairs on steel towing vessels. The POLARIS accident was an excellent example of how an unreliable company failed to keep the vessel's steel hull in good repair. The question turned to the use of "doubler plates" at which time several members of management of western rivers towing companies in the audience vigorously defended the practice of using doubler plates to make permanent hull repairs on their vessels. We cringed.

The purpose of the meeting was to discuss the upcoming inspection of towing vessels and the so called Safety Management System industry would like to see take the place of formal Coast Guard vessel inspection.

GCMA contended that using doubler plates are not a good practice – although admittedly better than the all-thread rod and sandwich patch made on POLARIS in 2004 or the wooden patch that failed in June 2005.

During the discussion, the Coast Guard rulemaking team was present in the room, and GCMA asked for their views. In direct response, the next day they produced NVIC 7-68, Notes on Inspection and Repair of Steel Hulls. The NVIC backed GCMA's position as quoted in part as follows:

"(1) A welded doubler plate is **not**, in general, considered suitable as a permanent repair measure for the main hull girder. Its use does not insure continuity of strength, which is achieved by the installation of an insert plate in the same location. In addition, when a doubler is attached to deficient plating, its very presence creates a discontinuity, which may induce rather than prevent a structural failure. Additionally, where doublers have been used, they tend to proliferate as randomly-plated patches which often serve only to cover up the deficiencies which would otherwise indicate the true condition of the hull.

"(2) Doublers may properly be used to provide local reinforcement at hatch corners, overboard discharges, sea chests, mast, or kingpost foundations, etc. They also may be used in accordance with approved plans in the form of strapping fitted to increase the hull girder strength and stiffness. Where so used, the plating to which they are attached should be in good condition to insure efficient attachment by fillet welding along the edges. Plug welding, in the body of the doubler, can be used. The corners of the doubler should be tapered and well rounded…".

GCMA believes that the effective and efficient inspection of towing vessels by trained Coast Guard inspectors will eliminate the dangers posed by unscrupulous operators such as Viking Towing that are perfectly willing to place their crewmembers in danger serving on unsafe vessels.

We believe that doubler plates have no place on inspected vessels. Towing vessels will become inspected vessels because of the Coast Guard and Maritime Transportation Act of 2004. We are determined that the "best practices" in NVIC 7-68 should apply to these vessels as they apply to other inspected vessels.

MORE INFORMATION ABOUT THE INDUSTRIAL CANAL DISASTER SITE IN NEW ORLEANS

[Source: File M-601]

In GCMA Newsletter #34 (September/October 2005), pages 4-6 we asked the Coast Guard to investigate the possibility that a barge tied up in the Industrial Canal, broke through the levee and floodwall separating the canal and the Lower Ninth Ward residential area drowning hundreds of people.

The Industrial Canal is a short segment of the Intracoastal Waterway that connects the Mississippi River with the Mississippi River Gulf Outlet and the eastern section of the GIWW that extends east to St. Marks, FL. The GIWW throughout its length is a shallow waterway whose project depth is 12 feet. However, in the Industrial Canal, the waterway is 36 feet deep dredged to that depth in hopes of attracting deep-sea shipping to the eastern part of New Orleans.

Part of the plan to attract deep sea shipping was a huge engineering project known as the Mississippi River Gulf Outlet (MR. GO) channel that cut through and destroyed mile after mile of coastal wetlands in St. Bernard Parish. Mr. GO acted as a huge funnel that directed Hurricane Katrina floodwaters behind New Orleans and attacked it from the rear, eventually inundating about 80% to 85% of the city in as much as 20 feet of water.

The first of the City's levees to give way was along the Industrial Canal. We are still waiting for the Coast Guard to finish its investigation. On October 5, 2005 we were told: "The unprecedented scope of these natural disasters, the prominent role played by the Coast Guard in response, the resultant number of FOIA requests received, the damage to the regional Coast Guard units and records, the temporary transfer of many of these units and personnel to other locations, and the necessity of concentrating many Coast Guard resources on operational aspects of hurricane responses, have necessitated a departure from our standard procedures when responding to FOIA requests for these records." While we accept this excuse for handling our FOIA, we are still looking for reasonable answers.

"The Storm"

"The Storm" by Ivor Van Heerden is a book whose subtitle "What went wrong and why during Hurricane Katrina the inside story from one Louisiana scientist" (ISBN 0-760-03781-8) tells it "like it is." In it, we found what very well may be the answer to the questions we posed under FOIA. The author has the background and is not interested in becoming part of a growing "cover-up" by officials who seek to avoid taking the blame for their mistakes. For that matter, neither is GCMA. The following passage taken from his book (pgs 241, 242), may put one of our theories to bed – but we will see what our FOIA to the Coast Guard has to offer if or when it ever materializes.

"The levees along the east side of this large navigation canal, the ones that had failed and flooded and basically destroyed the Lower Ninth Ward, had been overtopped at about 6:50 A.M. Monday morning, but only for three hours, and by only a foot and a half of water. This water began to erode the outside of the earthen embankments (the scouring effect that is so absent on the inner-city canals). The head (of water) in the canal pushed four sections of the flood walls outward. As they tilted, cracks developed at the base on the canal side, with water percolating down and then under the sheet piling. At these breaches the levee was built on a layer of organic marsh and peat with very soft clays ten feet thick the dredge material from the original 1920 excavation of the canal. Like the soils at the drainage canals, this is a very weak medium. Fifteen feet below the top of the embankment is a layer of soft clays with silt and sand lenses more poor material. Based on the design memorandum that we found in the files of the DOTD, the pilings at the breach extended to a depth of ten feet below sea level. (This we knew from the exposed sheet piling in the breached areas, but we checked elsewhere with our sonar testing.) The canal is dredged to a depth of thirty-six feet below sea level. Thus there was a linear depth of twenty-six feet of canal that was not blocked by sheet piling, allowing for a potential lateral flow of water under the pilings from the canal.

"Local residents adjacent to the canal had often said that their backyards were at times quite wet, even during dry spells. This suggests serious seepage from the canal in the best of times. At the very least, this sheet piling should have been sunk to minus-**70 feet**. Every engineer in the region knows that this wide, deep canal is on the receiving end of all the water and pressure coming out of the Funnel, which I derided earlier as one of the world's best storm surge delivery systems. This woefully insufficient steel could not hold the static loading from the surge, nor was it deep enough to form an effective hydrologic barrier against seepage below. Around 7:45 A.M., a little less than an hour after the overtopping began, the levees at two sections along the eastern side of the Industrial Canal succumbed to the enormous pressure, the scouring, the substandard soils, and the insufficiently deep sheet piling and failed explosively and catastrophically.

"The geo-technical collapse was aided by the overtopping and the scouring, but it was not caused by it. Nor was it caused by the barge that ended up inside the failed section. (In the re-flooding of the Lower Ninth from Rita, the barge moved again and landed on the front of a small yellow school bus. Six months later it was still there.) A cursory examination showed that something had knocked nine inches off the top of about forty feet of the southern sections of the concrete flood wall. Initially the Corps speculated that the drifting barge did this while the wall was still upright and intact, but closer inspection revealed that this segment was damaged after it had already tilted to a 45-degree angle. The wall failure was prior to the impact from the barge, which floated into the breach well after the major failure." *[Emphasis by underlining is ours.]*

Zillion Dollar Boondoggle

Hurricane Katrina caught the Corps of Engineers with its pants down. The Industrial Locks, built in 1922, was scheduled for a major expansion – one of the largest projects on the Corps' calendar. One very legitimate purpose for extending the locks was to accommodate increased barge traffic heading east along the Intracoastal Waterway toward Mobile, AL, and Pensacola, FL. The other purpose (and one that vanished as the flood decimated New Orleans) was to make it possible for deep-draft shipping to access the industrial area behind New Orleans to move ships from the Mississippi River out of the river and to docks and businesses behind the city on the dredged waterway leading to Lake Pontchartrain. It also would have encouraged deep-sea traffic

to use MR. GO rather than the river – a forlorn prediction made fifty years ago that never materialized. Even the port's container handling equipment relocated to the river from the Industrial Canal.

The Mississippi River Gulf Outlet channel has never carried the number of ships it was projected to carry when it was built and must be constantly dredged at tremendous cost and harm to the environment to maintain anything close to its project depth.

However, MR. GO is a waterway that caused many other problems long recognized by the citizens of St. Bernard Parish who warned years ago that this channel cut through their wetlands would allow a storm surge direct access to their levees and wipe out their parish that is exactly what happened in Hurricane Katrina.

The Corps of Engineers walked over the protests of the residents of St. Bernard Parish in favor of the more powerful business interests of the Port of New Orleans. As predicted, the storm surge rushing up the funnel formed by the coast line with the MR GO channel running in an almost straight line down the center damaged or destroyed over 98% of the buildings in St. Bernard parish whose pre-Katrina population approached 60,000. Its citizens lost everything they owned in the flood.

The Corps of Engineers also walked all over the people in New Orleans Lower Ninth Ward, the neighbors of St. Bernard Parish, who opposed the Corps' deepening the Industrial Canal at the end of MR GO and condemning neighborhood property along the Industrial Canal to do so. These are all matters of public record.

In preparation for the huge new locks that could accommodate a large ship, facilities lining the Industrial Canal were dismantled and removed leaving nothing but the Corps of Engineers floodwall reinforced with its shallow sheet steel piling that extended only a meager 10 feet below sea level. We are not sure exactly what the Corps and its contractors ripped out, but we are certain the businesses previously occupying the site (and anyone in their right mind) would have driven pilings deeper than 10 feet into the mud. Everything was ripped out after public hearings, neighborhood protests, and public demonstrations against the project long before the storm. But money, business interests, and the potential of future port expansion won out over the local residents. The deep new locks were part of a project that probably would have dragged on for the next ten years in typical Corps of Engineer piecemeal fashion. The project included the replacement of the ancient Florida Avenue Bridge completed just before Katrina arrived. With the storm surge, the levee failed and the Lower Ninth Ward flooded.

The Corps of Engineers did not heed the call of St. Bernard residents at a Mississippi River Commission hearing that GCMA attended aboard the M/V Mississippi several years ago. The Corps representatives indicated that "Congress had spoken" and the new locks would be built and the Mississippi Rive Gulf Outlet Channel (MR.GO) would remain open. Well, who needs a 36-foot deep white elephant today. Let the aborted Cross-Florida Canal project of the 1970's serve as an example of what can and should happen here!

Congress apparently is speaking again – this time asking the Corps of Engineers how best to close the troublesome MR GO. This, after spending billions of dollars to help New Orleans recover from Hurricane Katrina. It is interesting that they didn't think about this sooner. Of the three canals that flooded and drowned New Orleans, the Corps is already installing flood gates – but not on the Industrial Canal or the MR GO channel that leads into it.

In his book, The Storm, Ivor Van Heerden suggests that the Corps of Engineers is largely responsible for the engineering failures that doomed New Orleans and makes a very strong case. He also has suggested many wise and thoughtful non-political approaches for the future. Unfortunately, he is dealing with a whole zoo of carnivorous political animals that he very appropriately identifies in the pages of his book.

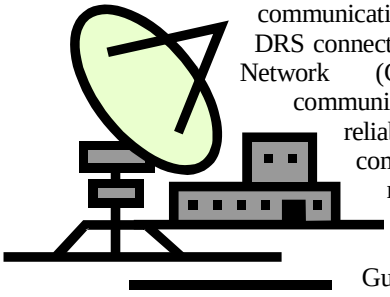
COAST GUARD ACTIVATES RESCUE 21 SYSTEM IN GULF STATES

[Source: USCG News Release, July 4, 2006]

MOBILE, ALA. - The U.S. Coast Guard has begun using a new command, control and communications system known as Rescue 21, for search and rescue, marine environmental protection and homeland security missions along the Alabama, Mississippi, and Florida coastlines. Advanced direction-finding capability, a critical component of Rescue 21, allows Coast Guard watchstanders to more accurately locate the source of a distress call. That capability also allows the Coast Guard to locate the source of hoax calls. Rescue 21 also includes a network of towers to help reduce coverage gaps in coastal areas and ensure more calls get through to the Coast Guard.

"The system provides a revolutionary leap in enhanced command, control, and communications capabilities," said Capt. Dan Abel, Rescue 21 Project Manager. "Given our long and proud history of standing the watch, such leading edge technology will radically improve the efficiency of search and rescue operations and offers interoperability with other federal, state and local law enforcement agencies, and with first responders across all rescue or homeland security missions in the coastal area," he said.

Proving its mettle following Hurricanes Katrina and Rita, is the Disaster Recovery System (DRS), a critical component of Rescue 21. A fully autonomous, rapidly deployable emergency communications package, it provides voice and data connectivity if a man-made or natural disaster destroys the existing communications infrastructure. The DRS connects to the Coast Guard Data Network (CGDN) via satellite communications. For six months, it reliably provided one-way communications with mariners, in the southeastern portion of the Mississippi River and Gulf Coast region. Currently, four of the deployable systems are staged in Huntsville, Ala. for quick deployment.



The National Oceanic and Atmospheric Administration has predicted eight to 10 hurricanes in the Atlantic for 2006; at least half of which are expected to be the strength of Category Three storms.

"Rescue 21 has been accepted at an especially critical time of year in the Gulf States," said Abel. "It provides vital technology to increase the capabilities of our Coast Guard crews at a vital time when summer search and rescue pace

increases and tropical storms or hurricanes put mariners and coastal residents at risk," he said.

A $730 million acquisition project and the second largest within the Coast Guard, Rescue 21 will replace the Coast Guard's aging National Distress and Response System, built during the 1970s. Once fully implemented, Rescue 21 will cover 95,000 miles of U.S. coastline and inland waterways.

By the Numbers

- First life is saved using Rescue 21 system: November 2005
- First Rescue 21 system commissioned Atlantic City, N.J., December 2005
- Two Initial Operating Capacity regions ; Atlantic City, N.J., and Eastern Shore, (Maryland, Delaware and Virginia) accepted Rescue 21 in 2005
- First Low Rate Initial Production (LRIP) region accepted Rescue 21 in Alabama, Louisiana and Mississippi, May 19, 2006
- Sector St. Petersburg, Fla., the second of four LRIP regions, accepted the system June 29, 2006
- Nationwide rollout to about 40 additional regions is slated for completion by 2011.

For more information log on to:
http://www.uscg.mil/rescue21/home/index.htm.

[GCMA Comment: This news release conveniently overlooks the fact that "Rescue 21" is a direct result of the MORNING DEW accident whose response was bungled by substandard performance of U.S. Coast Guard Group Charleston as reported in GCMA Report #R-305, Rev. 1.]

MARINERS GREATEST MISTAKES
By Richard A. Block

Membership in GCMA may not have a great deal of attraction for the mariner who already knows it all. However, we hope our newsletter and our research reports will provide something useful along the way to make life a little easier for other mariners.

GCMA was founded in 1999 with the help of four national maritime unions as "The Voice for Mariners." It would be more accurate to say "The Voice for Lower-Level Mariners." After all, most "upper-level" mariners who serve on ships greater than 1,600 Gross Register Tons have the common sense to belong to established labor unions that are adequately funded to represent the interests of their members at both the local and national level.

Rewards for Union Members

In the April-June 2006 edition of Marine Officer, MEBA President Ron Davis in his "Message from the President" column started his article with these words:

"One of our achievements over the past four and a half years has been the tremendous working relationships that MEBA has developed with our contracted employers. My belief has always been that the membership will prosper – when the companies that we work for prosper – and the companies can only excel through the dedication and expertise of its skilled MEBA workforce. In order for labor and management to both flourish, each side has to understand each other's goals and challenges."

Ron's article then goes into great detail to list the things that his union has accomplished for its membership during this period. We sincerely wish MEBA members well and thank them for their past support.

Spirit of Cooperation

This was the spirit in which the four unions that founded GCMA in 1999 approached the issues our mariners faced at that time issues that could be solved in a spirit of cooperation. Unfortunately, the boat owners in the offshore oil industry and the inland towing industry were in no mood to cooperate and did everything they could to avoid dealing with any labor unions. This resulted in a "power play" in which our lower-level mariners came out on the losing side.

It is only reasonable to look back and see what we, as "lower-level" mariners have accomplished on our own today.

The Invisible Majority

"Lower-level" mariners with licenses and z-cards represent approximately 126,000 out of 204,000 mariners the Coast Guard even knows about. We are clearly a "majority" but one without any unity or sense of purpose. Furthermore, this number does not even include thousands of deckhands, deckineers, unlicensed engineers, cooks etc. that do not have any credentials and therefore do not even exist as far as the Coast Guard is concerned. On the whole, "lower-level" mariners are an invisible majority.

No Bargaining Power

We are "employees at will" without any job security whatsoever. We have no bargaining power because we have not yet learned to work together to prove that in a democratic society the "majority rules."

Keep 'em Ignorant

At the lowest level, our mariners are denied adequate entry-level training. Because we do not have an effective voice, the Coast Guard does not even recognize by regulation "entry level" status for mariners who enter the industry to work on vessels of less than 100 gross register tons and some of these vessels are up to 180 feet in length. Sure, they worked with industry to publish two unenforceable NVICs for lower-level entry-level employees in the 1990s, but never initiated any enforceable regulations to require even the most basic safety training.

Lower-level mariners still are responsible for paying for most of their own training and it has always been that way. That is why quickie "cram" courses flourished for decades until the mid-1990s. Some companies "help" with "loans" but often turn their workers into the equivalent of indentured servants in return for the tuition assistance. Only a very few lower-level mariners who were fortunate enough to join certain unions have access to accredited union schools funded by employers and operated by the unions to upgrade skills to keep pace with the new regulations. For the most part, lower-level mariners are left to their own devices to absorb or ignore changes. Mariners must train themselves, maintain their credentials, maintain their health to retain their credentials and pay to upgrade them. Then they must jump through numerous hurdles the RECs put in their way. Now mariners face paying for exorbitant TWIC cards, traveling to inconvenient places for fingerprinting all for the basic privilege of keeping a job that offers no job security.

"Green" deckhands show up on our boats with little if any training in any area other than a quick read of "company policy"

and quickly are pressed into service in jobs they were never adequately trained for. It's a matter of "sink or swim" and those who sink are simply abandoned and replaced. Those injured in the process are left to fend for themselves.

GCMA is looking into the training fiasco involving entry-level mariners that went unnoticed by the Coast Guard for the past 33 years. After three years of patiently waiting for the opportunity, GCMA Chief Engineer Glenn Pigott finally succeeded in bringing this matter to the attention of MERPAC at their April 2006 meeting. MERPAC assigned it the label as "Task Statement #55." This is now a work in progress.

In short, thousands of lower-level mariners were short-changed in safety and vocational training for decades by an industry that convinced both the Coast Guard and Congress that its vessels can be manned safely by untrained mariners picked up off the streets and worked for endless hours. They purposely diminished the significance of these jobs and thereby diminished the importance of the mariners who must perform these jobs. "Task Statement #55" will bring this into clear focus. However, like much of the work that GCMA does, it is out of sight and, therefore, out of mind.

Work 'em Until They Drop

Not having an effective voice explains why there have been no work-hour limits for our "lower-level" deckhands, deckineers, unlicensed engineers, and cooks. This is why many boat owners throughout the United States can continue to use any untrained person off the streets including prisoners recently released from jail and illegal immigrants to fill these "invisible" jobs.

Anyone who reads our newsletter or views our website knows that GCMA documented work-hour abuses as early as mid-2000 in our "Yellow Book" titled Mariners Speak Out on Violations of the 12-Hour Work Day and in the following GCMA research Reports:

- **GCMA Report #R-207**
- **GCMA Report #R-258**
- **GCMA Report #R-279**
- **GCMA Report #R-322**
- **GCMA Report #R-370**
- **GCMA Report #R 370-B**
- **GCMA Report #R 370-C**
- **GCMA Report #R 370-D**
- **GCMA Report #R 370-E**
- **GCMA Report #R-375**
- **GCMA Report #R-401**
- **GCMA Report #R-412**
- **GCMA Report #R-413**

We did our homework, but why haven't we succeeded in reforming the situation on even this one issue?

Understand the History

Four major maritime unions offered our lower-level mariners their assistance and their hand of friendship to organize our mariners on a number of occasions.

In 1973, MEBA submitted a report to Congress spelling out the need for licensed engineers aboard uninspected towing vessels. GCMA unearthed and published this document on pages 23-30 in **GCMA Report #R-401.** Unfortunately, Congress ignored that report. Thirty-three years later, we have untrained deckineers operating the power plants on many towing vessels. Nobody in the Coast Guard or industry seems even slightly concerned that over 1,300 of these vessels sank, capsized and flooded in a period of a dozen years while 41 exploded and 103 others were abandoned during the same period. The attitude shared by the Coast Guard and management as it applies to these uninspected vessels appears to be: Re-float them, rebuild them or write them off and don't make a big deal out of it because it's all part of the cost of doing business. In the scheme of things, mariners are insurable and/or expendable!

In 1998, the International Organization of Masters, Mates, and Pilots (MM&P) supported the grass-roots Pilot's Agree movement of towing vessel personnel on the western rivers and inland waters with money, time, and effort. If they had received the support of the mariners at that time, **mariners in the towing industry would have an effective voice in Washington today.** Instead, mariners never saw the "big picture" the fact that the maritime industry is regulated in Washington. The unions understand this, and that is why each maritime union maintains an office in the nation's capital.

In 2000 through 2003, MEBA, MM&P, SIU, and AMO supported Offshore Mariners United (OMU) in the offshore oil industry. Again, this very significant and well supported union movement failed to win the support of a sizeable number of mariners in the offshore oil industry. If it had been successful, **mariners in the offshore oil industry would have an effective voice in Washington today.**

The boat owners, united by their trade associations, not only fought "unions" but fought their own employees in both these cases and won. The companies had the money to hold out for a longer time than did the mariners who counted on a regular paycheck. However, their "victory" turned out to be hollow. Today, there is an acute shortage of "lower-level" personnel throughout the industry. Industry management has operated on borrowed time since it declared war on its mariners in the Spring of 1998. Retirements of older, experienced licensed officers has taken its toll. Retaliation against activists in Pilots Agree also took its toll.

Rejecting the unions that organize and operate some of the premier trade-oriented training schools and providing nothing comparable to take their place left the industry with diminished hope of training any new recruits they hope to attract. Men who worked in the towing and offshore oil industry for an entire lifetime no longer recommend the maritime industry as a career for their children.

Today, our lower-level mariners do not have the "tremendous working relationships" with their "contracted employers" that President Ron Davis is proud to report to the members of his union. Our mariners do not have contracts with their employers – it is all one sided – take it or leave it, like it or not.

Boat owners are trying to entice Academy graduates who into the industry by painting rosy pictures of opportunities waiting to be plucked from the vine. If they accept, most of them soon leave for greener pastures and places where they do not have to endure the "Plantation Mentality" employers forced upon their mariners for the past three decades.

Greener Pastures

GCMA is not a labor union and cannot offer you union membership. Union membership, like liberty, is something you will never appreciate unless and until you have to fight for it. If unions ever again show an interest in lower-level mariners, our mariners would be wise to accept their support on their terms and then shape the union so it is responsive to their needs A lifetime career in the marine industry presents far too many challenges for an individual mariner to overcome today without working with others mariners.

GCMA BACKS 2006 SURGEON GENERAL'S REPORT ON SECONDHAND SMOKE AND REQUESTS SUPPORT FROM CONGRESS

[GCMA submitted this letter to 105 members of the U.S. House of Representatives, the U.S. Senate and their staff members along with copies of GCMA Report #R-341, Revision 3 by mail on July 5, 2006. GCMA posted the Executive Summary of the Surgeon General's report as GCMA Report #R-341A on our website The text of our letter follows.]

Our Association represents the common interests of many licensed and unlicensed "lower-level" mariners who, by definition, serve on tugs, towboats, small passenger vessels, and offshore supply vessels of up to 1,600 gross register tons.

We embrace the recently published 2006 Surgeon General's report titled The Health Consequences of Involuntary Exposure to Tobacco Smoke as a significant public policy initiative that we believe Congress could use to remediate the unhealthy workplace conditions on the thousands of commercial vessels where our mariners serve.

Long ago, Congress placed the superintendence of the merchant marine in the hands of the Coast Guard. As our enclosed petition shows, we asked the Coast Guard to regulate smoking on the small commercial vessels manned by our mariners in the same manner as they regulate smoking on their cutters and shore installations. Unfortunately, they declined to do so. We believe our merchant mariners deserve the same level of health protection afforded Coast Guard military and civilian employees.

We would like to point out that many of our mariners work under very unhealthy conditions such as:

? Licensed officers may work six-hours on, six-hours off, 84-hour workweeks for up to 30 days at a time.
? Stressful conditions of running at night, in bad weather and poor visibility, without relief and often without a lookout or other crewmember on duty. For licensed officers, this can become a sedentary lifestyle.
? Unlicensed personnel have no work-hour limits. The Coast Guard ignores well-documented work-hour abuses affecting both licensed and unlicensed personnel throughout the industry.
? Poor sleep patterns interrupted by noise, vibration, and watch-changes.
? Existing regulations promote undermanning on both inspected and uninspected vessels.
? Owners do not hire cooks on smaller vessels. Consequently, healthful meals and meal planning are rare.
? The Coast Guard has not yet acted on the poor quality of drinking water issues addressed by Congress in 2004.
? All this takes place in close-quarters living in an atmosphere where airborne pollutants re-circulate.

Former Surgeon General C. Everett Koop is quoted in an earlier report (1986) that "the right of smokers to smoke ends where their behavior affects the health and well-being of others; furthermore, it is the smokers' responsibility to ensure that they do not expose to the potential and harmful effects of tobacco smoke." The potential harm in 1986 is proven in the pages of the 2006 Surgeon General's report.

We do not suggest that Congress initiate an unpopular anti-smoking crusade. Many mariners have developed bad habits over the years that must be adjusted to protect the health of every mariner who works on the boat. We believe it is only reasonable to ask mariners who smoke to take that smoke outside of the enclosed areas of the boat to improve the health of all who must otherwise live and breathe in a polluted environment. We do not expect this to occur overnight, but it will never occur unless Congress takes the first step. Although the Coast Guard knows what to do, they will not take the necessary steps to influence "management" unless directed to do so. We opine that the proposed towing vessel inspection regulations would provide an excellent entry.

Within the next two months, the Coast Guard plans to tighten the mariner physical requirements in guidelines currently under final review by the National Maritime Center. Although this will bring the medical records of those mariners with a credential under Coast Guard scrutiny, it does nothing to improve their unhealthy living conditions in the workplace except possibly to thin the ranks.

By ignoring the health issues listed above including secondhand smoke, the health of the entire "lower-level" mariner workforce numbering at least 126,000 credentialed mariners and thousands of others without credentials is at risk. We point out that the maritime industry already faces severe shortages of lower-level mariners. We speak on behalf of these "lower-level" mariners.

We ask Congress to take this step to protect the health of our mariners because the Coast Guard has not taken this initiative and because the evidence in support of this as public policy clearly exists in the 2006 Surgeon General's report. Specifically, we ask that Congress "require the Coast Guard to initiate rulemaking to protect "lower-level" merchant mariners under their superintendence from the actions of active smokers and the health consequences of secondhand smoke on commercial vessels to the same degree and extent that they protect their own personnel from those same dangers."

We posted the Executive Summary of the Surgeon General's report on our website under "Research Reports" as Report #R-341**A. s/**Richard A. Block, Sec'y, GCMA

TWIC: COAST GUARD HAS MUCH TO LEARN FROM THEY'RE PAST MISTAKES WITH OUR LOWER LEVEL MARINERS

"Dear Commandant…"

ATTN: Admiral Thad Allen, Commandant
United States Coast Guard
2100 Second Street, SW
Washington, DC 20593-0001

Dear Admiral Allen,

Several days ago, I wrote the enclosed letter specifically in response to the USCG/TSA joint rulemaking on the proposed Transportation Workers Identification Credential.

At the time, I thought it important to bring to your attention, as the newly appointed Commandant, the views of a large number of our "lower-level" merchant mariners.

Our mariners are truly upset about the way that the Coast Guard overlooked and neglected them in so many ways for so many years. The proposed TWIC and other recent regulations may drive many of our "lower-level" mariners out of the

industry and cause hardship for others.

The enclosed letter reveals many reasons why our mariners no longer have confidence the Coast Guard will fairly and equitably carry out the Congressional mandate to supervise the merchant marine or to protect their safety and welfare. In this letter, we suggest that it is time for a whole new deal.

I invite you to look up the references in the attached letter on our internet website to learn more of the problems recited in the attached letter and others as well. If you care to reply, we will be pleased to publish your views in our newsletter.

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

[GCMA submitted preliminary comments to joint TSA/USCG Dockets #24191 and #24196 on May 26, 2006 as we reported in GCMA Newsletter #40. More substantial annotated comment followed in this letter on June 15th.]

Docket Management Facility
U.S. Department of Transportation
400 Seventh Street SW, Room PL-401
Washington, DC 20593-0001

VIA FAX TO 202-493-2251
GCMA File #A1032

Dear Sir or Madam,

Our Association represents the common interests of many licensed and unlicensed **"lower-level" mariners** who, by definition, serve on tugs, towboats, small passenger vessels, and offshore supply vessels of up to 1,600 gross register tons.

We believe that that all mariners with active Coast Guard licenses, Merchant Mariner Documents, and Certificates of Registry should be allowed to forego the procedure of obtaining a TWIC and be grandfathered into the Department of Homeland Security's TWIC program by being issued a Transportation Workers Identification Credential without further cost to them. This would…

- Save our mariners considerable time including lost time from work.
- Save our mariners, many of whom are at minimum wage workers, a considerable amount of money.
- Save mariners from undergoing a bureaucratic hassle with a new agency they never dealt with before.

Our "Lower-level" mariners are a majority of all working mariners. Since 1992, the National Association of Maritime Educators (NAME) followed by the Gulf Coast Mariners Association (GCMA) in 1999, asserted that "lower-level" mariners were a majority of all mariners in the U.S. Merchant Marine.[(1)] In December 1992, we pointed out that the Coast Guard's license information system had no capability of ascertaining how many, or what type of valid merchant marine licenses or merchant mariner documents were in existence at any given time.[(2)] The Coast Guard made absolutely no commitment to maintain that type of information until late 2004. *[(1)Refer to GCMA Report # R-353, Lower-Level Mariners Are a Majority of All Licensed Mariners. All GCMA Reports are available on our website www.gulfcoastmariners.org (2)Source: NAME Newsletter #31, p.7]*

In the Summer 2005 issue of Proceedings of the Marine Safety and Security Council, the Coast Guard reported a total of 204,835 licensed and certificated mariners – the first such summary in over 10 years! Of that total, 126,362 credentials are, prima facie and without question, those of our "lower-level" mariners. We point out that this is a conservative estimate since many other "lower-level" mariners may exist outside that count in other categories enumerated in Proceedings.

During his term as Coast Guard Commandant and before he took over control of the Transportation Security Administration (TSA), GCMA repeatedly asked Admiral James Loy to provide our Association with a count of all mariners under the superintendence of the Coast Guard. We never received the courtesy of a reply.

We urge DHS Secretary Chertoff to ask the same questions and draw the same conclusion that GCMA did many years ago. How can the Coast Guard know who our mariners are if they cannot even count them properly to say nothing of tracking their whereabouts for a call-up in case of a national emergency? While we appreciate the effort of the National Maritime Center to publish a "head count" in 2005 following our specific request to do so, we understand that the Coast Guard never maintained centralized files of licensed mariners until quite recently. This is in spite of the fact that the Coast Guard always had a maritime security mission since end of World War II. They just never performed that mission competently in recent years – and their lax performance has come back to haunt them. In fact, during the administration of Admiral Kramek, the word "security" was removed from the job title of the Assistant Commandant for Marine Safety, Security, and Environmental Protection only to be hurriedly restored by means of hundreds of costly paperwork changes in the Code of Federal Regulations following the terrorist attack of September 11, 2001. Shuffling this mission to another agency of the Department of Homeland Security only underscores the Coast Guard's belated attention to their traditional maritime security mission.

Since "lower-level" mariners are the majority of all U.S. merchant mariners, the impact of the proposed TWIC rulemaking will fall most heavily and inequitably upon all lower-level mariners. Frankly, the Coast Guard should carry the burden of straightening out the mess that a number of Commandants of the Coast Guard allowed to exist. The Coast Guard is well paid by the American taxpayer to carry the burden and not to shift the weight of that burden onto the backs of our mariners.

The Proceedings figure of 204,835 mariners may account for all currently credentialed mariners. However, that figure fails to include thousands of other mariners working in uncredentialed positions of deckhand, deckineer, unlicensed engineer, or cook on vessels of less than 1,600 GRT or for alien "riding gangs" allowed on large merchant vessels. Thousands of these individuals do not possess licenses or documents, nor were they ever required to do so. How did these individuals fall below the radar screen" until this TWIC rulemaking suddenly proposed that they purchase a high-tech TWIC credential at exorbitant prices? We will explore that question.

Congress, in 46 U.S. Code §2103, placed general superintendence of the U.S. Merchant Marine (of which our "lower-level" mariners are in an overwhelming majority) under the Secretary of the Department of Homeland Security. We assert that the Coast Guard consistently, over a span of many years, trivialized the importance of the valuable services our "lower-level" mariners performed, and harassed and haggled with them with a longstanding and unbroken record

unconscionable inefficiency in most of the nation's 17 Regional Exam Centers (REC). The user fee, as collected in the REC, became an irritating symbol of bureaucratic inefficiency and mediocrity. It is little wonder that a personnel crisis currently overwhelms many branches of the maritime industry employing our "lower-level" mariners.

Even worse, however, is that the Coast Guard never even raised a finger regulate thousands of "lower-level" mariners who work on commercial vessels. If Congress never gave them the authority to do so, it is because Coast Guard officials, influenced by their close "partnership" with management and industry trade associations chose never to mention this group of mariners to Congress. Specifically, the mariners we refer to are:

- Crewmembers of over 3,000 small passenger vessels up to 100 Gross Register Tons (GRT) carrying less than 149 passengers.[(1)] GCMA previously commented to this docket that vessels carrying less than 149 passengers make excellent terrorist targets. The Department of Homeland Security needs to realize that the death or injury of this number of passengers on a public conveyance by an act of terrorism would have a public impact comparable to the Murrah Federal Building bombing in Oklahoma City or the Madrid or London commuter train bombings. Yet, many of these "lower level" mariners receive little if any formal **training**. Instead of required training and in lieu of "regulations" requiring it, there are only "guidelines" in the form of unenforceable Navigation and Vessel Inspection Circular #1-91.
- Every unlicensed crewmember on the entire inland and river towing vessel fleet of approximately 5,200 vessels up to 1,600 GRT throughout the U.S. With the huge turnover within the industry, many of the individuals involved are treated as nothing more than casual labor. Our comments on **training** in the previous paragraph hold true here as well except that we cite existing NVIC 1-95 for towing vessels. Congress never authorized the Coast Guard to limit these mariners to even a 12-hour workday.[(1)] This results from the Coast Guard's Headquarters' close "partnership" with vessel owners (who often employ Coast Guard officers after retirement). The Coast Guard overlooks the fact that the towing industry's much-touted Responsible Carrier Program finds nothing wrong with a 15-hour workday for uncredentialed mariners. It is easy to connect the dots and understand why Coast Guard officials never brought these and other overt abuses to the attention of Congress in a Legislative Change Proposal. We informed the Coast Guard of these problems years ago. *[Refer to GCMA Report # R-370 (Series) 12-Hour Rule Violations; GCMA Reports #R-375, Crew Endurance: The Call Watch Cover-up; and. GCMA Report #R-346, Work-Hour Abuse, Whistleblower Protection and "Deadhead Transportation.]*
- Crewmembers of offshore supply vessels (OSV) on vessels up to 100 GRT.
- Crewmembers on offshore tugboats up to 100 GRT.
- Paid uncredentialed crewmembers of thousands of uninspected passenger vessels (UPV) whose Operators hold licenses and now will be required to obtain TWICs.

The proposed $139 plus two trips to a new TSA "enrollment center" would strike this unrepresented group of "lower-level" mariners very heavily. It would further discourage others from ever entering an industry that has become increasingly unattractive. While many employers might opt to import cheap foreign labor or even resort to using illegal aliens to continue to show a profit – both activities would be directly counter to the stated purpose of this rulemaking to secure American ports from terrorist attack. Consequently, GCMA strongly opposes these alternatives and favors reasonable internal reforms we have advocated within the marine industry.

We vigorously assert that this entire rulemaking proposal was based on a false premise. Just as the "defense" of the United States is a common goal supported by all American taxpayers, so should the "security" of our homeland be accomplished at the expense of all taxpayers. Where holding the Coast Guard credential that our mariners have is a "privilege," holding a TWIC is not a "privilege" and should not be subject to a user fee. Unfortunately, the Coast Guard at Headquarters level has remained so far out of touch with our "lower level" mariners for so many years that it apparently does not comprehend (or care) that a significant number of them are willing to forgo a "privilege" that has become far too pricey. As an former Army officer, I never had to pay for my security clearance, and neither should any of our nation's merchant mariners at any level have to pay for theirs!

The Coast Guard continues to neglect of our "lower-level" mariners. The Coast Guard has become so accustomed to neglecting and ignoring our mariners to the point where they never even bothered to mandate basic shipboard or shoreside training for any of the five groups previously listed. Nor did they require any training or offer career guidance for a significant portion of the 43,339 "entry-level" mariners enumerated in Summer 2005 issue of Proceedings. By "entry-level," I refer only to those "ordinary seamen," "wipers", or "food handlers" who have merchant mariner documents (MMD) and work on vessels from 100 to 1,600 tons. Our count of "lower-level" mariners does NOT include any of this large number of mariners because many work on vessels larger than 1,600 GRT. Our comments do not refer to entry-level positions on vessels greater than 1,600 tons that do receive the distinct advantage of meaningful training at union schools. However, our Association currently is working on this training issue within MERPAC.(1) [(1)GCMA Project #R-428.]

Unfortunately, common employment terms like "deckhand," "deckineer," "cook," and "unlicensed engineer" do not even exist in the Coast Guard's regulatory lexicon although thousands of "lower-level" mariners in the five groups listed above currently fill these jobs. Many of these jobs, especially on towing vessels, are extremely dangerous and unforgiving as we record in GCMA Report #R-351, How Safe Is The Towing Industry? This report contains a reprint of a 1994 in-house Coast Guard document that the Coast Guard chose to ignore for years, even after we published it on the internet. Those same "lower-level" jobs experience a massive "turnover" of industry personnel every year that, unless checked, will make it virtually impossible to keep track of thousands of uncredentialed persons serving on commercial vessels under 1,600 gross register tons. We looked in vain for a provision in the proposed rulemaking that requires a credentialed mariner to notify either the Coast Guard or the TSA of a permanent change of address. We believe that this is a significant regulatory shortcoming, especially in the event of a call-up of qualified mariners in event of a national emergency.

Many employers treat uncredentialed deckhands, deckineers, unlicensed engineers, and cooks as nothing more than casual labor. This now has become more significant

because these individuals have access to secure areas on vessels and may have access to waterfront facilities at crew change. Security concerns call for this segment of the workforce to be 1) recognized and then 2) identified as a major priority. The Coast Guard never recognized them in years of writing volumes of regulations except those "entry-level" ordinary seamen, wipers, and food handlers." However, this "entry-level" classification is only recognized on vessels of over 100 gross register tons.

All "lower-level" mariners in the five groups we cited above as well as the "entry-level" mariners the Coast Guard minimally regulates as an afterthought must have adequate workplace protection by formal federal regulations that Congress must authorize. These regulations must guarantee these workers the safety in the workplace as envisioned by Section 251 of the Occupational Safety and Health Act of 1970. The Coast Guard failed to enact regulations comparable to regulations governing comparable dangerous landside occupations either on the Outer Continental Shelf[(1)] or in at least three other major areas where "protection, when provided," is limited to unenforceable and watered down "guidelines" promulgated in various Navigation and Vessel Inspection Circulars (NVIC).[(2)] *[(1)46 CFR Part 143. Industry delayed and the Coast Guard procrastinated over its revisions for years while OCS workers including our mariners were left with insufficient protection. (2)i.e., hearing protection; protection from asbestos; and the provision of sanitary water for drinking, cooking, and bathing. Refer to GCMA Reports # R-349, Protecting Mariners' Hearing; and #R-395, Safe Potable Water and Food Service On Workboats; An Appeal To Congress.]*

After security concerns are satisfied, this currently unregulated part of the maritime workforce needs to pass through the same FBI checks and terrorist watch lists as proposed in the TWIC rulemaking the same steps proposed for all currently credentialed mariners. From a security standpoint (with no slight to the personal integrity of any American intended), our Association believes this (and alien "riding gangs") may be the most uninformed, unstable, and questionable part of the current maritime workforce. Part of this is a result of the fact that the Coast Guard in its superintendence of the U.S. merchant marine failed to get its message across to the credentialed and uncredentialed mariners alike.[(1)] Those mariners who pass the full security checks should be employable. However, they must receive adequate training, have an opportunity for steady employment or retraining, and be able to gain seniority within the marine industry. The forthcoming inspection of towing vessels mandated by Congress in 2004 may bring discipline and order through the imposition of meaningful regulations to an industry that has thumbed its nose at both regulation and its mariners for years. In summary, the large uncredentialed portion of the workforce needs to be identified and stabilized with immediate, adequate, and recorded safety and vocational training. *[(1)Refer to GCMA Report #R- R-382, Why Our Mariners Don't Get The Message.]*

The Coast Guard made and covered up significant blunders in mismanaging "lower-level" mariners over the years. Uninformed Coast Guard officers layered the entire STCW program over a credentialing program in 1995 without even notifying "lower-level" mariners. It was only through the efforts of maritime labor unions that the nation's upper-level mariners "got the message" and received the necessary training. Yet, most employers actively discouraged our "lower-level" mariners from joining labor unions. Coast Guard mismanagement involved our mariners in this excessively bureaucratic STCW scheme by encouraging the U.S. Senate to sidestep the process of formal treaty ratification of the 1995 STCW "Amendments" – essentially an entirely new international agreement. Unfortunately, our mariners' formal protest to the Chairman of the Senate Foreign Relations Committee came too late. The result for our "lower-level" mariners has been a decade of unmitigated chaos.

Next, the Coast Guard mandated STCW training for many "lower-level" mariners in 1997 without making any provision for funding that training whatsoever. Most mariners in our Coast Guard District never even learned of the STCW requirements until GCMA called a public meeting in April 1999 and presented our plight to Congressional staffers and 300 mariners and their families.

During the past decade, the Coast Guard increased its licensing requirements exponentially and to the point where training for some lower-level licenses require spending up to $20,000 compared to $1,000 a little over a decade ago again, without any consideration of how our mariners would pay for this training. The proposed TWIC rulemaking shows a similar careless disregard for our mariners' pocketbooks by bureaucrats who will not have to spend a dime of their own money.

For years, the Coast Guard failed to obtain necessary funding to run their 17 Regional Examination Centers (REC) in an efficient and businesslike manner. These RECs are the principal interface between our mariners and the Coast Guard and, as such, are few, far-between, and difficult to deal with. The customers (victims) of those RECs are predominately our lower-level mariners. Our mariners suffer because most REC personnel have little knowledge of a mariner's lifestyle or first-hand appreciation of the job he or she performs. A simple guided tour for REC employees and a week or so "at sea" for Coast Guard officer and enlisted personnel on vessels crewed by our mariners might have worked wonders. Many "lower-level" mariners have low educational attainment, work with their hands rather than with paperwork in an office setting, and are bewildered by the entire Coast Guard license or MMD application process. Overworked REC clerical workers often fail to understand or pay sufficient attention to their needs. Yet, each one of our mariners is a "paying customer" and the level of service received has been dismal. Neither the Coast Guard nor Congress recognized how serious the problem was until the system collapsed last summer after Hurricane Katrina. It would have failed regardless of Katrina because the collapse was inevitable. Adding still another layer of bureaucracy on top of this tottering structure is absolutely incomprehensible.

To the Coast Guard rulemaking staff involved with this project, I can only say: First you must understand this industry and its mariners **before** you try to regulate it. Take a couple of weeks off, get out in the field, and give it another try. The mission of protecting our homeland is vitally important, and we want to see your mission succeed. Try seeing things from our mariners' perspective. Visit them; talk with them, learn from them. If you think you know it all, you do not!

Although we cannot tell the Coast Guard how to manage their priorities, as taxpayers we can tell Congress when they fail to do it well. However, we are encouraged that Captain Ernest Fink, Commanding Officer of the National Maritime Center, finally garnered the funds he needs to start cleaning up the mess that many incredibly inept and misguided

predecessors left him. Unfortunately, this help may be too late but we appreciate his efforts and direction.

Delays of up to four months to process a license were common ever since the Regional Exam Centers were inundated with handling (free of charge) extremely complicated STCW paperwork in the late 1990s. Many other lower-level mariners who paid their user fees had to wait months for basic paperwork processing, upgrades, and renewals. Many of our mariners even lost jobs and opportunities because of widespread bureaucratic ineptitude at the RECs. This continues today as the RECs struggle with staffing problems and decentralized control that remains in the hands of local Marine Safety Offices. While the RECs throughout the country crumbled over a period of years, Headquarters never managed to allocate sufficient resources before Hurricane Katrina to superintend its "lower-level" mariners properly and that malfeasance has already taken its toll on our mariners. Sadly, many experienced mariners who left the maritime industry will never return. The TWIC regulations, when implemented, will put up another high barrier and paying this high price at entry will turn many entrants away.

Although "the squeaking wheel gets the grease" in the maritime industry, only the squeaks that are heard in Washington count. Unfortunately, the Coast Guard successfully insulates the protests of our lower-level mariners we represent by deflecting them to advisory committees like MERPAC, TSAC, and NOSAC. Trade associations like OMSA and AWO make so much noise in Washington and have such great access to funding that nobody pays attention to our mariners. Since our mariners don't own the boat they serve on, they cannot even invite their Congressman for a boat ride!

MERPAC, the Merchant Marine Personnel Advisory Committee, is the Federal advisory committee that is supposed to address mariner-training issues. The Coast Guard so mired MERPAC in STCW minutiae and "upper-level" mariner issues the Coast Guard staff and the major labor unions could have handled in house or at least in Washington for the past few years that MERPAC was unable to identify and address the Coast Guard's neglect of our "lower-level" mariners. Remember, work-hour abuse, the soaring cost of required training, and the impending crisis of further Coast Guard involvement in stiffening mariner medical requirements all contribute to the current "personnel shortage."

Today, as far as our "lower-level" mariners are concerned, when Management and the Coast Guard speak, much of what they say and write flies simply over our mariners heads. Finally, both the Coast Guard and Management have come to the belated conclusion that they need our mariners. Duh!

Although "lower-level" mariners are an overwhelming majority of all mariners, and our numbers are impressive in this small and apparently forgotten sector of the American economy, the mariners that Management and the Coast Guard ignored, abused, slighted, and trivialized for years are starting to "just fade away." The jobs Management offers are jobs that Americans can no longer afford to train for. Lack of training and "high turnover" eventually lead to lack of experience throughout the industry. River pilots on the Mississippi River note the lack of experience of the younger generation of pilots. At the same time, management in its quest for increased profits, loads more barges on the tows adding more stress to its pilots.[(1)] *[[(1)]Refer to GCMA Report # R-340, Oversize and Overloaded Tows Cause Safety Problems and Report #R-403, Stress and the Licensed Mariner.]*

Many jobs afloat are becoming "jobs that no Americans are willing to fill" – to use some recent immigration debate terminology. Why are they unwilling to take these jobs? If you are tempted to view this letter as an unsupported litany of mariner complaints, we invite you to browse our GCMA internet website and examine our "Research Reports." Our mariners bring these grass roots issues. Many of these should give Secretary Chertoff, Admiral Allen, and a number of senior Coast Guard officers a view into an area they really should become familiar with. Our certificated mariners are NOT terrorists, criminals, or "boat trash." They expect dignity and respect from civil servants, military officers, and appointed government officials.

In three recent major confrontations with "lower-level" mariners, management handled our mariners very shabbily. The tugboat strike in the late 1980s and its repression alienated many lower-level mariners on the east coast. The 1998 Pilots Agree strike in the towing industry on the western rivers and inland waters was a "grass roots" effort by working mariners to improve their pay and working conditions. The towing industry crushed the movement and pay and benefits still lag behind inflation. Its impacted mariners never forgot the way management and the Coast Guard treated them. The 2000-2003 Offshore Mariners United (OMU) organizing effort was an attempt by four major maritime unions to improve working conditions in the offshore oil industry by generously assisting our "lower-level" mariners. The offshore oil industry crushed it, initiated a "lockdown" in the Gulf of Mexico a full year before 9/11, and did not stop the rampant abuse of working conditions for our mariners.

In 2000-2002, GCMA attempted to bring serious work-hour abuses in the offshore industry to the attention of the National Offshore Safety Advisory Committee (NOSAC). The Coast Guard in the person of Admiral Paul Pluta and the NOSAC committee, even after our presentation of ample documentary evidence and testimony of rampant work-hour abuse, cavalierly ignored our mariners' protests and failed to take any action whatsoever. As was pointed out to the Admiral at the meeting in Coast Guard Headquarters, this was nothing less than dereliction of duty on his part a notion he simply shrugged off.

As regards the Towing Safety Advisory Committee (TSAC), the lopsided nature and operation of that Advisory Committee and its "capture" by the American Waterways Operators resulted in GCMA presenting a formal complaint to Congress in 2005 just before Hurricane Katrina struck the Gulf Coast.[(1)] *[[(1)]Refer to GCMA Report #R-417 Request for Congressional Oversight on the Towing Safety Advisory Committee.]*

Perhaps, the most cavalier and ill-advised blunder the Coast Guard ever made in its relationship with lower-level mariners, and a precursor of the TWIC rulemaking, was the infamous "fingerprint" rulemaking at 71 FR 2154 last January. It rivals the TWIC proposed rules in its pure arrogance, disregard for expenses borne by mariners, and pure inconvenience to all. This rulemaking was a hallmark of arrogance, stupidity, and an unwelcome sign of a burgeoning and bloated bureaucracy that our mariners show little interest in participating in. It left a bad taste in every mariner's mouth.

The idea of having the Transportation Security Administration take over "identity" with its TWIC and leave the Coast Guard with "qualification" and its "credential" is interesting, innovative yet thoroughly unconvincing and

probably even unworkable. This and the infamous new medical NVIC-XX, coupled with the National Maritime Center's re-grouping and reforming the remnants of the 17 discredited and defunct RECs and their move to Martinsburg in rural West Virginia certainly leaves the Coast Guard with an exciting three-ring circus. Frankly, the feedback we receive from our mariners is that most of our mariners would rather sit back and see a movie than become involved in this circus. To paraphrase General Douglas MacArthur, "Old mariners will never die, they will just fade away."

At this point, it may be instructive to cite this excerpt from the Declaration of Independence: "…that to secure these rights (i.e., life, liberty, and the pursuit of happiness) governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive to these ends, it is the right of the people to abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them seem most likely to effect their safety and happiness."

Lest this be seen as sedition (and punishable by the TSA under this proposed rulemaking), we believe that the time finally has come to ask Congress to reorganize the government to remove the superintendence of the U.S. merchant marine from the Coast Guard and return it to a new agency within the U.S. Department of Transportation. The further we move into the domain of the Department of Homeland Security, the more we identify our merchant mariners as "transportation workers." Our mariners do not need to remain under the control of a military establishment with its own traditions and military chain of command that has proven to be unresponsive to our needs. Consequently, the Gulf Coast Mariners Association, representing "lower-level" mariners will continue to seek redress of our grievances, including those cited above et al., through our elected Congressional representatives.

s/Secretary, Gulf Coast Mariners Association

Letter to Secretary Michael Chertoff
U.S. Department of Homeland Security

Dear Secretary Chertoff,

On June 15, 2006 I sent the attached comments to the Docket on behalf of our mariners concerning the Transportation Workers Identification Credential (TWIC) and Merchant Marine Qualification Credentials.

In this letter I cited a passage from the Declaration of Independence as follows: "…that to secure these rights (i.e., life, liberty, and the pursuit of happiness) governments are instituted among men, deriving their just powers from the **consent of the governed**; that whenever any form of government becomes destructive to these ends, it is the right of the people to abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them seem most likely to effect their safety and happiness."

The 45 days your project team allowed to gauge "the consent of the governed" permitted us little luxury to collect our thoughts. However, in reading many of the public comments as I already have done, these proposals reflect an abysmal lack of knowledge of the mariners Congress granted the Coast Guard the authority to superintend ever since World War II. In fact, if railroading this rulemaking on a 45-day fast track seeks to gain "the consent of the governed," it is really a pathetic attempt to cover up its shortcomings.

The Department of Homeland Security has had **four years** to put this TWIC program together. As we see it, the proposed rule your Department presents is a sorry joke.

As Secretary you need to be aware that the Coast Guard has hidden its gross mismanagement of our "lower-level" merchant marine personnel (a clear majority of the "acknowledged" 205,000 mariners) for so many years that only a handful of officers at Headquarters have even the most tenuous grasp of reality as it affects our mariners. In our enclosure, you may obtain a better picture of their shortcomings although this falls on a plane that is far beneath your cabinet level position. Your proposal's foundation is built on shifting sand if not quicksand.

Your military and civil servants were not able to serve you well, not because they were unwilling, but because they remained, as a whole, so far aloof from our working mariners over a period of many years that they simply had no basis for understanding them. They have arrogantly walked over our mariners and looked down their noses at us for years. As a small part of your huge department, they failed to manage us successfully. This is a long-term failure that I have followed and documented closely for the past quarter century.

The final report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina titled A Failure of Initiative, especially in its chapter on "The "National Framework for Emergency Management" does not paint your management of that disaster in a very favorable light. Yet, the Coast Guard stands out as a shining light throughout this badly bungled fiasco. They were prepared, and quite notably, Admiral Allen was fully qualified, well prepared, and did his homework. We certainly respect the operational side of the Coast Guard for that. However, the story contained in our letter to the docket (enclosed) is an entirely different matter and deals with the chair-bound Coast Guard rather than the operational Coast Guard.

If you expect to "salvage" this notice of proposed rulemaking, the Coast Guard will have to do a much better job of doing its homework in the future. In fact, this rulemaking and several other recent arrogant "initiatives" may well drive thousands of lower-level mariners away from jobs afloat and will not help "homeland security" one iota. Very truly yours, s/ Secretary, GCMA.

Overview

While our letter presents the position of many "lower-level" mariners, a review of hundreds of pages of oral testimony at the four public meetings illustrates that there are a great many other viewpoints that must be considered in regard to this rulemaking. If the lower-level mariners with licenses and documents numbers 126,362, this rulemaking will cover as many as 750,000 individuals.

Our "lower-level" mariners should keep this fact in mind: Laws are made in the Nation's Capital – and we have no presence there. The major maritime unions have a presence there, but we do not. Without grass-roots mariner financial support to send our Association's Directors to Washington to represent our interests, we are destined to remain a "voice in the desert."

A number of other maritime organizations are concerned that the government's plans to issue TWICs by the end of the year will cause delays in operations at many ports and

terminals. They spent the money, traveled to distant cities, waited in line, and had their "four minutes" to make their points on the record at four public hearings in Newark, Tampa, St. Louis and Long Beach. Those comments appear on the docket. We suggest our mariners review them.

At major ports like NY/NJ and LA/LB, which handle thousands of trucks per day and millions of TEU's in a year, the potential delays could be staggering. Maritime labor also pointed out that the background checks that American workers will undergo to qualify for TWIC cards are far more stringent than their foreign counterparts will endure.

The government has almost unlimited ability to check into the criminal history of the U.S.-born Merchant Mariners and Longshoremen, but little or no access to background info on the foreign-born merchant mariners that work on 95% of the vessels that call on our ports. In addition, the background information on many immigrant truck drivers who work at the ports are usually not made available to U.S. authorities.

Industry executives also express concern that the prototype TWIC cards produced by the U.S. government may not stand up well against severe marine conditions; ashore and at sea. The marine industry is urging the government to review and, if necessary, change the process of background checks that will be necessary before issuing ID cards to as many as 750,000 merchant mariners, longshoremen and other transportation workers at the nation's ports.

The Department of Homeland Security (DHS) estimated that TWIC implementation alone will cost between $299 million and $325 million with the cost over 10 years exceeding one billion dollars.

Unfortunately, there seems to be very little coordination to what our Administration is doing with the security enhancement going on throughout the rest of the world. All of this does not the show the new Department of Homeland Security "Big Government is any more capable of handling security than it was in responding to Hurricane Katrina.

SENATORS TRY TO RESOLVE EXXON VALDEZ SPILL SETTLEMENT

[Source: MM&P Wheelhouse Weekly. Most of the maritime interests affected by the Exxon Valdez spill were small fishermen, our fellow "lower-level" mariners. This is how "big oil" treats them.]

Senator Lisa Murkowski (R-AK) and Senator Patty Murray (D-WA) have announced a bipartisan effort to convince ExxonMobil Corporation to finally provide compensation to more than 32,000 individuals nationwide that were damaged after the EXXON VALDEZ oil tanker spilled nearly 11 million gallons of crude oil into Alaska's Prince William Sound more than 17 years ago.

The Senators gathered the signatures of nearly a quarter of the U.S. Senate onto a letter to new ExxonMobil Chairman and Chief Executive Officer Rex Tillerson asking that the corporation either restart settlement talks or simply pay the $4.5 billion in damages awarded by a federal jury 12 years ago.

"While most of Alaska's fisheries have recovered from the spill, the herring fishery in Prince William Sound remains closed, hurting the livelihoods of many fishermen," said Senator Murkowski. "Though the courts this summer will decide whether Exxon should pay more to fund additional cleanup and restoration efforts in Alaska waters, it is only just that fishermen and other citizens harmed by the spill finally get the compensation they were awarded by the federal courts a dozen years ago."

"Twelve years is far too long for thousands of fishermen and businesses in Washington State, Alaska, and across the country to wait for the compensation they deserve," Senator Murray said. "Exxon has a legal mandate to compensate our communities who continue to pay the price for an accident that was not their own doing. It's time for Exxon to either begin meaningful negotiations or come clean and pay these damages that have been awarded and repeatedly upheld."

In 1994, a federal jury, after deliberating for 22 days, returned a unanimous verdict against Exxon awarding total damages of $5 billion. Exxon appealed on multiple grounds, filing 60 petitions, and over 1,000 briefs and motions, delaying a final verdict in the case that has been to the Ninth Circuit Court of Appeals for review on nine different occasions. While the damages have been upheld three times, the amount has been reduced to $4.5 billion, plus interest. The case was heard again by the Ninth Circuit Court of Appeals in San Francisco in January, but without new settlement talks or a change in ExxonMobil's legal strategy, the case could take years longer to reach a final resolution in the courts.

SLOPPY ACCIDENT INVESTIGATION AND EVEN SLOPPIER REPORTING

[Source: GCMA Files M-473 & M-556.]

One of our mariners told us that the inland towboat M/V CHARLES ALFRED sank south of Seadrift, Texas, on May 27, 2004.

The Houston Chronicle reported, "A fuel spill in San Antonio Bay was contained Friday before it could harm or seriously threaten nearby wetlands and a wildlife refuge for whooping cranes…At daybreak Friday, cleanup efforts began with crews from the Coast Guard Marine Safety Office in Port Lavaca, the Texas General Land Office and an environmental contractor. A containment boom set up around the tug corralled a large amount of the diesel, which at times spread half a mile on the water's surface." On June 1, 2004, GCMA sent a Freedom of Information Act request asking for further information.

On September 15, 2004 we were told that the report was "exempt from disclosure" under the Privacy Act. We wondered whose "privacy" the report would violate and, consequently, we protested in this note as follows: "Please explain why the rest of this information is not releasable. A towing vessel pushing a tank barge sank, and there is no reason given as to why the vessel sank. This is a very basic matter. Did the Coast Guard investigate the cause of this accident? If not, why not? Was there pollution? (We) would like the information when it is releasable."

A paper chase was underway at Coast Guard Headquarters that ended with a Search and Rescue report but little else. Yes, the boat sank and a Coast Guard small boat from Port O'Connor picked up the crew. However, there was no CG-2692, no pollution report, and apparently very little to show

for an "investigation."

Professional Mariner reporter John Snyder wrote a brief summary in the August/September 2004 issue that contains a picture of the half-submerged towboat.

According to the article, about 500 to 1,000 gallons of diesel fuel (of the 5,000 gallons on board) poured out of the vessel's starboard fuel tank. The owner of the towboat, reported to be the Devall Towing and Boat Service of Hackberry, LA, pumped the boat out and had it towed to the Victoria Barge Canal where trucks removed the fuel remaining on board. "Because diesel fuel is highly evaporative, environmental damage was thought to be minimal."

Professional Mariner received the same "under investigation" put-off that we did…but also a little speculation as well: "…but according to Chief Warrant Officer Troy Rentz of Marine Safety Substation Office, Port Lavaca, the tug sank as a result of water entering over the stern and not through a puncture or gash in the hull. Rentz said the sinking may have been the result of the way the tug was ballasted, but he noted," "It's never just one thing; other things are being investigated."

That is just fine – but just where are the results of this "investigation" two years later? Fifty-one foot towboats are not usually "ballasted." Did Coast Guard investigators ever interview the crewmembers of the towboat?

The towboat only carried a crew of three men and according to the Houston Chronicle was pushing one empty barge and one barge carrying 9,700 barrels of cyclohexane (AKA benzene hexahydride) a nasty flammable liquid. Assuming that the towboat carried two licensed towing vessel officers, both of whom would work no more than 12 hours, that left the deckhand to take care of not only the duties on deck, vessel sanitation, cooking, and engineroom duties. We are only left to "blame the deckhand" because the licensed officers were either on duty in the pilothouse or asleep during their off-duty hours. Who was up-and-around to observe water pouring into the boat from over the stern – if that was what really happened? We have no way of knowing the true story because the Coast Guard apparently never took the time to investigate the accident, did not forward the complete file to Coast Guard Headquarters, or Headquarters lost it.

More than Bad Luck?

On April 4, 2004, the same company had another towboat with a three-man crew sink in the middle of the Houston Ship Channel. This time the water was deeper and the accident resulted in one fatality. We reported this accident in GCMA Newsletter #33.

That accident left the M/V DAVID C. DEVALL sunk about 100 feet left of center in approximately 49 feet of water with overhead clearance of about 30 feet. The Coast Guard's main concern was to prevent deep draft traffic from striking the wreck with the bottom width of the channel about 500 feet at the site.

At least the Coast Guard investigated the accident in the Houston Ship Channel where one mariner died although they came to no solid conclusions as to why the vessel sank. Two months later, another of their vessels suddenly sinks. This towing company is a member of the American Waterways Operators. Each member is obliged to follow the guidelines established by the Responsible Carrier Program – at least when it is convenient to do so.

Up to this point, Congress did not require the Coast Guard to inspect towing vessels. On August 8, 1994, Commandant Robert E. Kramek in a letter to the Deputy Secretary of Transportation stated: "The inspection study concludes that a full inspection program is not a cost effective way to reduce towing vessel casualties, based on a review of marine casualties involving UTVs and implementation costs….It also proposes the development of voluntary management standards for the safe operation of towing vessels." This is how the Coast Guard bucked responsibility for the safety of our mariners to AWO and their Responsible Carrier Program and the voluntary "Commercial Towing Vessel Examination Program" (CTVEP). The Coast Guard failed to support either financially or with its other resources on a nationwide basis. The vessel examination decal it hands out has become a standing joke in much of the Eighth District. Only about 223 of nation's 1,100 towing companies are even members of AWO – a fact whose significance few in the Coast Guard seem to grasp even today.

This statement followed on the heels of the Bayou Canot disaster that claimed 47 lives and was in the middle of a period of major towing accidents. In 2005, GCMA learned that over 1,300 towing vessels had sunk, flooded, or capsized in the preceding 12 years. In September 2004, three months after the M/V CHARLES ALFRED settled to the bottom of the Intracoastal Waterway, Congress directed the Coast Guard to inspect towing vessels. The "voluntary" Responsible Carrier Program was not the success that Commandant Kramek envisioned.

The same study also stated "Data currently available (1994) on casualties and pollution incidents provides some indication that personnel-related causes occur at higher rates for towing vessels than for non-towing vessels. The manning study concludes that **changes in the work-hour limit,** licensing and qualifications, **and watchkeeping practices** are consistent with the aim of reducing the rate of casualties and pollution incidents attributable to human factors."

Here we are twelve years later. The existing statute still limits licensed towing vessel officers to work 12 hours in each twenty-four hour period to perform their duties. The M/V CHARLES ALFRED only had one deckhand. The AWO Responsible Carrier Program suggests that unlicensed crewmembers be limited to no more than 15 hours of work per day. This is damn decent of them considering the fact that Congress has placed no work-hour limit on unlicensed mariners serving on commercial vessels in inland waters. GCMA believes the time is ripe to ask Congress to impose effective work-hour limits on all unlicensed towing vessel personnel as part of the towing vessel inspection process.

Since there was only one deckhand, in the absence of any information provided by Coast Guard investigators to the contrary, we might assume the following about the towboat's crew:

? The deckhand was off duty and asleep and did not notice the vessel sinking beneath him. After all, with only one deckhand, the engineroom is not covered for nine of 24 hours.

? The second licensed officer was off duty and asleep and did not notice the vessel sinking.

? The licensed officer on duty was in the pilothouse, the vessel was underway, and he was not free to roam around the vessel and check on things. The sinking occurred at night (0225) and, from his station in the pilothouse, he might not have noticed the flooding until it was too late.

? If the vessel had a second deckhand he could have served as lookout, and, if properly trained, could check the engineroom and other shipboard locations on a regular basis. Apparently, the company was too cheap to staff the vessel properly. The Coast Guard does not have any manning

requirements for unlicensed personnel on inland towing vessels. It is no wonder that companies like this have trouble recruiting and retaining unlicensed crewmembers. Who in their right mind would want to work for an outfit like that!

These are just assumptions, but you cannot stretch one deckhand over a 24-hour period to cover every facet of every working day without leaving important areas uncovered.

The next unanswered question is whether that deckhand ever was trained to perform engineroom duties that include pumping the boat out. Was the deckhand (or "deckineer" if his duties involved working in the engineroom) trained to perform deck duties like closing the watertight doors when he went to sleep and nobody is up and about? We can only speculate because nobody asked him.

The M/V CHARLES ALFRED sank, was raised, and, according to the Inland River Record, is still in service. We can only speculate that it must have cost a considerable sum of money to raise the vessel, tow it to port, recondition the submerged engines, and refurbish the galley and engineroom. We can only speculate because we never received a report of any Coast Guard investigation.

GCMA connects the dots that it appears the Coast Guard does not pay more than the bare minimum attention to towing vessel accidents. The M/V DAVID C. DEVALL, another vessel owned by the same company, that sank two months earlier in the Houston Ship Channel, was an old boat that cost the company or its insurers $240,000 to salvage. The picture of the M/V CHARLES ALFRED in Professional Mariner shows water flooded the galley and main deck and submerged the engineroom. At the time of the accident, the boat was 30 years old. We wonder whether the vessel's insurer ever asked about the cause of the accident or simply paid the bill without question. We wonder who they paid the pollution cleanup charges. We note that the Coast Guard launched a helicopter and sent out a small boat crew and we must assume in the absence of factual evidence that Uncle Sam paid those expenses.

There is a cause for every accident. It is clear that the Coast Guard has paid very little attention to the cause of towing vessel accidents whether they take lives or not. Over the past 30 years, they could have prepared Legislative Change Proposals to protect our mariners by requiring adequate manning of all towing vessels in 24 hour service. In this case, we have an example of a towboat pushing two barges, one carrying cyclohexane in inland waters with no lookout on duty to assist the watch officer.

At this late date, with new towing vessel inspection regulations "in the works," GCMA has received no clear understanding from the Coast Guard that they will straighten out the manning mess that they carefully skirted for the past 30 years.

The Coast Guard obviously never "connected the dots" between these two accidents that affected two boats belonging to the same company only two months apart that killed one and injured two mariners. Even worse, GCMA had to ask the Coast Guard to report to us the number of towing vessel casualties in the past dozen years. They never have "analyzed" these accidents to see why they happened. Just blame it on "human factors," in other words, blame the crew. We mariners, as taxpayers, deserve better treatment than this from our government officials.

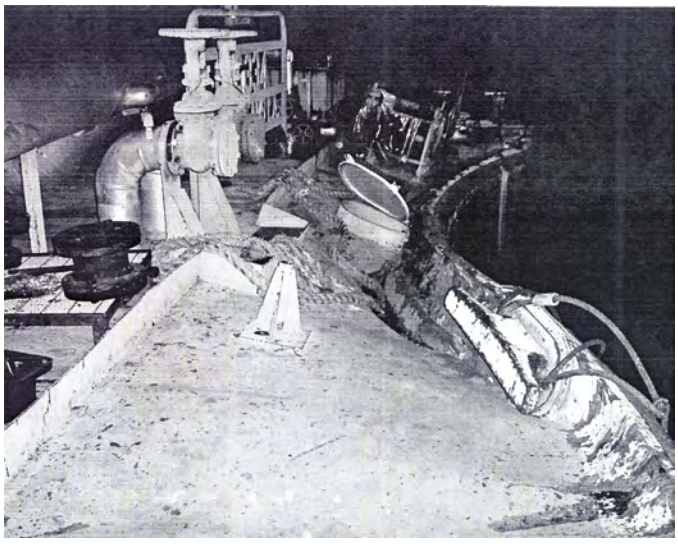
WHO IS RESPONSIBLE WHEN A STEERSMAN IN TRAINING GETS IN TROUBLE?

[Source: MISLE Activity 2033934; MISLE Case #158937, MSU Baton Rouge, LA. GCMA file #M-469. Released May 16, 2006.]

"On December 29, 2003 at approximately 2020, the Uninspected Towing Vessel NED MERRICK was heading southbound (on the Atchafalaya River in central Louisiana) pushing ahead three loaded asphalt barges and allided with the Melville (LA) Railroad Bridge's north pier.

"The licensed crewmember stated that he (?) set up incorrectly getting too far into the bend, and was unable to bring the tow into the proper position. The licensed crewmember took over the helm but was unable to correct the tow's alignment. The (barge) CBC325 hit the Melville Railroad Bridge's north pier on its port side causing a 25-foot long inset. The impact parted the port wires and caused the CBC325 to swing starboard and back toward the tow. The lead end of (barge) CBC334 was now exposed and hit head on into the north pier causing the void space to be pushed in four (4) feet."

All three barges were 297.5-foot tank barges owned by Canal Barge Company, the owner of the 3,200-horsepower towing vessel NED MERRICK. The estimated property damage to the company's equipment was $210,000. Fortunately, the Union Pacific's Melville Railroad Bridge is a tough old bridge, withstood the hit, and remained operational. As the picture indicates, barge CBC334 definitely came out second best.



The broad elliptical curve of the deck matches the shape of the bridge abutment.

The report stated that ¢ was a steersman in training on the Atchafalaya River route to become a towing vessel pilot and that he was not a pilot. The steersman reportedly navigated the M/V NED MERRICK into the bend too far and was unable to correct his error before striking the bridge. The Master did not realize that the steersman had gotten too far up into the bend and missed the point he needed to swing the head of the tow around to

correctly transit through the bridge. Apparently, at that point, the Master was powerless to stop the accident.

Although the report's "Causal Analysis" section uses the words "active human failures – execution errors attention failures and inattention errors" the Coast Guard investigators apparently found insufficient cause to refer this case for enforcement action. Although this was a "serious" accident, the scope of investigation was only at the "data collection" level.

Unfortunately, this accident investigation did not give us an insight into the question of who the Coast Guard considers responsible when a steersman in training gets in trouble? The Coast Guard did not take action on the steersman's "learner's permit" or the training officer's license. In fact, there was no mention that they even verified the credentials of the individuals involved. "Data collection" only seems to involve collecting and reporting data that is convenient to collect.

Perhaps this is what the Coast Guard means by not holding a Designated Examiner responsible if a steersman has an accident but we really doubt it. According to the report, this steersman was "in training" but nothing was said about his being assessed by a qualified Designated Examiner at the time of the accident. Nothing in the report leads us to believe the investigators distinguished between the role of a "trainer" and a "Designated Examiner" in their investigation. Perhaps the investigators just didn't know who to point the finger at and did not want to become more deeply involved in an unfamiliar licensing and assessment process or in the politics or with the potential unpleasantness of dealing with towing company management! After all, the towing company had to cover all the costs of the accident, nobody was hurt, and nothing spilled.

The company probably has its view of how to pin the tail on the donkey and assign responsibility for this accident. However, we did not expect any mention to appear in the Coast Guard accident investigation report.

THE JOB MARKET

On The Guest Worker Program

Things were about cheaper labor 10 to 20 years ago; now at the stage of being (it's about being) sold out by our own.

For instance, in the President's speech the other night he said that we are a nation of laws and we must enforce our laws, *especially* on immigration. He went on to say that the first thing that we have to do is secure the Mexican border with 6,000 guardsmen at a time for three week shifts, then build a great wall at the southern edge of Texas, New Mexico, Arizona and California to seal off those areas.

Almost in the same breath, the President proposed a guest worker program. Not counting the 11 million immigrants we already have in the country, he wants to let another 102 million Mexican immigrants into the country over the next 20 years equipped with a "foolproof" identification card to do work he claims Americans won't do.

Number one who is he to say what we need in our country over the next 20 years? Number two right here, right now, a fitter/welder makes at least $19 an hour offshore. I myself recently came off a job in Texas when I stumbled across a check stub on the floor of the van we use to shuttle the crew back and forth from job sites. On it was a Mexican man's name, his job title, and his hourly wage. His job title: Fitter/Welder, his pay only $8.50 an hour!

Frankly, I don't blame the employers for us to have to compete, but in such a way is a slap in the face from the leaders of OUR country. In closing, maybe it is time for a woman president! Ricky Dale O'Bryan

[GCMA Comment: We received calls from two licensed mariners seeking better jobs and higher pay. It appears that certain boat company personnel managers have "handshake" agreements to keep wages in check by not hiring any mariner currently employed by another company.]

FIRST CLASS PILOTAGE ON WESTERN RIVERS

The Coast Guard ended First Class Pilotage on the Western Rivers in 1996 because it was convenient for them to do so. **The issue is dead and buried**. This article is a "memorial service."

On September 16, 1998 in what would become FOIA Appeal #A-98-042, the National Association of Maritime Educators appealed the Coast Guard's decision on behalf of hundreds of mariners who held pilotage routes on the Western Rivers system above Baton Rouge, LA.

Maritime Educators recognized that these mariners worked hard to jump through all the hoops to obtain pilotage endorsements on their licenses at their own expense by traveling to distant Regional Exam Centers, and "drawing river segments" in detail before a Coast Guard examiner from memory. Mariners then used the pilotage endorsements they had earned to enhance their employment opportunities in their chosen profession.

These were mariners we recognized who **took pride in their jobs as professional mariners** and sought one of the few routes available to them to prove they were knew the river like the back of their hand. Some of these mariners accumulated up to several thousand miles of pilotage over a period of years. Some subsequently advanced to Master, Inland, Any Gross Tons licenses and moved to passenger vessels while others remained in the towing industry.

The Coast Guard played the "rulemaking" game on those mariners and, with a stroke of the pen, abolished pilotage requirements above Baton Rouge. The appeal by the National Association of Maritime Educators was taken up by GCMA. We requested that the Coast Guard release 13 pages of material it refused to release on September 4, 1998 so we could better understand their motivation behind this issue.

The Appeal was answered on June 29, 2006 almost eight years and a number of phone calls later with a flat "We apologize for the delay in processing your FOIA appeal." The appeal signed by Rear Admiral R.T. Hewitt did release three of the 13 requested pages years after their meaning is relevant to most mariners. They withheld the rest of the pages for this reason stated in part as follows:

"The information we are withholding under exemption (b)(5) expresses recommendations, interpretations, and opinions. The disclosure of these comments would likely discourage such vital intra-agency communications or create confusion where input was not ultimately the basis for agency actions. The deliberative process prong of exemption (b)(5) is

designed to protect the quality of agency decision making processes by ensuring that employees feel free to engage in open, honest discussions of policy. Releasing the information you requested would impair the openness and usefulness of future policy discussions within this agency. Discussions would then take place within much more narrowly prescribed boundaries with individuals wary of providing the candid input necessary for quality decision making."

Just who made these "recommendations, interpretations and opinions"? How much time did they ever spend on the river learning to be a pilot? How long did they spend in their job behind a desk at some river port? How much do they know about the mariners whose lives their actions affected? Most Coast Guard commissioned officers we run into never get out on the rivers and inland waterways. They learn about them second or third hand and then make sweeping decisions that change the lives of hundreds of mariners. What is really remarkable is just how little time some of these Coast Guard officers spend at mastering any one task. Even after eight years, the cover-up of this regrettable decision continues.

GCMA knew exactly who to blame for this fiasco and took the opportunity to do so at one of the last TSAC meetings presided over by retired Admiral Robert North former Eighth District Commander and later Assistant Commandant for Marine Safety, Security, and Environmental Protection. He now is retired, in business for himself, consulting with foreign-flag clients and attends an occasional TSAC meeting.

The Other Road

Of course, there were hundreds of other good pilots who were content to sit back and remain "Operators of Uninspected Towing Vessels" without having to fight the hassle and bureaucracy at the Regional Exam Center to prove to uncaring government clerks that they were professionals. Taking the easy route saved time, money, and aggravation. However, the fact that the "system" succeeded in flushing its most qualified mariners down the plooper is a lesson that other mariners and industry management witnessed in silence without raising a finger in protest. It is this silence that is almost deafening today.

Other "traditions" also vanished. Traditional "steersman" training has now given way to an artificial system contrived by Washington bureaucrats. When the system was established, TSAC and the Coast Guard "assumed" that licensed towing vessel officers would be ready, willing, and able to train new Apprentice Mates/Steersmen on their own time while standing watch 12 out of every 24 hours. Other mariners view Apprentice Mates/Steersmen as their low-cost "replacements" in an "employee-at-will" environment without any type of job security. Other seasoned Designated Examiners would volunteer (on their own time) to sign off on their accomplishments under the administrative supervision of an obscure Coast Guard functionary in far-off Arlington, Virginia. This course of action may contain some slippery slopes according to concerned GCMA attorneys.

ANTI-MARINER BIAS REVEALED IN COAST GUARD ACCIDENT INVESTIGATIONS

On August 26, 1983 Congress revised and consolidated "certain general and permanent laws of the United States, related to vessels and seamen."

In that reorganization old 46 U.S. Code §239 became part of the new 46 U.S. Code §6101 and §6301. Let's compare the wording in new §6301 to the old §239, especially the parts emphasized:

Existing 46 U.S. Code §6301
Investigation of Marine Casualties.

The Secretary shall prescribe regulations for the immediate investigation of marine casualties under this part to decide, as closely as possible—

(1) the cause of the casualty, including the cause of any death;

(2) whether an **act of misconduct, incompetence, negligence, unskillfulness, or willful violation of law committed by any individual licensed, certificated, or documented** under part E of this subtitle has contributed to the cause of the casualty, or to a death involved in the casualty, so that appropriate remedial action under chapter 77 of this title may be taken; *[Chapter 77 deals with suspension and revocation of those credentials.]*

(3) whether an **act of misconduct, incompetence, negligence, unskillfulness, or willful violation of law committed by any person,** including an officer, employee, or member of the Coast Guard, contributed to the cause of the casualty, or to a death involved in the casualty;

(4) whether there is evidence that an act subjecting the offender to a civil penalty under the laws of the United States has been committed, so that appropriate action may be undertaken to collect the penalty;

(5) whether there is evidence that a criminal act under the laws of the United States has been committed, so that the matter may be referred to appropriate authorities for prosecution; and

(6) whether there is need for new laws or regulations, or amendment or repeal of existing laws or regulations, to prevent the recurrence of the casualty.

Old 46 U.S.Code §239

We find a significant omission between the new wording (above) and old §239 in this phrase: "to determine whether **any incompetence, misconduct, unskillfulness or willful violation of the law** on the part of any licensed officer, pilot, seaman, **employee, owner or agent of such owner of any vessel** involved in such casualty, or other officer or employee of the United States, or any other person caused, or contributed to the cause of such casualty…'

What happened to the **employee, owner, or agent of such owner**? Chances are that the owner or an employee such as a dispatcher, port captain, personnel manager, or crew supervisor will not be on the boat at the time of the accident. Of course, they do not have licenses or other credentials that are subject to suspension or revocation under "Chapter 77." However, what we have seen at GCMA is that this law as written seems to steer the Coast Guard away from considering the "employee, owner or agent of such owner" as part of the cause of an accident. In the game of pin the tail on the donkey, the "employee, owner or agent of such owner" is not even in the same room when the investigator selects the most appropriate mariner candidate to stick. Successfully sticking the tail on the donkey (i.e., our mariners) wins a point for the investigator in his or her fitness report. After a "settlement agreement" or a trial before a black-robed Administrative Law Judge there often appears to be little

interest in looking for and correcting the root cause of the accident –even in a very serious accident with multiple fatalities. Shift the blame to the mariner, who is an easy target, by simply not "investigating" any further.

Example: The Webbers Falls Interstate 40 Bridge Allision with 14 Fatalities and 5 Injuries

Crew change on the M/V ROBERT Y. LOVE took place at Lock 13 near Van Buren, AR, at 1840 hours on May 21, 2002, and the Captain took over the watch shortly thereafter at 1910. (p.14). He had just completed driving a 368-mile leg of a trip that exceeded one thousand miles for the purpose of making crew change. Did he undertake this odyssey on his own volition or was he paid to do this? There is evidence that he was paid while he traveled – a fact that senior Coast Guard officers at Headquarters are well aware of. While en route, the Master may not have been "on watch" but he was clearly performing "work"(e.g., driving) on behalf of the company. The Coast Guard defines "work" in paragraph 2.f of Coast Guard Policy Letter G-MOC #04-00 that the NTSB report failed to consider.

The Master assumed the watch at Van Buren, AR, without having the rest required by 46 U.S. Code §8104(a) that states: "**(a)** An owner, charterer, managing operator, master, individual in charge, or other person having authority may permit an officer to take charge of the deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours within the 12 hours immediately before the time of leaving." The company, the vessel owners or agents of such owners, knew or should have known the Master had spent the last two days driving from one job assignment to another and could have prevented this violation. Letting the man stop at a motel and get a good night's sleep might have delayed the movement of two empty barges by twelve hours – and saved 14 lives and thirty-million dollars! Why are such careless corporate citizens accorded such great respect in Washington and our mariners granted so little in return for their labor?

While this may be a common practice, it is forbidden by law. The Coast Guard discovered the violation when they examined the timeline of the accident during the investigation. The Coast Guard's accident report conclusively stated a work-hour violation took place but the NTSB conveniently chose to overlook that fact. When GCMA made this point in front of a shocked and angry TSAC meeting at Coast Guard Headquarters, the Coast Guard printed a copy of their accident report and distributed it to the attendees who quickly dropped the subject. Since many TSAC members are also AWO members and predisposed to accepting the view of the company, the matter was buried.

As far as the Coast Guard was concerned, the Master turned in his license after the accident in a "settlement agreement" based on health issues rather than upon the work-hour violation. Case closed.

The Coast Guard's failure to make a point of work-hour abuse on the part of the Master and the knowledge and complicity of his employer gives working mariners a clear message that the Coast Guard condones these practices at the highest levels at Coast Guard Headquarters. In addition, the National Transportation Safety Board chose to overlook this regulatory violation by bulldozing it beneath a mountain of medical testimony.

Reporting Violations of Laws & Regulations

Mariners often ask GCMA to assist them by reporting violations of laws and regulations directly to the Coast Guard on their behalf. While we cannot "investigate" these allegations, we can and do ask specific and detailed questions to determine whether the act described to us constitutes a possible violation of an existing law or regulation. If it appears likely, we may assist a credible mariner by putting his/her allegations in a cohesive written form and relay them to the appropriate government agency. That will establish a paper trail for future reference and follow-up. GCMA has contacted numerous government agencies in the past depending upon where any particular allegation may lead us.

A mariner may not want to disclose his name when making a formal complaint. By law, the Coast Guard must protect his or her identity under 46 U.S. Code §3315(b) that states: "(b) An official may not disclose the name of an individual providing information under this section, or the source of the information, to a person except a person authorized by the Secretary. An official violating this subsection is liable to disciplinary action under applicable law." Not every government agency offers comparable protection.

The Coast Guard does not have unlimited resources to go on a wild goose chase. When we ask them to look into a situation, we try to do so responsibly. We also expect the courtesy of a report from them in return for the effort we expend in bringing reportable matters to their attention.

Mariners Understand the Coast Guard Bias Expressed By Non-enforcement of Laws and Regulations

One of our greatest concerns, and our first major project as a mariners Association was to follow up a massive number of work-hour abuse complaints both in the towing and offshore oil industries. In 2000, we prepared our "Yellow Book" titled Mariners Speak Out on Violation of the 12-Hour Work Day containing letters from 58 mariners and distributed approximately 300 copies throughout the Coast Guard, other Executive Branch Agencies, labor unions and Congress and maintained a list of the people we sent it to.

Sadly, the Coast Guard – and specifically Admiral Paul Pluta, first as Eighth District Commander and later as Chief of Marine Safety, Security, and Environmental Protection, never raised a finger to protect our mariners enforce work-hour regulations. At a NOSAC meeting at Coast Guard Headquarters we accused him to his face of nothing less than dereliction of duty. We should have carried the matter further and demanded his removal from office.

Congress passed and the President signed the Coast Guard and Maritime Transportation Act of 2004. Section 409,Hours of Service on Towing Vessels, authorized the Coast Guard to prescribe requirements for maximum hours of service including recording and recordkeeping of that service. Licensed officers already are limited by law and regulation to 12 hours of service in any 24-hour period. Unfortunately, most unlicensed crewmen in inland service especially can be worked an unlimited number of hours. *[Refer to GCMA Reports # R-279, Review and Set Safe Manning Standards for Offshore Supply Vessels and Uninspected Towing Vessels and #R-375, Crew Endurance: The Call Watch Cover-up. Both reports are on our internet website]*

Over the years, GCMA worked to request minimum logbook standards to require adequate recordkeeping of our

mariners' work hours so the Coast Guard could enforce work-hour statutes. It is to the benefit of our mariners health and welfare that these laws be enforced effectively. However, the Coast Guard fought us every single step of the way and obstructed progress on this issue for years. The whole record appears on the internet at http://dms.dot.gov if you do a "simple search" with number 12581. You will find out the entire history of what we have had to put up with the Coast Guard bureaucracy and every obstruction they placed in our path over the years. We seek to protect lower-level mariners by improving the accuracy and quality of Coast Guard investigations by presenting a meaningful record of a vessel's voyage, watch schedule, and manning that has the potential to reveal the real root cause of many accidents. At the same time, we seek to improve the quality and fairness of "justice" the Coast Guard dispenses to our mariners and to counteract the clear anti-mariner bias that thoroughly pervades the "investigative" system.

NEW AND REVISED GCMA RESEARCH REPORTS

#R-229, Rev. 1. Towing Vessel Manning. Revised and updated review of laws, regulations, and interpretations that govern the manning of towing vessels as they change from "uninspected" to "inspected" status.

#R-292, Rev. 1. Enforcement of Existing Accident and Injury Reporting Requirements. Regulations require that an "accident report" on form CG-2692 must be filed with the Coast Guard when a mariner suffers an injury that requires treatment above and beyond first aid (e.g., a visit to the doctor or a clinic or hospital). While the burden for preparing this report falls on the owner, operator, master, or person in charge, our mariners are screwed and statistics are distorted when these reports are not completed. The Coast Guard performs its collection in a very perfunctory manner – again to the detriment of our mariners. GCMA updated this report as part of a larger project we will present to Members of Congress later this year since Coast Guard action on this matter over the past five years has been unacceptable. **Cancel GCMA Report #R-277**.

#R-300. Supreme Court of the United States. Chao, Secretary of Labor v. Mallard Bay Drilling, Inc. Decided Jan. 9, 2002. This landmark case, although it dealt with an uninspected inland drilling barge, eventually served as the basis for Congress assigning the regulation (and subsequent inspection) of uninspected towing vessels to the Coast Guard rather than to OSHA.

#R-304, Rev. 1 Small Boat Station Search & Rescue Program. 2001. GCMA represents the "lower-level" licensed and unlicensed merchant mariners who Congress placed under the superintendence of the United States Coast Guard.

GCMA and other mariner organizations watched the Coast Guard neglect our mariners health, safety, and welfare interests for many years.

By presenting the text of this official Department of Transportation Audit report, we catch a glimpse of how Coast Guard officials managed their own assets and treated their own personnel before 9/11. In this regard, we suggest that you also read GCMA Report #R-305. We see truth in the complaint that many of the enlisted men in the Coast Guard who man their small boats (up to 57-feet) were mistreated and run ragged for years and their equipment was not well maintained. They, like many of our mariners, "voted with their feet" and left the service.

These are NOT the people most of our mariners ever run into at the local Marine Safety Units, at District Headquarters, or at Headquarters in Washington, DC. They are the enlisted men and women of the Coast Guard who work the small boats and actually help our mariners in distress.

#R-333, Revision 3. Don't Count On Corporate Compassion or Coast Guard Concern: True Stories Of Our Lost, Injured & Cheated Mariners. This report gives six separate cases where our mariners and their families were killed, injured, or cheated and where authorities showed little or no concern. It combines Reports #R-333, Rev. 2 with R-320 and R-309 and updates all three.

Cancel GCMA Reports #R-309. #R-316 & #R-320.

#R-341, Revision 3. Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress. The 2006 Surgeon General's Report titled The Health Consequences of Involuntary Exposure to Tobacco Smoke was released in the last week of June. The latest report reaffirmed and strengthened the findings of the 1986 report with regard to the involuntary exposure of non-smokers to tobacco smoke. The scientific evidence now supports the following major conclusions:

1. Secondhand smoke causes premature death and disease in children and in adults who do not smoke.
2. Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma. Smoking by parents causes respiratory symptoms and slows lung growth in their children.
3. Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer.
4. The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.
5. Many millions of Americans, both children and adults, are still exposed to secondhand smoke in their homes and workplaces despite substantial progress in tobacco control.
6. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from non-smokers, cleaning the air, and ventilating buildings cannot eliminate exposure of non-smokers to secondhand smoke.

The previous edition of this report highlighted the fact that the Coast Guard turned a deaf ear to mariner complaints of their unwillingness to continue to endure the effects of secondhand smoke forever in silence. Armed with the latest Surgeon General's report (available separately as **GCMA Report #R-341A** on our website), we prepared a formal Petition to Congress "to require the Coast Guard to initiate rulemaking to protect `lower-level' merchant mariners under their superintendence from the actions of active smokers and the health consequences of secondhand smoke on commercial

vessels to the same degree and extent that they protect their own personnel from those same dangers."

#R-353, Revision 2. Lower-Level Mariners Are A Majority of all U.S. Merchant Mariners. Revised and updated based upon the latest available figures.

The interests of our "lower-level" mariners are not being addressed by the Coast Guard in a manner consistent with the number of mariners they control. One reason for this is that "lower-level" mariners have never joined together to protect their interests as have "upper-level" mariners who belong to powerful labor unions.

#R-370D. Work-hour Abuse, Whistleblower Protection, and Deadhead Transportation. This report replaces GCMA Report #R-346, Revision 3 (same topic). The "renumbering" of these reports consolidates reports dealing with the same and similar subjects into a "series."

In an 86-page decision[(1)] addressing several issues, the U.S. Court of Appeals for the Seventh Circuit upheld the trial court's decision that various U.S. merchant mariners had been unlawfully discharged from employment after they reported alleged safety violations to the U.S. Coast Guard.

The court ruled that the whistleblower protections are designed to encourage employees to aid in the enforcement of maritime laws and Coast Guard regulations by making claims through protected channels. *[(1)Gaffney et al v Riverboat Services of Indiana, Nos. 04-3829; 04-3900 decided June 16, 2006. GCMA File A-1043.]*

In an open letter to GCMA-member attorneys, we invited their review and summary of this case and the significant interpretations of existing law (as covered in this report) for our lower-level mariners in the future. Although we followed the progress of this case for several years, we will not speculate further on it in this report without obtaining the respected opinion of counsel.

Cancel GCMA Report #R-346, Revision 3.

#R-370-E. Crew Endurance: Work-Hour Laws and Regulations Need Review. Renumbered from #R-316, and added to the #R-370 series highlighting work-hour abuse of lower-level mariners.

#R-370-F. Crew Endurance Management Systems (CEMS). Renumbered from #R-362, Rev. 2 and added to the #R-370 series highlighting work-hour abuse of lower-level mariners.

#R-383. Revision 3. Designated Examiner Quali-fications, Partial revision and updating with sample "Authorized Assessment Sheet."

 # R-429-C (Series). Coast Guard Marine Casualty Investigations. A review of the Coast Guard Policy Letter covering maritime casualty investigations.

#R-430, Revision #2. What is an OSV? An explanation of basic "tonnage" issues as they apply to offshore supply vessels and International Tonnage Convention (ITC) tonnage as opposed to Gross Regulatory Tonnage (GRT) and changes in the law that raised the limiting size of OSVs from 500 Tons (GRT) to 6,000 Tons (ITC) as it currently affects licensing.

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, and we have no formal contractual relationship with any employers.

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 whatsoever 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 one of these "Brown Listed" companies. We can only tell our mariners that those who fail to learn the lessons of History (as recorded by other mariners) are destined to repeat them!

We added a new company to our Brown List this month. **Steel City Marine Transportation, Inc.** of Freedom, PA. for the reasons reported in GCMA Report #R-370-D reissued this month.

Brown Listed Companies:

- **Abdon Callais Offshore**.
- **American River Transportation Co**. **(ARTCO)**
- **American Commercial Barge Lines (ACBL**)
- **Coastal Towing**, **LLC & TLC Marine Svc.**
- **Delta Towing**.
- **ENSCO**.
- **Five Bs Towing Inc.**
- **Frazier Towing**
- **Global Industries Offshore**
- **Gulf Pride Marine Service**, Inc.
- **Guidry Brothers/Harvey Gulf Marine**
- **L&M Botruc Rentals**
- **Maryland Marine**
- **Stapp Towing**
- **Steel City Marine Transportation, Inc.**
- **Tidewater Marine**
- **Trico**
- **Western Kentucky Navigation Company (WKN)**

CONDITIONAL MEDICAL WAIVER

[Source: One angry mariner received this form letter as part of his license renewal process and learned that the cost of renewing his license just went up. All of this is part of the NVIC-XX process mentioned in GCMA Newsletter #39 under "Good News…Bad News" this being an example of the latter.]

This is to acknowledge that I, XXX have been informed by the U.S. Coast Guard Regional Examination Center, New Orleans, LA of the following: The license is based on your physical condition at the time of issuance. To ensure that you continue to be physically competent to perform the duties required of a license holder, you must, every two years, during the life of the license provide a report of physical examination that has been completed within one month of the anniversary date of license. Failure to provide the report of a physical examination as specified will result in violation of the conditions for issuance of the license and may serve as grounds for action under 46 CFR Part 5.

_____
Signature of Applicant

_____
Printed Name of Applicant

_____
Social Security Number

CAPTAIN JOE DADY COMMENTS ON NEW ALCOHOL TESTING REQUIREMENTS

Coast Guard and new towing company operational requirements are simply overwhelming our mariners.

I just received an Alcohol Testing Kit aboard our tug. With no training, no protection, or explanation, mariners are now forced to turn on each other. Is this what prison life is like? Like prisoners, we are forced to turn on one another. What troubles me most is that most mariners accepted this latest rule without blinking.

Is there any legal liability for a Captain or other crewmember who forces his crew to spit on the swab? Regulations require that a certified lab technician who travels to a vessel and takes drug-screening samples receive some training, have liability insurance, and some legal protection from lawsuits. Our officers and crews have nothing!

A hypothetical example: Let's say a Mate is on watch while his lookout is busy, checking the engineroom, cleaning, and putting on the coffee for the next watch. The Mate encounters a fog bank and calls his lookout to the wheelhouse. The lookout says, "I'll be right there!" Meanwhile the Captain is getting ready to go on watch and has just goggled with a mouthwash containing alcohol. The radar is clear of targets and the Mate is making bare steerageway when the barge under tow calls and says it just hit a small boat. The crew responds and does everything right under the circumstances.

Since an accident has taken place, the Mate tests the Captain and watches the swab turn blue. The Captain knows he has not been drinking. The Mate wants to cover his own ass and refuses to discard the swab that turned blue from alcohol in the mouthwash.

While the tug should be searching for survivors, the crew is engaged in a battle over the serious implications of a false test.

Now the lawyers arrive. Will the Captain sue the Mate for not retesting him and slandering his good name? Will the victim's lawyers use the test to bring personal suit against the crew?

This is a dangerous new regulation. Clearly, possible liability and adverse circumstance were not considered from the mariner's viewpoint.

If it was the good name of a Coast Guard or company officer you know damn well liability would have been considered. It may even be a violation to our protections under the Constitution. I invite our respected GCMA attorneys to look into and comment upon this new regulation in the next GCMA newsletter.

s/Captain Joseph Dady
Member, GCMA Board of Directors

GCMA DIRECTORS ATTEND INDUSTRY DAY MEETING AT MSU MORGAN CITY

GCMA Directors Glenn Pigott and Richard Block attended an "Industry Day" meeting hosted by the Marine Safety Unit in Morgan City, LA, on July 20, 2006. Attendance was high with the meeting rooms at the Holiday Inn filled.

Approximately half of the meeting was devoted to a review of investigative processes. "Investigations" is a broad topic GCMA covered in this and other newsletters and will continue to cover as we post our #R-429 series of research reports.

Licenses and Z-cards

The presentation by Mr. Richard Wells of the New Orleans Regional Exam Center was of direct interest and concern to many mariners. Hurricane Katrina flooded the New Orleans REC last August. The REC was temporarily re-established at the site of another REC in Memphis, Tennessee. REC New Orleans previously carried about 20% of the national workload for documenting and licensing merchant mariners.

The Rootless REC

The Coast Guard always treated licensing and the issuance of merchant mariner documents as a stepchild. Known as "New Orleans-North," the temporary facility in Memphis will close on August 3 and will re-open on August 9 in Metairie, LA, in trailers at 201 Old Hammond Highway. However, that will only be a temporary facility. Apparently, there was some delay in renting permanent office space in the area, so no date and permanent site address is available.

We did not have the heart to ask Mr. Wells, who is struggling to keep his head above water, whether the permanent location of the REC would be at ground level. Certainly, the temporary location is at ground level on the shore of Lake Pontchartrain at a site still struggling to recover from Hurricane Katrina. We can only hope that the REC's proposed move back to Metairie on August 9 to this temporary facility will not be swept away by another storm or other calamity.

Third Rate Service to Second-Class Citizens

Mariners, who were unfortunate enough to use REC New Orleans, have seen this office move a number of times – always accompanied by notable disruptions in service. In 1970, the REC was located in rented space in downtown New Orleans on Camp Street. It later moved to the F. Edward Hebert Federal Building. Later, the REC moved to the Tidewater Building on Canal Street that was sold out from under them. The office then moved across from the Superdome in a pricey modern high-rise office building at 1615 Poydras Street where other building tenants clearly did not welcome our mariners. Following almost universal complaints about its inaccessibility for working mariners, and complaints from building tenants, the REC moved to New Orleans East where it subsequently flooded. It was during this last move that we discovered the "political" nature of the move by former Mayor Mark Morial to keep the REC within in the New Orleans city limits. The move from the seventh floor at 1615 Poydras Street to the ground-level storefront in New Orleans East eventually led to the destruction of all the paper records maintained at the REC. Each move the REC made led to disruptions in service that affected our mariners over the years. The latest move will be no exception – but we will give Richard Wells an "A" for effort.

The Metairie office will not be a "full service" office. The new National Maritime Center that will be established in Martinsburg, West Virginia, ***WILL*** handle all mariner evaluations and ***WILL*** maintain mariner physical records for all mariners. The immediate problem appears to be that it ***WILL*** have to operate from temporary quarters until the new facility is built from scratch. Several years from now, the National Maritime Center will have a glorious new home out in the sticks – this "political" move thanks to Senator Robert Byrd of West Virginia. Fact is, the new National Maritime Center is ***NOT*** up-and-running yet – which leads to immediate problems for at least 1004 mariners.

When it opens, the temporary new REC in Metairie will be there to take your fingerprints, answer basic questions, accept your completed application, accept your "user fee," and review your entire application to see if it is complete, and then ship it to Martinsburg for evaluation, medical compliance, and issuance.

The Immediate Problem

If you sent your application to REC New Orleans-North, Good Luck! Mr. Wells reported that he transferred 1004 license files to "other RECs" because the move from Memphis to Metairie would have resulted in additional delays.

"Other" RECs are supposed to pick up the workload. GCMA asked whether "other" RECs were familiar with local conditions that often accompany a highly specialized license transaction. Mr. Wells stated that he passed along some basic guidelines for those RECs to follow along with his cell phone number to the "other" RECs to answer any questions. However, Mr. Wells was vague, as to which REC received which files – only to say that the "other" REC would process the file and contact the mariner with any questions it had. We assume that "other" RECs will pick up the additional work but have no assurance that they will place this workload at the head of the line. Unfortunately, all of this comes on top of existing delays in processing licenses and z-cards of up to 16 weeks, not only by the New Orleans-North REC but by other RECs as well.

Moving licensing offices always has been inconvenient and disruptive. For example, in one of its earlier moves, New Orleans REC purged licensing files of personal mariner information and documents that proved to be irreplaceable during the obsessive post-9/11 "witch hunt" to unearth individual mariner past criminal records. The REC is the first point of contact an entry-level mariner has with the Coast Guard, and for some their first contact with any federal agency. Mariners must renew their contact with the REC at each renewal and raise of grade. Befuddled bureaucracy is the picture of the Coast Guard that most mariners come away with after dealing with their REC. It is the stuff upon which legends build. These horror stories form a common bond for all mariners.

At the meeting, we were told that Congress recently passed a law that authorized extending license renewal dates for certain mariners in Louisiana, Mississippi, and Alabama affected by Hurricane Katrina, but that the Coast Guard had not yet determined how it would handle this. Several days earlier, we also learned that Ken Parris of the Offshore Marine Service Association would attend a Congressional hearing to plead for the Coast Guard to interpret this provision liberally. For once, we agree with Ken and wish GCMA had the funds to travel to Washington to knock on a few Congressional office doors before the entire licensing regime simply collapses.

Unfortunately, when it comes to licensing, the Coast Guard often suffers from severe mental constipation. They live in a paper world divorced from the reality faced by real mariners. International treaty obligations, statutes, rules, regulations, guidelines, policies, and their interpretation at all levels have become so complex that no individual can keep track of them. It is an administrative nightmare quickly collapsing of its own weight. Even the bureaucrats who administer it are watching its collapse and are fleeing the sinking ship of the National Maritime Center. Grounding the ship on Martinsburg shoal may be the best chance that Captain Ernest Fink has of saving the ship. However, if Captain Fink can save his ship, it will need an entire new crew. He will be hard pressed to find real mariners in the mountains of West Virginia – and that includes most Coast Guard "blue-suits" he can recruit for this stressful work.GCMA gives Captain Fink an "A+" for effort.

In the meantime, GCMA continues to receive reports from mariners overwhelmed by the process. The time is long overdue for GCMA to document some of the abuses our mariners face in the disintegration of the licensing system. Yet, this is only one aspect of a growing disaster facing our mariners from a flawed system that faced collapse even before Hurricane Katrina arrived.

The towing industry faces even greater problems. According to Mr. Wells, on the national level there are only 135 individuals who currently hold licenses for Mate/Pilot of towing vessels and only 315 mariners have the learners permits to train as Apprentice Mates or Steersmen of towing vessels. It is clear that the "new" licensing regulations that went into effect on May 21, 2001 have backfired.

Many mariners who plan to renew their towing licenses will also face problems. In some cases, mariners with active licenses will have to demonstrate their towing skills before a Designated Examiner in order to renew their license. They will also have to prove ongoing participation in fire drills by a letter from their employer. Apparently, the Coast Guard plans to give favored status to letters of sea service furnished by AWO-member companies and companies that participate in the International Safety Management (ISM) system. GCMA already received complaints from a number of mariners on this issue.

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