

OREGON BOARD OF MARITIME PILOTS MINUTES #544

The Oregon Board of Maritime Pilots met in regular session on September 17, 2020 at 10:30 a.m. by video/teleconference.

The Board representatives present included Chair Dan Retzlaff, Vice Chair Leslie Goss, Adam Baker, Kip Callahan, Capt. Chris Farrell, Heather Moats, Capt. Elroy Olson, Dan Pippenger, Capt. George Wales, Assistant Attorney General Katharine DiSalle, Executive Director Tom Griffiths and Susan Johnson, Administrator.

APPROVAL OF MINUTES #542 & #543: There was discussion of the proposed rulemaking approved in Minutes #543; but it was agreed that the rulemaking was still out for public comment, and any comments would send the rulemaking back to the Board. A **MOTION** by Ms. Goss to adopt the minutes was seconded by Capt. Farrell and **CARRIED** unanimously.

PILOTS' REPORTS:

Capt. Jeremy Nielsen (Columbia River Pilots) advised they are approaching their annual low water season. The Army Corps has been dredging; responding to hot spots and providing quick soundings. Currently, deep draft vessels are moving in a timely manner, but there may be a need to coordinate deep draft vessel movements to coincide with tidal windows. There have been an uptick in loss of propulsion issues which are causing concern, and fortunately have not resulted in any incidents. There have been no cases of COVID-19 among the pilots. Finally, a Sandy Hook pilot fell to his death last month, marking the third U.S. pilot death within a year that occurred boarding or disembarking a vessel – one of the most hazardous parts of piloting.

Capt. Dan Jordan (Columbia River Bar Pilots) reported since the last meeting they did receive payment for pilotage services from the Navy for last year's Rose Festival, and thanked Vigor Marine for their assistance. He echoed concern for pilot transfer safety (not just ladders), which includes pilot equipment and pilot boat operations. He is participating in an APA committee focused on pilot transfer safety and will update the Board on how that progresses. They will be providing instruction to the USCG on pilot ladder inspections next week and next month the Int'l. Pilot Association will be conducting an annual safety campaign with a two-week study to improve efforts on where they should be focused on all aspects of pilot boarding. Regarding COVID-19, they recently had a pilot exhibiting symptoms, which launched an effort for contact tracing. They have contracted with a company working with the University of Washington, and were able to get a negative test result for the pilot, on a holiday.

Capt. Farrell added that the situation has also raised heightened awareness for their crews. They have best practices in place to protect them in case the virus becomes present within the organization. They have also shared best practices with other West Coast pilot organizations. He also touched on three West Coast pilot organizations currently taking custody of new boat builds. They had inspected the Bar Pilots' pilot boats when making design decisions.

Capt. George Wales (Coos Bay Pilots) stated that traffic continues to be slow. There have been no issues with COVID, but the longshoremen are still on a travel restriction.

INCIDENT REPORTS:

Aquataurus – On May 15, 2020, this bulk carrier was struck on the port bow by the landing craft Connie May at County Line Park, Washington, Columbia River mile 51. Capt. Olson conducted the investigation and submitted an investigation report to the Board, which is incorporated as a part of these minutes. Capt. Olson gave a timeline summary of the incident details. He interviewed the pilot, master, 2nd mate and AB; reviewed TV 32, interviewed the class surveyor and obtained statements of the crew of the Connie May from the USCG. The cause of the incident was the Connie May altering course, instead of maintaining course and speed in a meeting situation. This was due to the inexperience of the crew; their lack of experience and local knowledge on the Columbia River and their lack of communication and operable radar. He recommended that the incident be closed with a finding of no pilot error. There was discussion of asking Mr. Griffiths to contact CG and find out what action was taken with the Connie May and potentially send a letter of concern. If the pilot had not altered his course, the vessel would have run over the top of the Connie May and there could have been deaths involved. It was agreed to follow up with the CG to find out any action taken against the crew's negligence. A **MOTION** by Mr. Pippenger to accept the report with a finding of no fault on the pilot, and to commend Capt. Patching on his quick actions to save lives. With a second by Capt. Farrell, the motion **CARRIED** by roll-call vote. Capt. Olson abstained.

SM Mumbai – This container vessel was implicated in wake damage that occurred at Kalama Marina on April 13, 2020. An independent investigator was brought in to conduct an investigation along with Capt. Olson. Both investigators submitted reports. Mr. Retzlaff convened an investigation committee to review both reports and make recommendations to the Board. The committee's report to the Board is incorporated as a part of these minutes. Mr. Retzlaff noted that the reports corroborated on the facts of the incident. The committee found fault for the incident on the pilot, based on negligence for failing to act as would a prudent pilot. The investigation committee submitted four recommendations to the Board:

- A proposed 90-day suspension of Capt. Boyce's license pending due process;
- A requirement for BRMP training at the pilot's expense within the suspension period, or as soon practicable;
- A requirement to submit a follow-up letter from Capt. Boyce to the Board on lessons-learned; and
- Take no action against pilot trainees Nick Ritter and Brian Sigfridson.

There was discussion of the availability of the proposed training requirement. Also not recommended but discussed was the feasibility of limiting one pilot trainee to a transit given the availability of certain size vessels. Ms. DiSalle advised the Board on the process for issuing a notice of proposed discipline; the length of time to bring the matter to hearing if requested; and the necessity of proposing a license suspension in the interim. After further discussion, Mr. Callahan made a **MOTION** to accept the report and recommendations. With a second by Capt. Farrell, the motion **CARRIED** by roll-call vote. Capt. Olson abstained.

NEW BUSINESS:

Complaint Re: Capt. Bybee 7/14/20; Bybee Response 7/24/20; Zilbert Jurisdiction Letter 7-28-20; Anchorage Launch Letter 8/3/20; Statement of Opposition 9-3-20; Executive Session as provided in ORS 192.660(2)(f) – Mr. Retzlaff noted the ongoing nature of this dispute in regard to launch service requirements. Multiple submissions on the matter have been received from the parties. Mr. Retzlaff reminded the Board when reviewing this matter at the last meeting that it had been determined in consultation with counsel that the Board had no statutory authority in this matter. The Board then went into executive session to consult with counsel to consider information or records that are exempt by law from public inspection, pursuant to ORS 192.660(2)(f). After returning to public session, Mr. Retzlaff announced that the conclusion remains unchanged, with the Board having no authority over the matter.

STAFF REPORT:

Board members were provided with a budget report through July 31 and a summary of operations fee collections. 43.2% of the budget has been expended through 54% of the biennium.

Meetings – A summary of meetings attended was provided, including several introductory meetings attended by Mr. Griffiths since his hire starting August 3; a July Rules Committee meeting and a September Harbor Safety Committee meeting. It was noted that this was Mr. Griffiths first appearance at a Board meeting.

Updates –

- The RFP for independent investigators was closed with no bids. Mr. Griffiths will be working with the PUC to look into other options, and investigate how other pilotage authorities handle investigations.
- The annual tariff adjustment became effective September 1 for all pilotage grounds.

COMMITTEE REPORTS:

Harbor Safety – The committee met on September 9 in a video conference meeting. Work has begun on updating the Harbor Safety Plan by assigning people to committees to review individual plan chapters. Presentations were made on the Interstate Bridge Trunnion Replacement Project; Earthquake Ready Burnside Bridge and the Abandoned & Derelict Vessel Program by the OR State Marine Board. The next meeting is scheduled for November 4.

Rules Review – Ms. Goss advised that there nothing new to report at this meeting. The last committee meeting was July 23 to prepare for the August 10 Board meeting to address licensing requirement waivers.

PUBLIC COMMENT:

Regarding the Bybee Complaint -

- Don Bybee (Columbia River Pilot) – Understood that the Board will not be investigating the matter but would have encouraged it to clarify comments and false allegations that were made against him, his family and the pilots.
- Tim Coleman (Counsel to Anchorage Launch Service) – Made comments about abuses of monopoly power that should be scrutinized by regulators. The pilots have made several attempts to control launch selection based on safety. He referred to potential violation of ethics laws based on nepotism.
- Jeremy Nielsen (Columbia River Pilot) – Noted that in his experience the Board has been proactive on matters before it. He believed the Board is being short-sighted in not considering a rule on pilot transfers; and will be reactive if there is an incident involving a boarding or unboarding occurrence. He stated the matter as a safety issue not a business issue.
- Todd Zilbert (Counsel to the Columbia River Pilots) – Disagreed with the Board's conclusion on its statutory authority. It's difficult to understand the Board's basis for its decision without knowing the legal advice that was given. He asked the Board to waive privilege and release the legal advice that they received.

Regarding the SM Mumbai Incident -

- Michael Haglund (Counsel for Capt. Boyce) – Advised that Capt. Boyce has been in attendance and accepts the discipline the Board voted on earlier today (suspension, training, lessons-learned letter). Ms. DiSalle recommended the Board withdraw their prior vote and simultaneously vote to approve counsel to draft a notice and a consent order. If the consent order is signed the notice becomes irrelevant and the license suspension becomes effective the date the order is signed. Mr. Farrell made the **MOTION**, as previously stated by counsel, which was seconded by Mr. Callahan and **CARRIED** by roll-call vote. Capt. Olson abstained.

There being no further business, the meeting adjourned at 12:15 p.m.

NEXT MEETING DATE: November 19, 2020

Respectfully submitted,

Susan Johnson

Susan Johnson, Administrator



License Renewals - As submitted on the agenda, the following licenses are scheduled for renewal in October/November: On the Columbia and Willamette River pilotage ground – J.S. Wood #175, S.J. Dobbins #130, C.D. Eckardt #168, D.E. Olsen #158 and M.S. Balensifer #117. On the Columbia River Bar pilotage ground – C.J. Farrell #159 and D.S. Jordan #139. On the Coos/Yaquina Bay Bar pilotage grounds – T.V. Petrusha #182.

Approved as amended, November 19, 2020, Minutes #545

M/V AQUATAURUS

Incident Date: May 15, 2020

Reported by: Captain Elroy E. Olson

Subject: Investigation of the M/V Aquataurus

Pilot: Tim Patching

Vessel Particulars:

Name: Aquataurus

Type: Bulk Carrier

LOA: 649 ft.

Beam: 105 ft. 10 in.

Year Built: 2017

IMO: Number: 9757034

Port of Registry: Liberia

Introduction:

On May 15, 2020, at 01:27 the M/V Aquataurus was struck on the port bow by the 75 ft. Landing Craft Connie Mae at County Line Park, Washington. Columbia River mile 51.

County Line Park is 15 miles downstream from the Longview Bridge

Incident details:

At 22:45, May 14, 2020 the Aquataurus departed Astoria anchor inbound for United Grain Corp. in Vancouver, Washington.

At 01:10 Capt. Patching received a call from the M/V Sea Bliss, piloted by Capt. Edward Olson, who was inbound about 7 miles ahead of the M/V Aquataurus. He informed Capt. Patching that there was a small vessel outbound without AIS signal and the small vessel was not responding to VHF radio transmissions.

At 01:23, the Aquataurus was inbound on the extreme Oregon edge of the maintained dredged channel and the Connie Mae was outbound on the extreme Washington edge of the maintained dredged channel.

At 01:26, Capt. Patching noticed the Connie Mae altered course to port, heading towards the Aquataurus. When Capt. Patching determined that a collision was imminent, he ordered hard to starboard in an attempt to avoid a collision with the Connie Mae.

At 01:27, the Connie Mae struck the port bow of the Aquataurus.

Prior to the collision, Capt. Patching made every attempt to contact the Connie Mae by hailing them on VHF Ch. 13 and 16, by blowing the appropriate passing signal followed by the danger signal and finally by flashing the deck lights.

Capt. Patching tried calling the Connie Mae after the collision without success. He then called the Tug PJ Brix and asked if they would stop and check to see if everyone was okay on the Connie Mae. Shortly thereafter, Capt. Patching made radio contact with the crew of the Connie Mae. The Capt. of the Connie Mae said everyone was okay on his vessel and preceded down river.

Capt. Patching had the Capt. of the Aquataurus check for damage as they preceded inbound to United Grain.

Earlier that night, at 23:45 the ATB Island Monarch, piloted by Capt. Boyce, had a close quarter's situation with the Connie Mae. Capt. Boyce attempted to contact the Connie Mae and was unsuccessful.

Later that same morning, the M/V Panagia Thalassini, piloted by Capt. Satalich and Capt. Ritter, tried making radio contact with the Connie Mae and were also unsuccessful.

As a result of this collision there was no danger to the public and no oil pollution.

As per Drug and Alcohol Policy of the Columbia River Pilots, Capt. Patching performed an alcohol swab test in the presence of the Master, which resulted in a negative reading.

At 03:55, Capt. Patching was relieved by Capt. Bair.

Capt. Patching proceeded to Legacy Central Lab, Portland, Oregon for DOT Controlled Substance Test. All tests returned from Legacy Central Lab were negative.

On the afternoon of May 15th, the USCG was able to contact the Connie Mae and requested them to stop at Westport, Washington for damage assessment.

Worked Performed:

Interviewed the Pilot, Master, 2nd Mate, AB

Reviewed TV 32

Interviewed the Class Surveyor NKK

Worked with the USCG by obtaining statements from the crew of the Connie Mae.

Cause:

Connie Mae altering course, instead of maintaining course and speed in a meeting situation.

Conclusion:

- Inexperience of Connie Mae crew.
- Lack of experience and local knowledge on the Columbia River.
- Lack of communication and operable radar.

Recommendation:

This incident investigation be closed with a finding of no pilot fault.

Submitted: September 10, 2020
Captain Elroy E. Olson.

Investigation Committee Report to Board

Committee Members: Dan Retzlaff, Kip Callahan, Capt. Elroy Olson
Staff: Tom Griffiths, Susan Johnson

The committee met on 8/5/2020 at 9:00 a.m. to review two investigation reports submitted for the incident involving the *SM Mumbai* which occurred on April 12, 2020. They first reviewed investigator Capt. Jeff Cowan's report. The event summary documented well the events leading up to the wake damage incident, which caused three million dollars in estimated damages to the dock structure and boats at Kalama Marina. Capt. Olson pointed out in the second paragraph of the event summary that "three bar pilots" should be corrected to "three river pilots". They moved on to the section labeled "The Pilots" on page 14, noting that the pilot, Capt. Boyce, had all the proper training and certifications for piloting the *SM Mumbai* and was not fatigued. He further passed a drug test after the incident. Capt. Boyce had two pilot trainees perform pilotage duties – one hour piloting and one hour off. Capt. Boyce controlled the speed of the vessel and oversaw the ship transit. The presence of two pilot trainees aboard may have been a distraction for the pilot. The investigator made recommendations at the end of the report, which include: only one pilot trainee aboard during any ship movement; no action against the pilot trainees; and some manned model training for the pilot.

They moved on the Capt. Olson's investigation report, looking for any discrepancies from the first report. Capt. Olson advised that he did not hear on the VDR the pilot state that the berth they were passing was usually occupied and ships proceed at reduced speed (page 15). He believed Capt. Cowan had a much clearer copy of the VDR. But, during his interview with Capt. Boyce, he did make the same statement. Capt. Olson also stated that the pilot was in control of the ship, and the trainees were working under his oversight. The responsibility of the navigation of the vessel lies with the licensed pilot, not the trainees.

Next they reviewed the pilot's statement, which Mr. Retzlaff noted appeared to be in line with the two investigation reports. The only difference was mention of a low rudder response due to the vessel's unloaded condition and the propeller and rudder being partially out of the water. But the statement also confirmed to a large extent what's in the investigation reports – that in the grain terminal and Kalama marina area, the standard practice is to reduce speed to around ten knots, but the vessel continued on at fifteen knots. Capt. Olson pointed out in his report that the vessel had reduced speed at Wauna Mill and Longview. Those are areas pilots normally slow down for to protect against surge and wake damage.

Finally, Mr. Retzlaff stated that they have Capt. Jeremy Nielsen's report at the Board meeting (5-21-20) documenting the River Pilots' response to the incident by upgrading training. Capt. Olson had also reported that the River Pilots will only have one trainee on 800'+ vessels, which will help create a more focused training session. They're also increasing training trip requirements on ships over 800 feet, and trainees must complete four 800 foot training trips during the last six months of their training program, which helps insure recency.

All unlimited pilots who were not trained on container vessels will take a training transit. A selection of pilots including Capt. Boyce, will travel to LA or Puget Sound for container ship training (which has been delayed due to COVID-19 restrictions).

During discussion, it was noted that most pilots would have reduced speed passing the Kalama facilities and that each ship has different handling characteristics that pilots must know. In the conclusion of Capt. Olson's report, it was not within his expertise to estimate the extent of the damage or to say whether the total extent of the damage was solely caused by the ship's speed. At the marina, they put a new dock in at the lower end that is like a barge that is sunk down in the water, which may have possibly intensified what happened there. This does not excuse the speed of the vessel when passing the area. But this is an area where the River Pilots may have to slow down even more because of the design of that new dock.

In considering the recommendations in the reports, allowing only one pilot trainee per vessel makes sense and the River Pilots have already implemented that recommendation. Additional training is also acceptable. Mr. Callahan believes that the Board should suspend Capt. Boyce's license for a period of time (at least 30 days?) and tie that to training. However, because of COVID-19 restrictions, training may not be feasible for any pilot other than local training. Some form of suspension given all the circumstances is appropriate. Capt. Olson noted that he did not provide any recommendations in his report because he felt that was up to the committee to determine. He agreed with a license suspension, but extend it to three months, based on negligence for failing to act as a prudent pilot would [856-019-0045(9)] – passing the facility in excess of 15 knots indicates a total loss of situational awareness. Capt. Olson suggested that bridge resource management for pilots (BRMP) would be better training resource rather than manned model given the circumstances in this incident. We can look into the availability of BRMP (at the pilot's expense); but there is also the possibility of one-on-one training with distancing. Following that, Capt. Boyce needs to write a letter to the Board on lessons-learned.

A **MOTION** was made and seconded to recommend to the Board at their September 17 meeting:

- To propose a 90-day suspension of Capt. Boyce's license pending due process;
- To require BRMP training at the pilot's expense within the suspension period, or as soon practicable;
- To require a follow-up letter from Capt. Boyce to the Board on lessons-learned; and
- To take no action against pilot trainees Nick Ritter and Brian Sigfridson.

The motion **CARRIED** unanimously.

The meeting adjourned at 10:05 a.m.