



ON STATION

The Newsletter of the American Pilots' Association

March 15, 2010

Page 1

APA OFFICERS CONVENE IN NATION'S CAPITAL

The officers of the American Pilots' Association met in the APA offices on March 12. The Regional Vice-Presidents, the President, the Secretary-Treasurer and the APA staff discussed national and international matters and APA business, and also exchanged reports on regional issues.

The meeting began with a tour of the newly upgraded APA office. The officers agreed that the project was a rousing success and felt that the new space reflects the appropriate standards expected from the national organization of professional maritime pilots. A motion was unanimously adopted recognizing the efforts of Executive Director-General Counsel Paul Kirchner in planning and managing the renovation. Mr. Kirchner then cited the hard work of the office staff in making the project go as smoothly as it did.

After Captain Gary Maddox, APA's Senior Vice-President, called the meeting to order and took care of various administrative matters, Secretary-Treasurer, Captain Whit Smith gave his report. Each Vice-President then provided a report on issues, concerns, and topics of general interest from his region. There was a general consensus among the Regional Vice Presidents that while the shipping activity in most of the ports in their respective areas is still down, there does appear to be a flattening trend so far in 2010. In addition, particular note was taken of reports on efforts by some cruise ship interests to influence the Florida legislature in an attempt to weaken compulsory pilotage and navigational safety standards.

Captain Watson, Paul Kirchner, and Deputy Director Clay Diamond then reported on national items. The APA report included the following: a federal legislative overview; an update on USCG and NTSB matters; recent problems encountered by pilots in dealing with the USCG's National Maritime Center (and steps APA has taken to resolve these issues); and the USCG's recent clarification of the minimum federal casualty reporting requirements. APA also provided an update on international issues. Captain Watson, as President of the Inter-

national Maritime Pilots' Association (IMPA), and Mr. Kirchner provided an overview of the important issues relating to the upcoming IMPA Congress (November 14-19 in Brisbane, Australia), as well as a preview of the vital efforts that will take place at the IALA Conference in South Africa in mid-March (see next page for additional detail). Clay Diamond relayed information on the outcome of the latest International Maritime Organization meeting on the comprehensive review and amendment of the STCW Convention and Code.

Paul Kirchner provided an update on the status of various ongoing litigation related to the 2007 COSCO BUSAN incident. In addition, Mr. Kirchner gave an



2010 APA Officers (left to right): Captain Eric Neilsen (North Atlantic VP), Captain Gary Maddox (South Atlantic VP / Senior VP), Captain Mike Torjusen (Gulf VP), Captain Mike Watson (President), Captain A.J. Gibbs (Gulf VP), Captain Whit Smith (Secretary-Treasurer), Captain Roger Paulus (Great Lakes VP), and Captain Pete McIsaac (Pacific VP).

overview of the latest federal and state judicial decisions impacting the piloting profession. A brief discussion of two of these cases can be found on page 5.

The last topic discussed at the meeting was the status of planning for the October 2010 APA Biennial Convention, including development of the business agenda.



41ST SESSION OF STW SUBCOMMITTEE MEETS

The 41st Session of the IMO Subcommittee on Standards of Training and Watchkeeping (STW 41) met in London from January 11-15, 2010. APA's Deputy Director, Clay Diamond, and Captain Andrew McGovern (New Jersey-Sandy Hook Pilots), serving in his capacity as Chairman of the Merchant Marine Personnel Advisory Committee (MERPAC), were members of the U.S. delegation.

The meeting's objective was to complete the comprehensive review of the STCW Convention and Code in time to allow the revisions to be submitted for approval to the Diplomatic Conference that will meet in Manila, Philippines in June 2010. While STW 41 reached consensus on the majority of proposed revisions to the STCW Code, there were several issues upon which consensus could not be reached. The unresolved issues must now be decided during the Manila Conference.

Among the most contentious of the undecided issues relates to the assessment of physical abilities of mariners. Currently, the STCW Code provides voluntary guidance to administrations on assessing the physical abilities of serving mariners (e.g., climb up and down ladders, step over coamings, lift a specified weight, crouch, crawl, etc.). Some delegations at STW 41, including the U.S., support making this voluntary guidance mandatory. The International Labor Organization, supported by other delegations, raised the concern that adding to the ever-expanding list of mandatory physical requirements for existing mariners could harm the maritime industry and seafarer recruitment/retention and could result in inadvertent discrimination against women and older mariners.

Revision of the STCW Code is important to pilots, and the APA will remain engaged as the U.S. Delegation prepares for the Manila Diplomatic Conference.

POTENTIAL SNAG IN EFFORTS TO ENHANCE PILOT LADDER SAFETY

As previously reported in *ON STATION*, at the July 2009 meeting of the 55th session of the IMO's Subcommittee on Safety of Navigation (NAV 55), significant progress was made toward enhancing the safety of pilot transfer arrangements. Among the most notable amendments agreed at NAV 55 were: clarification that pilot ladders must be inspected as part of the ship's other safety equipment; accommodation ladders, when used in combination with pilot ladders, must be secured to the ship's hull; and the prohibition of the use of mechanical hoists.

These amendments were widely expected to be approved by the full Maritime Safety Committee (MSC) and the IMO Assembly without further debate; and the amendments were expected to enter into force in July

2012. However, at the February 22 meeting of the 53rd Session of the Subcommittee on Ship Design and Equipment (DE 53), a potential conflict between the proposed new pilot ladder regulations and existing accommodation ladder regulations was raised. Efforts will be made at the May 2010 meeting of MSC 87 to resolve any potential conflict.

Pilot interests will be well-represented at MSC 87, as Captain Mike Watson will attend as IMPA President and Paul Kirchner will be a member of the U.S. delegation.



LATEST PILOT-INTERTANKO DISCUSSION GROUP CONVENES IN FLORIDA

The latest meeting of the "Pilot-INTERTANKO Discussion Group" was held in Florida on February 19th. APA and IMPA President, Captain Mike Watson, and INTERTANKO's Deputy Managing Director, Joe Angelo, again led a very productive meeting.

The participants discussed the formal signing arrangements for the partnership agreements among APA, IMPA and INTERTANKO that would support the advancement of the organizations' shared objective of improving maritime safety. Among the other topics considered were the criminalization of marine casualties and cooperative measures to ensure IMO adoption of critical SOLAS amendments to improve the safety of pilot ladders. The Discussion Group will likely meet again later in 2010 at a time and place to be determined.

AMERICAN PILOTS' ASSOCIATION
499 South Capitol Street, S.W., Suite 409
Washington, D.C. 20003
(202) 484-0700 • Fax: (202) 484-9320

Captain Michael R. WatsonPresident
 Captain Whit SmithSecretary-Treasurer
 Captain Gary MaddoxVice President-South Atlantic States
 Captain Eric A. NielsenVice President-North Atlantic States
 Captain Michael C. TorjusenVice President-Gulf States
 Captain Allen J. "AJ" GibbsVice President-Gulf States (Louisiana)
 Captain Peter McIsaacVice President-Pacific Coast States
 Captain Roger S. PaulusVice President-Great Lakes
 Paul G. KirchnerExecutive Director-General Counsel
 Clayton L. DiamondDeputy Director
 Lisa P. KatesExecutive Assistant

ON STATION is published by the American Pilots' Association, a non-profit trade association composed of groups of state-licensed pilots operating in each of the coastal states, as well as groups of U.S. registered pilots in the Great Lakes region. Each pilot in APA-member groups receives *ON STATION*, the costs of which are paid from the member's dues. Any comments, suggestions or questions concerning *ON STATION* should be directed to the attention of the APA office at the above address.



HOUSE MEMBERS ANGERED OVER COAST GUARD BUDGET REQUEST

Both democratic and republican lawmakers expressed frustration over the Coast Guard's budget proposal for fiscal year 2011. The proposal, \$10.08 billion, is a 3.3% decrease from the \$10.42 billion dollars appropriated last year. Coast Guard Commandant, Admiral Thad Allen and Master Chief Petty Officer of the Coast Guard, Charles "Skip" Bowen testified before the Coast Guard and Maritime Transportation Subcommittee (CG&MT) on February 25th and defended the budget outline.

Most disturbing to lawmakers, it appeared, was that the budget proposal represents a 2.6% cut in military personnel or 1,112 officers and enlisted men and women. CG&MT Chairman, Rep. Elijah Cummings (D-MD), declared, "I am deeply, deeply concerned by the proposed reductions in the Coast Guard's budget...I firmly believe that the Coast Guard's budget needs to be equal to our nation's requirements for the Coast Guard's services - and this budget simply does not meet that standard."

CG&MT Ranking republican, Rep. Frank LoBiondo (R-NJ) appeared equally frustrated. Mr. LoBiondo said, "To say that I am troubled by what was proposed doesn't come close to covering it...it is a recipe for disaster."

Cummings and LoBiondo said the reduction of Coast Guard forces by more than one thousand people was particularly upsetting because CG&MT had worked so hard over the previous several years to increase personnel rolls, in large part to ensure the USCG is able to support traditional missions such as marine safety and search and rescue. Admiral Allen, who will retire and leave the service this May, explained the proposed budget cuts by saying he was focused on recapitalizing the fleet and had to make "hard choices" about where reductions would be made. The proposed budget includes nearly \$1 billion dollars to buy new ships and aircraft.

NTSB AUTHORIZATION BILL INTRODUCED IN THE HOUSE

On March 2, 2010, a bipartisan group of Congressman, including Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) and Ranking Member John Mica (R-FL), introduced the NTSB Authorization Bill for 2011 through 2014 (H.R. 4714). While it is too early to tell if H.R. 4714 will pass the House in its present form, the bill contains some potentially significant changes to NTSB's authorities.

If this legislation is enacted into law it seems the NTSB would be expressly permitted to release only select portions of VDR transcripts that the agency deems

"relevant to an accident" and withhold the remainder of the transcripts. The Board would also be permitted to refer to unreleased VDR information in making public safety recommendations. There are a number of readily apparent concerns over this proposed new authority.

In addition, H.R. 4714 would allow the NTSB to delegate its authority to a USCG officer to investigate a major marine casualty. Under the bill, the CG investigating officer "shall have the full authority of the Board." This could be interpreted as a substantial broadening of CG investigative authority and could create confusion as to which agency's investigative rules apply. APA will monitor this legislation closely.



NMC CLARIFIES "DELAYED ISSUANCE" POLICY

In a January 26th bulletin, the National Maritime Center (NMC) clarified the USCG's policy of permitting the delayed issuance of Merchant Mariner Credentials (MMC) to reduce the costly and inconvenient effects of what is commonly referred to as "license creep." Under this "delayed issuance" policy, mariners may request that the issuance of their MMC be delayed to coincide more closely with the expiration date of their current credential.

The policy is similar to the practice that has generally been followed in the last few years, although not as reliably as most mariners, particularly pilots, would have liked. Details of the process to request delayed issuance can be found at:

http://www.uscg.mil/nmc/announcements/delayed_issuance_bulletin.pdf



IALA'S CONTROVERSIAL PILOTAGE AUTHORITY FORUM TO BE DIS- CUSSED IN CAPE TOWN

The future of IALA's little-known, but controversial, so-called "pilotage authority forum," or PAF, will be addressed at the 2010 IALA Conference, to be held in Cape Town, South Africa from March 21-27. While more than 80 countries are members of IALA, the recently formed PAF is composed of only a handful of delegations, and most observers view the PAF to be well outside IALA's normal scope of responsibilities.

Captain Mike Watson, as IMPA President, and Paul Kirchner, APA's Executive Director-General Counsel, will attend this important meeting and will provide perspective on pilotage to the IALA Conference attendees.



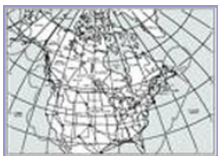
GREAT LAKES PILOTAGE ADVISORY COMMITTEE MEETS IN WASHINGTON

The Great Lakes Pilotage Advisory Committee (GLPAC) met on January 21, at U.S. Coast Guard Headquarters in Washington, DC. The GLPAC, which makes recommendations to the Coast Guard on Great Lakes pilotage regulations and policies, consists of the President of each Great Lakes pilotage district (Captain Roger Paulus-District 1; Captain Danny Gallagher-District 2; and Captain Don Willecke-District 3), an individual with finance background (vacant), and representatives of vessel operators, shippers whose cargo is transported through the Great Lakes, and port interests. Deputy Director, Clay Diamond, attended the meeting representing the APA.

Captain Paulus (who is also APA Vice President for the Great Lakes) was elected Chairman of GLPAC. Tops on the GLPAC's agenda was a discussion of needed changes to the Coast Guard's "Great Lakes Pilotage Rate-making Methodology." The Coast Guard recently sought public comment on the Rate-making Methodology, which has been roundly criticized as ineffective by both the Great Lakes pilots and many shipping interests.

MERPAC HOLDS MEETING IN THE BIG EASY

The Merchant Marine Personnel Advisory Committee (MERPAC) met in New Orleans on March 11-12, 2010. The meeting, under the chairmanship of Captain Andrew McGovern (United New Jersey-Sandy Hook Pilots), was attended by several senior USCG officers, including the Commanding Officer of the National Maritime Center (NMC). Included on MERPAC's agenda were discussions and recommendations to the USCG to assist in the agency's preparations for the diplomatic conference in Manila, Philippines on the adoption of amendments to the STCW Convention and Code. MERPAC also brought to the attention of USCG officials in attendance a number of concerns regarding recent NMC policy decisions regarding physical examinations and credential requirements.



USCG OFFICIALLY BEGINS LORAN-C SHUTDOWN

After many years of trying, the Coast Guard has finally obtained its goal of shutting down the North American LORAN-C signal. Beginning on February 8th, the Coast Guard began its "phased decommissioning" of the Nation's LORAN-C infrastructure and will terminate

the LORAN-C signal altogether by October 1, 2010.

Critics of the USCG's decision to terminate the LORAN-C system, which has been in continuous operation in the U.S. since 1957, argued that LORAN-C is still valuable to the maritime community as the foundation for an upgraded system—enhanced LORAN or "eLORAN"—that would provide a much needed back-up to GPS for both vessel location and timing purposes.

The USCG does not share the view that LORAN-C should be upgraded to serve as a GPS backup or even that a GPS backup is necessary. In a press release announcing the termination of the LORAN-C signal, the Coast Guard stated, "The LORAN-C system was not established as, nor was it intended to be, a viable systemic backup for GPS. If a single, domestic national system to back up GPS is identified as being necessary, the Department of Homeland Security will complete an analysis of potential backups to GPS."

PAPP NOMINATED AS COMMANDANT; OTHER TOP LEADERS SELECTED

On December 22, President Obama nominated Vice Admiral Robert Papp, presently the CG's Atlantic Area Commander, to serve as the 24th Commandant of the Coast Guard. If confirmed by the Senate, Vice Admiral Papp would relieve Admiral Thad Allen in May 2010.

Confirmation of Commandant nominees has traditionally been without controversy, but there are hints that this year may be different. In what is described in press accounts as an "internal USCG memo", VADM Papp suggested that some maritime security resources could be reduced, which would allow "core missions" (e.g., marine safety, AtoN, and search & rescue) to be bolstered. Papp's discussion of security cuts has led at least some GOP congressmen to urge President Obama to withdraw Papp's nomination.

In a letter to Papp, APA President Captain Mike Watson offered his congratulations on the nomination and added, "APA-member pilots work every day alongside USCG men and women on the frontlines of the battle to manage this country's ports, waterways, and coastal areas. We have always made it a priority to work closely with the USCG and my sincere hope is that we can continue – and even expand upon – this cooperation."

The USCG also announced its proposed new national leadership team: VADM Sally Brice-O'Hara (Vice Commandant); VADM Robert Parker (Atlantic Area Commander); VADM Manson Brown (Pacific Area Commander); VADM John Currier (Chief of Staff); and RADM Brian Salerno (Deputy Commandant for Operations). Each also requires U.S. Senate confirmation.



RECENT COURT RULINGS OF INTEREST

Two recently decided court cases, one from a federal court and the other from a state court, should be of interest to APA-member associations and groups. Summaries of these cases are provided below.

STATE LIMITATION OF LIABILITY STATUTE NOT PREEMPTED BY FEDERAL LAW

The U.S. District Court for the Northern District of California, in a January 27, 2010 opinion, held that California's limitation of liability statute for pilots in San Francisco is not preempted by federal maritime law. Under the "dual rate" statute, in exchange for a lower pilotage rate, vessel interests agree to indemnify, hold harmless, and defend a San Francisco pilot in the event of an accident.

In a well-written decision, the District Court stressed that since the founding of the Nation it has been Congress' intent to allow states broad authority to regulate and oversee their own pilotage systems, including the liability of pilots in civil suits. Moreover, the court concluded there is no danger that this type of state regulation of pilotage interferes with federal maritime law. While the case was focused on California's dual rate statute, the decision was broadly written and should be interpreted as being applicable to other states' pilot liability limiting statutes.

The APA welcomes this ruling because liability limitation provisions are important aspects of state pilotage rate-setting mechanisms and are normal and appropriate components of robust state oversight of pilotage.

PILOT BOAT OPERATOR NOT NECESSARILY "JONES ACT SEAMAN"

On February 25, 2010, the Circuit Court for Baltimore City (Maryland) granted the Association of Maryland Pilots' motion for Summary Judgment, holding "as a matter of law" that a pilot launch operator who spent less than 30% of his employment time aboard the launch while the launch was in operation on the water, "is not a seaman within the meaning of the Jones Act."

The launch operator, injured during sandblasting, asserted that, since he was a seaman under the Jones Act (46 U.S.C. § 30104), he was entitled to relief under the Act. Citing the relevant test established in U.S. Supreme Court decisions, the court ruled that it is reasonable to conclude that a worker who spends less than 30% of his time in service on a vessel *in navigation* does not qualify as a Jones Act seaman.

IMAGES FROM APA OFFICERS' MEETING IN WASHINGTON, DC



With the Capitol Dome in the background, Captain Mike Watson (President of the APA), addresses the March 12th meeting of the Officers of the American Pilots' Association.



2010 Winter meeting of APA Officers and staff.

DON'T FORGET THE APA PAC FUND

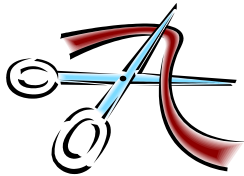
Send your voluntary contribution to:
APA Political Action Committee
499 South Capitol St., SW
Washington, DC 20003



APA NEWS & INFO

DON'T LEAVE IT TO CHANCE! REGISTER NOW FOR THE CONVENTION

The 2010 American Pilots' Association Biennial Convention, hosted by the Gulf State pilots, will be held from October 25-29, 2010 in Las Vegas, Nevada. The Attorneys' Meeting and Committee Meetings will be held on Monday, October 25. Other business meetings begin on Tuesday, October 26 and run through week end. Please visit the APA website, www.americanpilots.org, for more information and to register for the convention.



NEW APA OFFICE OPEN FOR BUSINESS!

The long-planned renovation and expansion of the APA's Washington, DC office is finally complete. The project, completed in March, resulted in 40% more working space, a complete redesign and reconfiguration of the entire office, and a substantial upgrade to the office's telephone and IT capabilities.

Another necessary improvement to APA spaces was the addition of modern conference facilities. This will provide both a professional location to conduct meetings of the APA officers and a suitable venue to host other visiting officials.

The APA is particularly proud that there was no disruption to the work of the association during the project.



APA Conference Room



The reception area of the new offices of the American Pilots' Association.



THIS COULD MAKE IT TOUGH TO CHART A COURSE!

While some may believe those in Washington don't know or can't decide which way to lead, this is ridiculous!

Actually, this wooden compass rose, which was to be an insert in the hardwood floor of the reception area of the refurbished APA offices, was shipped with this rather significant discrepancy. No need to worry, the problem was noticed before the insert was installed. NOTE: If you have to ask the nature of the discrepancy, you are probably not a regular reader of *ON STATION*.

ELECTIONS, SELECTIONS, APPOINTMENTS, ETC.

◆ The Houston Pilots announced the election of officers for 2010: **Captain Thomas C. Pace, Jr.** (Presiding Officer); **Captain Larry Wheatley** (Executive Committee Member); and **Captain Steven A. Nelson** (Executive Committee Member).

◆ The 2010 officers for the Columbia River Pilots are **Captain Paul D. Amos** (President), and **Captain Steve Woods** (Vice President).

◆ The new 2010 officers for the United New York-Sandy Hook Pilots Benevolent Association are: **Captain H.W. Mahlmann** (President); **Captain D.M. Wheeler** (Vice President); and **Captain R.T. Miller** (Secretary).

◆ The United New Jersey-Sandy Hook Pilots Benevolent Association recently announced their slate of officers for 2010. The officers are as follows: **Captain A.W. McGovern** (President); **Captain E.F. Sweeney** (Vice President); and **Captain J.C. Oldmixon** (Secretary).

◆ The Southwest Alaska Pilots Association Board of Directors for 2010 are: **Captain Steven D. Hunnicutt** (President); **Captain Donal J. Ryan** (Vice President); **Captain Robert O. Baker, II** (Secretary/Treasurer); **Captain Eric R. Eliassen**; **Captain Jeffrey D. Pierce**; **Captain C. Vincent Tillion**; and **Captain Ronald A. Ward, II**.