LAW OFFICES
KELLY, WHIPPLE, ZICK & KEYES
PROFESSIONAL LIMITED LIABILITY COMPANY
627 FORT STREET
PORT HURON, MICHIGAN 48060-3904

CHARLES G. KELLY
DAVID C. WHIPPLE
KEITH D. ZICK
DAVID A. KEYES
JANAL L. MOSSETT

TELEPHONE (810) 987-4111
FACSIMILE (810) 987-5763
www.porthuronlaw.com

NORMAN D. BEAUCHAMP PLLC
OF COUNSEL

C. PATRICK O'SULLIVAN
(1929-1994)
E-mail: ckelly@porthuronlaw.com

May 12, 2010

Federal Express

Rear Admiral Brian Salerno
United States Coast Guard, CG-5
2100 2nd Street, SW
Mailstop: 7355
Washington, DC 20593-7355

Re: Appeal of Director's Decision and Order Regarding Lakes Pilots Association (District 2) and Western Great Lakes Pilots Association (District 3)

Dear Admiral Salerno:

Pursuant to the provisions set forth in 46 C.F.R. § 1.03, enclosed please find an Appeal of the Director of the Great Lakes Pilotage Office's Decision and Order Regarding Lakes Pilots Association (District 2) and Western Great Lakes Pilots Association (District 3) dated March 16, 2010 on behalf of Lakes Pilots Association, Inc.

Sincerely,

KELLY, WHIPPLE, ZICK & KEYES, PLLC

By _____
Charles G. Kelly

CGK/mmf
Enclosures
cc: Captain Danny H. Gallagher
Mr. Paul M. Wasserman, Director, Great Lakes Pilotage
Captain Don Willecke, Western Great Lakes Pilots Association

le - Rear Admiral Brian Salerno - Appeal of Decision and Order 5-11-10

APPEAL OF APPELLANT LAKES PILOTS ASSOCIATION, INC. TO THE DIRECTOR OF THE GREAT LAKES PILOTAGE OFFICE'S DECISION AND ORDER REGARDING DISPATCH DISPUTE BETWEEN PILOTAGE DISTRICTS 2 AND 3

Appellant LAKES PILOTS ASSOCIATION, INC. pursuant to the provisions set forth in 46 C.F.R. 1.03 hereby appeals the Director of the attached Great Lakes Pilotage Office's Decision and Order Regarding Dispatch Dispute between Pilotage Districts 2 and 3 dated March 16, 2010 (the "Decision").

INTRODUCTION

Lakes Pilots Association, Inc. ("Lakes Pilots") is the Great Lakes pilotage association for District 2. Western Great Lakes Pilots Association ("Western") is the pilotage association for District 3. Lakes Pilots has been dispatching District 3 pilots for upbound vessels in District 2 waters in lower Lake Huron since Western's inception in 1991 and similarly dispatched Western's predecessor District 3 association pilots since the 1960's. Until this dispute, Lakes Pilots had the unchallenged authority and responsibility for doing so, accepted by both the U.S. and Canadian governments, all U.S. Pilotage Directors and all pilot associations. Western not only accepted and used the Lakes Pilots dispatch services and paid Lakes Pilots for the same but its own working rules approved by the Director acknowledged that authority.

After Western disputed Lakes Pilots' fees, the Director in concert with Western changed Western's working rules in the midst of this dispute. The Director then rendered the Decision

ordering that Western had the exclusive dispatch authority and Lakes Pilots had none, without applying notice and comment procedures and ignoring the reality of the dispatch services provided, their context in the overall coordinated Great Lakes dispatch system and its over forty year dispatch practice.

The Director so ruled not only that Lakes Pilots had no authority to provide such dispatch services but that providing them was contrary to the United States and Canada Memorandum of Arrangements ("MOA")[1] and as the result a violation of pilotage regulations because the MOA grants District 3 "exclusive" dispatch authority in District 3 waters. Yet totally inconsistently, in the same Decision the Director ordered Lakes Pilots to continue to provide pilot boat services to Western in the same waters despite the MOA's grant to Western of exclusive pilot boat authority for District 3. How can it be determined on the one hand that providing dispatch services to Western is a "violation of pilotage regulations," while on the other hand Lakes Pilots is ordered to provide pilot boat services to Western in the same waters?

DISCUSSION

I. THE DISPATCH SERVICES PROVIDED

The facts, as the Director presents them, are wrong.

[1] Included in the Director documents used by the Director in preparing his Decision pursuant to his May 4, 2010 letter to Lakes Pilots, hereafter those documents are referred to as "Director Documents."

First of all, the Director ignores without discussion both the forty plus year reality of the dispatch services provided and the true nature and extent of the services. Instead, he erroneously characterizes and reduces them to "vessel notification services." He also ignores Lakes Pilots' dispatching in the context of the overall Great Lakes Pilotage dispatch system which involves two countries and three pilotage districts.

In that system, the Canadian Great Lakes Pilotage Association ("GLPA") office in Cornwall, Ontario dispatches American and Canadian pilots in District 1. It also dispatches all the movements in the Welland Canal with District 2 Canadian pilots. When ships westbound enter District 2 waters in Lake Erie they report their estimated time of arrival ("ETA") to the Lakes Pilots Port Huron dispatch office. Canadian pilots, depending on what role they are on – Sarnia, Windsor 7 West or 7 East – are dispatched upbound and downbound by the Lakes Pilots Port Huron dispatch office. All ships in the American District 2 ports of Buffalo, Erie, Conneaut, Ashtabula, Cleveland, Lorain, Sandusky, Huron, Toledo, Monroe, Detroit, St. Clair, Marysville and Port Huron are also dispatched upbound and downbound by the Lakes Pilots Port Huron dispatch office.

American District 2 pilots normally based in Ashtabula, Cleveland, Toledo, Detroit and Port Huron, Michigan, when arriving at the Port Colborne change point <u>outside</u> the Welland Canal become considered based at Port Colborne. As such they are then under the jurisdiction of the GLPA Cornwall dispatchers while they are out of the area covered by District 2 assignments. Ships approaching District 2 while in the Welland Canal give their ETA's to that GLPA pilot

office so they can coordinate dispatching of American and Canadian pilots to proper assignments and other personnel such as pilot boat crews who have possible anchor runs, laker runs and other duties. Canadian dispatchers are also responsible for overland dispatches and transportation for pilots.

Canadian District 2 pilots while away from their bases in the Welland Canal have a Sarnia role or base, Windsor role, 7 East role and a 7 West role under the pilot office. The Lakes Pilots Port Huron dispatch office is responsible for coordinating their pilot boat service, hotels, taxis and dispatch service to unbound and downbound vessels and vessels doing harbor moves in District 2 waters. The Lakes Pilots Port Huron pilot dispatch office is also responsible for overland dispatches by car or train so Canadian pilots are returned to their base in the Welland Canal for dispatch or rest periods. Attached are examples of actual Lakes Pilots Port Huron dispatch office Tour De Role records for District 2 American and Canadian pilots.

Similarly American and Canadian District 3 pilots while outside of their district and based in Port Huron, Michigan have always been dispatched (until the Decision) by the Lakes Pilots Port Huron dispatch office to upbound vessels still in District 2 designated waters in Lake Huron which extend one mile north of Buoy 12(sometimes referred to as the "dispatch waters").[2] This dispatching is not "vessel notification" but, as with its dispatching of Canadian District 2 pilots, much more - advising District 3 pilots where to go, when and how - whether over land, by car, train and airplane - and arranging for drivers, taxis, hotel reservations and train and

[2] The respective District waters are so designated in the MOA, Great Lakes Pilotage; see Definitions 1.

airplane reservations. This requires that Lake Pilots be aware of not just vessel locations and ETA's but each Western pilot's location at all times while he remains in Lakes Pilots' dispatch area. This also requires directing each pilot's movements – whether for example to remain where located – i.e., for example in a motel – or to proceed overland to another location in order to be timely available for dispatch to a ship, whether granting or denying permission to travel home or wait further dispatch, etc. This requires Lakes Pilots' dispatchers, like their Canadian GLPA counterparts, to have the responsibility and knowledge to also coordinate pilot boat personnel and their pilot changes, anchor runs, lakes runs and other duties to provide efficient dispatch services. The attached actual Lakes Pilots Pilotage Assignment sheets for both Canadian District 3 and Western pilots reflect the pilot assignments, ship tracking, pilot tracking, etc. and the attached photos of its actual dispatch board, which reflects its extensive tracking and coordination of pilots.

The Director has ignored how Great Lakes dispatching has so worked for over forty plus years and downgraded that work with his newly created term called "vessel notification charge." He says Lakes Pilots is to continue the "vessel notification system" but not charge for it. Not charging for it is easy because there is no such service. There has never, prior to the Director's Decision, been any mention of such a service and certainly no bill has been rendered or money paid for a "vessel notification."

What has existed for over forty years is a dispatch system coordinated between two countries and three districts that has worked well because of timely and updated knowledge and

information from local agents and timely decisions by informed dispatchers of what is going on with ships, ETA's, low water, delays, pilot boat problems, pilot boat availability and often taken for granted daily knowledge. This coordinated system is necessary to and results in pilots and industry receiving well coordinated superb service. The Decision overturns this.

II. OVER FORTY PLUS YEARS OF PRACTICE AND RULES ESTABLISHED AND CONFIRMED LAKES PILOTS' PROVIDING THESE DISPATCH SERVICES

Lakes Pilots and not Western or its District 3 predecessors has for over forty years had the responsibility and authority for making these dispatches of District 3 pilots in District 2 waters. This authority has been long recognized between the U.S. and Canadian governments.

The Decision states that the MOA limits Lakes Pilots dispatching authority to downbound and not upbound lower Lake Huron vessels. Lakes Pilots has never disputed that the MOA[3] language since 1977 describes District 2 dispatching as "upbound, by the Authority" – i.e., the GLPA – and "downbound, by the Lakes Pilots").

What it disputes is the Director's failure to acknowledge and honor the accepted practice by both the U.S. and Canadian governments to coordinate dispatch services by Lakes Pilots for both Canadian and American District 3 pilots through District 2's designated waters, a coordination inconsistent with the literal reading of the MOA's designation of authority but no different than the coordination practices throughout Great Lakes pilotage for not only dispatch

[3] Section Dispatching and Pilot Boats, Part 3.

but pilot boat services. There can be no better evidence of the MOA's interpretation than this over 30 years of practice. That practice of consolidating dispatch authority in each area recognized the need to (1) avoid redundant dispatch services and (2) to control pilot movement under only one authority and avoid conflicting pilot movement orders in order to meet the mission of all pilots – being available to keep maritime commerce moving in a reliable safe manner.

If the Director deems Lakes Pilots providing these dispatch services as contrary to the MOA and a violation of the pilotage regulations, then the other instances of similar MOA inconsistent coordinated dispatch and pilot boat services between districts and the U.S. and Canada throughout the system as described earlier will also be unlawful.

The Director ignores this long standing practice as well as prior Coast Guard and Director decisions which established this long time practice even before the 1977 MOA Amendment.

The Director first disregards the August 17, 1967 Coast Guard letter to Captain Anthony F. Rico, President of Western's predecessor District 3 organization as having no bearing. (See letter in Director Documents). What cannot be denied is that the Coast Guard by its letter confirmed Lakes Pilots' dispatch authority as of that time.

The Director secondly disregards his predecessor's Director Skuggan's March 20, 1969 letter again addressed to Western's predecessor District 3 association requiring it to "make the

necessary working arrangements with [District 2] to provide dispatching at Port Huron. (See letter in Director Documents). This again is the Coast Guard's confirmation of Lakes Pilots authority. The Director however attempts to apply legal gymnastics to avoid its impact. Regardless, the letter establishes a second Coast Guard or Director decision requiring District 3 pilots to use Lakes Pilots dispatching. The Director says the decision has no merit because it was "temporary," not " adopted formally" by Western, etc. Nothing, however, speaks louder to its permanence, to Western's adoption, etc. then its acceptance by everyone for forty years without dispute.

III. WORKING RULES

This long established dispatch practice was also confirmed by Western's and its predecessors own working rules.

The Pilotage Office has for decades promulgated working rules applicable to dispatch for both Western and its predecessors and Lakes Pilots. Those working rules must be approved by the Director. 46 C.F.R. Section 401.320(a) (2).

Western's attached Working Rules and Dispatching Procedures approved February 24, 2001 and its predecessors[4] for forty years until September 25, 2009 most importantly confirmed

[4] See Director Documents for Upper Great Lakes Pilots Association Working Rules as amended in 1971 and 1979, Working Rule C-6.

that District 3 pilots are subject to the dispatching authority of Lakes Pilots while in this dispatch area at issue. Those provided that a District 3 pilot:

> "... upon completion of any assignment, shall promptly report to the dispatcher covering the area in which he is then located by contacting one of the following pilot stations;
>
> (a) Superior Pilot Office;
> (b) DeTour Pilot Station;
> (c) Port Huron Pilot Office.
>
> Upon such contact, the pilot's name shall be place on the assignment list for that area, and he shall be given information regarding the status of the local list, including the probable period of time he can expect to stay in that area. Pilot's time on the assignment list is to be determined by the time debarking a vessel (if at a berth or lock) or pilot boat. When debarking a vessel (if at berth or lock) or pilot boat at the Soo, a pilot will be given one and one-half (1 1/2) hours travel time before his name is placed on the assignment list at DeTour." (Western Working Rule – C-6)

Obviously Western's attached own 2001 rules explicitly confirm that the Lakes Pilots dispatchers – i.e., "the Port Huron pilot office" – had dispatching authority to which District 3 pilots had to report when District 3 pilots were in the Lakes Pilots dispatch area.[5]

Additionally, Western's own 2001 dispatch rules confirmed the direct involved role of the Lakes Pilots dispatchers far beyond "vessel notification." For example, when in the District 2 dispatch area, a District 3 pilot shall not "depart from his area of assignment until he receives instructions from the dispatcher" (Working Rule – C-7); (3) a pilot "shall be assigned only by the dispatcher" and "no pilot shall render Pilotage services except on call from the appropriate

[5] Contrary to the Decision, Lakes Pilots' Working Rules are also applicable to Western pilots when in the Lakes Pilots' dispatch area pursuant to 46 C.F.R. §401.340.

dispatcher or by the Director of Pilotage." (Working Rule – C-10); (4) a pilot is only allowed to return to his operating area by overland transportation at the "option of the dispatcher" (Working Rule – D-3); and (5) the pilot is allowed to move "from one point at which he is located to some other point for personal convenience," i.e., overland – only with the "permission of the dispatcher" (Working Rule – D-4). In addition to directing each Western pilot in the dispatch area, Lakes Pilots was obligated regarding any Western pilot whose home port is Port Huron, "to make sure that a pilot is in his home port when he was on his rest days" and "if a pilot is not in his home port, the dispatcher must transfer the pilot to his home port by overland transportation at the Association's expense." (Working Rule – H-1(b)) That required dispatching while in District 2 waters was, again, explicitly the Lakes Pilots' dispatcher's pursuant to Western's own C-6 working rule.

The Director in his Decision states however that Lakes Pilot's reliance on those rules is "inaccurate" because "counsel for District 2 refers to an outdated set of Working rules and dispatch procedures for the Western Great Lakes Pilots." Counsel for Lakes Pilots was "accurate" when he identified those 2001 rules in his August 10, 2009 letter to Western (See letter in Director Documents). Those 2001 rules only became "outdated" because the Director changed the rules six weeks later in order to justify his Decision.[6] The Director removed the explicit reference to the Port Huron pilot dispatch office in Rule C-6 and made it read that a

[6] See Western Rules as amended September 25, 2009 in Director Documents. The speed at which the Director approved the Western dispatch rules changes is surprising. Both Lakes Pilots and District 1 have been waiting literally for years for the Director to even address requests they have both made for working rule changes.

District 3 "pilot, upon completion of an assignment shall promptly report to the WGLPA (District 3) dispatcher on duty."

This change was done not only in concert with Western (Director Documents – April 8, 2010 Director and Western e-mails) but without notice to Lakes Pilots, let alone notice and an opportunity to comment by other interested parties. If this forty year working rule did not establish Lakes Pilots' authority, why was it necessary to now remove the Port Huron pilot office while the Director was considering this very issue? Why did the Director approve this crucial change without notice to Lakes Pilots, or importantly without notice and procedures by 5 U.S.C. §553(b)(3)(A) when changes of this kind affect over forty years of Great Lakes dispatching rules and practice? The wide concern of doing so without notice was illustrated by the United States Great Lakes Shipping Association's concern about the Decision. It confirmed its desire that the proper procedure be followed, that the forty year practice be reinstated and that "when and if any different approach emerges, we respectfully request that you seek input from our Association and others affected prior to final implementation." (Stuart H. Theis, Executive Director, April 6, 2010 letter to Director, Director Documents)

IV. THE DIRECTOR'S DECISION TO ORDER LAKES PILOTS TO CONTINUE TO PROVIDE PILOT BOAT SERVICES IS INCONSISTENT WITH HIS DISPATCH ORDER

As indicated, the Director's dispatch Decision is completely inconsistent with his pilot boat order. As with its dispatching of District 3 pilots, Lakes Pilots has for over forty years been providing pilot boat services in the waters involved to District 3. If however providing dispatch

services in the same waters is a "violation of pilotage regulations" because of the MOA, so too must Lakes Pilots' providing pilot boat services since the MOA grants both dispatch and pilot boat authority to Western in District 3. This inconsistency exemplifies the error in the Director's dispatch decision.

V. THE DIRECTOR'S DECISION IS NOT ONLY WRONG SUBSTANTIVELY, BUT HIS PROCESS IS INHERENTLY FLAWED AND LACKS FUNDAMENTAL PROCEDURAL FAIRNESS

The Administrative Procedures Act, 5 U.S.C. § 706(2)A (the "APA") establishes a series of notice and comment requirements, including publication in the Federal Register, for decisions like this one which affects not only Lakes Pilots, but the forty year dispatch and pilot boat procedures throughout the pilotage industry. "These requirements, which serve important purposes of agency accountability and reasoned decision-making, import a significant duty on the agency." *Amer. Med. Ass'n v. Reno*, 57 F3d. 1129, 1133 (D.C. Cir. 1995). Exceptions to the notice and comment requirements should be "narrowly construed and reluctantly countenanced." *New Jersey v. EPA*, 626 F.2d 1038, 1045-46 (D.C. Cir. 1980).

The decision to eliminate the forty plus year dispatching policy is a substantive rule subject to notice and comment requirements (as opposed to an interpretative rule, which is exempt from the APA requirements). See 5 U.S.C. § 553(b)(3)(A). The Court of Appeals for the District of Columbia has explained the distinction between substantive and interpretive rules:

> [S]stantive rules are those which grant rights, impose obligations, or effect a change in existing policy. By contrast, interpretative rules are those that merely clarify or explain existing laws or regulations. *United Transp. Union v. ICC*, 43 F.3d 697 (D.C. Cir. 1995), citing to *American Hospital Association v. Bowen*, 834 F.2d 1037, 1045 (D.C. Cir. 1987).

Here, the Director proposes a change that undeniably would take away long established rights from Lakes Pilots, "grant rights" to District 3 and "effect a change in existing policy" by altering a system that has operated for over forty years. This is a substantive rule and cannot be imposed without notice and comment rulemaking. The Director's incorrect claims to have authority to make such change as he states to "ensure reliable, efficient, and safe Pilotage" does not override these requirements.

VI. LAKES PILOTS DISPATCH CHARGES

The Decision does not address the issue of the reasonableness of Lakes Pilots dispatch charges.

As described in Lakes Pilots' submittals to the Director (see Director Documents), Lakes Pilots' charges result from its expenses incurred in providing these services – maintaining its dispatching staff, equipment, and an office. Lakes Pilots' per dispatch charge until June 2006 has always been accepted by both Western and the Director and is completely consistent with not only its practice but the practice of other dispatch offices. Lakes Pilots has been and is similarly charged by GLPA for similar dispatches of its pilots under the Cornwall dispatch authority. While Western may not itself be reimbursed by payment of a direct per overland dispatch fee for

its dispatching of Canadian pilots in its dispatch area, it is paid for all its dispatches including overland dispatches through yearly reimbursement by the Canadian pilots of approximately 19% of Western's total dispatch costs.

Lakes Pilots understands the struggles Western mentions regarding reduced traffic and poor economic conditions. Those economic conditions are the very reason the rate for the dispatch fees have increased – the fixed cost of providing dispatch services amidst reduced traffic results requires higher per trip fees.

Lakes Pilots' charges represent reimbursement by District 3 for Lakes Pilots' costs in serving District 3 based on a fair percentage of Lakes Pilots' actual final pilot boat and dispatch costs. Lakes Pilots is simply recouping its cost of running the pilot boat and providing dispatch services and not profiting.

District 3 has requested and receives in its expense base for rates credit for its expenses paid to Lakes Pilots for these dispatch fees. By doing so, District 3 has recognized the incurrence of the expenses and the obligation to pay the same. It should not be allowed the benefit of the expenses in the rates without the corresponding obligation to pay those expenses.

Additionally, not allowing Lakes Pilots to recover its reasonable expenses from Western is inconsistent with the Director's rates established for Lakes Pilots. In the last rate year, the Director reduced Lakes Pilots allowable expense base for its overall dispatching responsibilities by the anticipated income Western had historically been obligated to pay. Accordingly, by now

denying that income, Lakes Pilots is left without reimbursement in the rates for all of its dispatching expenses.

With respect to dispatch fees Lakes Pilots charges Canadian District 2, Lakes Pilots periodically reviews its pilot boat and dispatch fees and will be doing so for Canadian District 2 this year. In any event, Canadian District 2 provides similar services to Lakes Pilots and if Lakes Pilots increased its charges for dispatch and pilot boat services to Canadian District 2, likewise Canadian District 2 would increase the same for Lakes Pilots, resulting in all probability no material net effect.

VII. CONCLUSION

The Director's Decision should be reversed and Lakes Pilots dispatch fees approved.

Respectfully submitted,

KELLY, WHIPPLE, ZICK & KEYES, P.L.L.C.

By: _____

Charles G. Kelly (P25282)
Attorneys for Lakes Pilots Association, Inc.
627 Fort Street
Port Huron, MI 48060
(810) 987-4111

Dated: May 12, 2010

Doc\Lakes Pilots Association, Inc.\Appeal - Decision and Order - 5/12/2010

THE DECISION AND ORDER

U.S. Department of Homeland Security
United States Coast Guard

Commandant
U.S. Coast Guard

2100 2nd St. SW
Washington, DC 20593-0001
Staff Symbol: CG-54122
Phone: (202) 372-1635
FAX: (202) 372-1991

16637/1
March 16, 2010

Captain Dan Gallagher
President, Lakes' Pilots' Association
P.O. Box 610902
Port Huron, MI 48061-0902

Captain Don Willecke
President, Western Great Lakes' Pilots' Association
P.O. Box 248
Superior, WI 54880-0248

Dear Captains Gallagher and Willecke:

Attached is the Director's Decision and Order resolving the dispute between the Lakes' Pilots' Association and the Western Great Lakes' Pilots' Association concerning whether District 3 is legally bound to use pilot "dispatch" and vessel notification services provided by the Lakes' Pilots' Association at Port Huron, Michigan. The Decision and Order also addresses whether the Lakes' Pilots' Association is required to provide pilot boat service to Western Great Lakes' Pilots' at Port Huron.

This Decision and Order takes effect immediately. Rights of appeal, and the appropriate procedures, are contained at the bottom of the attached Decision and Order.

This letter and the attached Decision and Order are being sent by e-mail and you will shortly receive the signed versions of this letter and the attachment by regular mail. The effective date, and the dates related to perfecting an appeal, begin to run as of the date of the e-mail delivery of these documents.

Sincerely,

Paul M. Wasserman
Director, Great Lakes Pilotage
Marine Transportation System Division
Office of Waterways Management
United States Coast Guard

By direction

Cc: Captain Roger Paulus, President, St. Lawrence Seaway Pilots' Association
Robert Lemire, CEO, Canadian Great Lakes Pilotage Authority
Captain Ivan Lautz, Shipping Federation of Canada
David Grieve, Fednav
Stuart Theis, Executive Director, United States Great Lakes Shipping Association

Decision and Order

Introduction

This Decision and Order involves a dispute between the Lakes' Pilots' Association (District 2) and the Western Great Lakes' Pilots' Association (District 3) concerning whether District 3 is legally bound to use pilot "dispatch" and vessel notification services provided by District 2 at Port Huron, Michigan. Also addressed in this Decision and Order is whether District 2 is required to continue to provide reliable and timely pilot boat service to District 3 pilots at Port Huron. After a full review of the record, consisting of documents and records submitted by the parties and two letters received from District 2's legal representative, and after surveying the applicable law and regulations, this office concludes that District 3 is not legally bound to use the "dispatch" or vessel notification services of District 2. Furthermore, District 2 must continue to provide District 3 pilots with timely and reasonably priced pilot boat service.

Facts

The factual and legal record[1] in support of each association's position is lengthy, but the underlying facts as presented by the parties are not in dispute. For many years, District 3 used the services of the District 2 dispatchers to obtain telephone notifications of up bound vessel arrivals so that its pilots could meet the District 2 pilot boat at Port Huron and ensure timely pilot exchanges on vessels headed above Port Huron. For each telephone call, District 2 charged District 3 $60 during the 2008 season and charged District 3 $140 in 2009, an increase of 133% over the prior season. District 3 refused to pay the charge and sought an alternative method for obtaining this information. District 3 notified industry that commencing with the 2010 season all vessels requesting pilotage service in District 3 will be required to provide notice of arrival directly to the District 3 dispatch office.

District 2 insists that District 3 is legally bound to use its services, which it describes, incorrectly, as dispatch. The situation has escalated over the past several days and there has been some concern by industry that District 2 may refuse pilot boat service to District 3 pilots if District 3 persists in requiring vessels to report to their dispatch office. Refusal of pilot boat service to District 3 pilots could create significant vessel delays. As a consequence, it is reported that some industry members have chosen not to comply with District 3's request to receive these notifications directly and have continued to provide the information to District 2. District 2 continues to charge District 3 for these vessel arrival notifications.

Discussion

I. **Is District 3 legally bound to use pilot "dispatch" and vessel notification services provided by District 2 at Port Huron, Michigan?**

a. **Coast Guard Letters Alleged to be in Support of District 2's Claims**

In correspondence to the Coast Guard, District 2 relies upon numerous arguments in support of its claim that District 3 is obligated to use the District 2 dispatch service. It proffers a letter, dated August 17, 1967, from the Coast Guard to Captain Anthony F. Rico, president of a predecessor District 3 association, concerning the by-passing of dispatch stations and the application of the then effective Joint (D2/D3) Interpool Working Rules. This letter is unpersuasive, in part, because the working rules at issue in that letter have long ago been superseded, and the issue of by-passing dispatch stations, which is the subject of the proffered letter, is not the subject of the current dispute. This letter today merely stands for the proposition that where a district association is legally required to use the dispatch service of another association it must comply with the dispatch rules and procedures of that association. This holding only has meaning if it had been found that District 3 was bound to accept dispatch from District 2 at Port Huron.

District 2 proffers a second letter, also from the Coast Guard, dated March 20, 1969, and also addressed to the predecessor District 3 association. By this letter, the then Director of Great Lakes Pilotage approved a proposal by the predecessor District 3 association to provide dispatch service on Lakes Michigan and Huron. The letter authorized the then existing District 3 association to "establish and maintain a pilot dispatching office at the Port of Chicago and service the undesignated waters of Lakes Michigan, Huron and Superior and the designated waters of District 3" subject to the exception that the District 3 association would "make the necessary working arrangements with [District 2] to provide dispatching at Port Huron."

The Director's approval, however, had limitations. First, the agreement was exclusively between the Director and the predecessor District 3 association. The evidence suggests that the current District 3 association never formally adopted, or was even aware of, the terms of the agreement with the Director, but merely continued to operate using the arrangements existing when it took over responsibility for the district in the 1990s. District 2 was not a signatory to the arrangement and the approval letter gave no rights of enforcement to District 2, nor did it provide District 2 with a remedy.

The Director's approval letter was not couched in terms of an Order but was consensual in nature and by its terms could be modified with the Director's consent. It is also clear on its face that the agreement applied only during the 1969 season and that the Coast Guard retained the right to modify the agreement and to determine "if future operations [were] to continue the same as during 1969" or whether "alternative arrangements [should be made] to provide for a better operating plan." The terms of the arrangement were never incorporated into the pilotage regulations. In addition, either by the terms of the letter, or by the discretionary authority held by the Director over dispatch under the current regulations, 46 CFR 320 (d) (5), modification of the current arrangement is well within the Coast Guard's authority. The proffered letter is of no binding effect and does not defeat the authority of the current Director to ensure reliable, efficient and safe pilotage.

b. Memorandums of Arrangements (MOA) Between Canada and the United States

Most importantly, since the Director's 1969 letter was written, one very significant and dispositive event occurred that nullifies the language of the Director's letter requiring the then District 3 Association to make arrangements with District 2 for dispatch services at Port Huron.

Effective May 1, 1961, the US and Canada entered into an MOA specifying dispatch responsibilities on the Lakes. It was agreed that the US pilots' association at Port Huron would provide pilot dispatch services, as follows:

> Port Huron – United States: Eastbound from the Lake Huron Lightship to Port Weller; to and from United States and Canadian ports on Lake Erie, across Lake Huron to Detour Light and Lake Michigan.

On April 27, 1968, the MOA was amended deleting the specific pilot dispatch assignments and substituting the following: "The Secretary and the Minister will establish or cause to be established under their control in the United States and Canada, respectively, organizations and facilities for the dispatching of pilots and related services, including pilot boats." This change only broadened the Director's authority to assign dispatch areas and did not appear to modify the existing arrangements between the pilot associations. Accordingly, in March of 1969 the then Director clearly had the authority to approve the predecessor District 3 plan for the provision of dispatch, and authorizing District 2 to dispatch pilots to ports on Lakes Huron and Michigan.

However, subsequent amendment of the MOA has removed this authority. Under the MOA currently in effect and dated 1977 (as amended) the District 2 association is authorized to dispatch vessels down bound from Port Huron and not up bound into Lake Huron or Lake Michigan as previously authorized. The District 3 association has been given exclusive authority to dispatch pilots in District 3. Accordingly, the language referred to in the previous Director's letter has been superseded by the revised MOA, which is implemented through regulation.

46 CFR 401.710 provides that as a condition of maintaining a certification to operate a pilotage pool, a pool must "comply with the terms of any agreement for services by registered pilots on the Great Lakes between an appropriate agency of Canada and the Secretary, his designee, or the Director." More specifically, the pool must "coordinate on a reciprocal basis its pool operations with pool operations of the Canadian Government, under the Memorandum of Arrangements, Great Lakes Pilotage . . ." Based upon the foregoing, today it is a violation of the pilotage regulations for District 2 to provide pilot dispatch services to up bound vessels from Port Huron. See also, 46 CFR 401.320 (d)(6).

c. **Captain Gallagher's Letter of April 2, 2010.**

Upon this determination, the remaining points put forth by District 2 on the matter must fail. Captain Gallagher's letter of April 2, 2010, addressed to this office, claims that District 3's notice to agents to provide its dispatch office with direct notification of vessel arrivals for purposes of dispatch is in violation of 46 CFR 401.320. That section states that "pilotage services will be provided on a first-come, first-serve basis to vessels giving proper notice of arrival time or pilotage service requirements, to the pilotage station[1] . . ." Captain Gallagher asserts that Port Huron is the appropriate "pilot station." Based upon the foregoing analysis, Captain Gallagher's assertion is incorrect. The proper "pilot station" for both up bound and down bound vessels in the upper lakes is the District 3 office according to the current MOA, which states that dispatch in District 3 will be provided by the Western Great Lakes Pilots' Association – the association currently holding the certificate of registration to perform pilot services in District 3.

d. **Arguments of the District 2 Counsel – The Working Rules**

District 2's legal counsel argues that up bound dispatch at Port Huron into District 3 is the exclusive "regulatory" responsibility of the District 2 pilot association. Counsel cites the MOA as authority for the proposition that "[District 2 has] sole dispatching authority of all Canadian and American pilots in the dispatch area." As previously discussed, this is an incorrect assertion. The clear language of the MOA provides that District 2 is responsible for down bound dispatch from Port Huron and the Canadians are responsible for up-bound dispatch. While the dispatch is shared by Canada and the US in District 2, and the District 2 association dispatches some up-bound vessels after reaching US ports within the District, it is clear from the current MOA that this authority applies only within District 2 and that District 3 has exclusive dispatch authority for all up and down bound vessels within its District. Substantial dictum follows counsel's assertions concerning the obligations that exist under District 2's work rules but since District 2's work rules have no application to dispatch in District 3, it is unnecessary to address them.

Counsel states that "the U.S. dispatch rules promulgated by the Pilotage Office through Working Rules for both WGLPA (District 3)[2] and LPA (District 2) confirm this exclusive responsibility and authority." That statement is inaccurate. A review of District 2's working rules makes clear that those rules apply only to District 2 registered pilots. *See,* Working Rules and Dispatching Procedures of Lakes Pilots' Association, rule A-1. That rule states, "within the meaning of these rules a pilot shall mean any U.S. District No. 2 pilot." Those rules make no mention of pilots from other associations entering its district nor does it purport to establish any rules for out of district pilots, except as briefly mentioned later in this opinion related to use of pilot boats. And, the District 2 rules

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[1] The pilotage station is the place from which pilot dispatch is performed. In this case the reference is to the pilotage office (station) at Port Huron. See also, 46 CFR 710 (c) which refers to the "pilot dispatch station." It appears the difference is merely typographical and no change in meaning was intended.

[2] Although unclear, it appears that counsel for District 2 refers to an outdated set of Working Rules and Dispatch Procedures for the Western Great Lakes Pilots' Association. The February 24, 2001, rules were amended on September 25, 2009.

make no mention of an "exclusive responsibility and authority" to dispatch District 3 pilots.

District 3's working rules also apply only to its members. *See,* Working Rules and Dispatch Procedures, Western Great Lakes Pilots' Association, rule A-1-2, 24 February 2001 (as amended 25 September 2009). Section A-2 of the Working Rules states: "Unless otherwise stated in these Rules, these Working Rules and Dispatch Procedures shall apply equitably to all United States Pilots serving in District No. 3, and to all dispatching personnel of the Association." The only reference to pilots who are not association members relates to Canadian pilots working within District 3, which is irrelevant to the issue at hand. The Work Rules make no reference to the District 2 office in Port Huron as a dispatch office and clearly states at Rule C-6 that "a pilot, upon completion of an assignment, shall promptly report to the WGLPA (District 3) dispatcher on Duty." Working Rule C-7 states that "no pilot shall depart from his area of assignment until he receives instructions from the dispatcher." Rule C-10 states that "pilots shall be assigned only by the dispatcher." Given the language contained in Rule A-2, this can only have reference to the District 3 dispatcher. The District 3 rules are silent respecting dispatch or vessel notification requirements between the two Districts.

Counsel for District 2 states further that pursuant to LPA's (District 2) working rules all pilots arriving in its dispatch area come under its dispatch authority. The flaw in this argument is that District 2 has no up bound dispatch authority in waters serviced by District 3, as previously noted. District 3 pilots arrive and disembark at the Port Huron pilot boat station because it is a recognized change point and the southern boundary of District 3. Once at Port Huron, the District 3 pilots await dispatch orders to vessels that are up bound within District 3 waters. These dispatch orders are required to be provided by the District 3 dispatcher. Accordingly, District 3 pilots never come within the dispatch authority of District 2.

c. Arguments of the District 2 Counsel – Dispatch Service

Counsel argues that the charges for District 2's services to District 3 are exclusively for dispatch service. This is incorrect. District 3 maintains and controls the tour de rolls for all areas of District 3, issues dispatch orders to its pilots and controls the movement of its pilots throughout the District. Despite counsel's assertions to the contrary, the only service actually provided to District 3 is vessel arrival notifications, which consist of making a single telephone call to either the District 3 dispatch office or the District 3 pilot in Port Huron who is awaiting an up bound vessel. As so aptly pointed out by the District 2 association President, Captain Gallagher, in his letter to the District 3 President, Captain Don Willecke, dated February 2, 2010, it is the responsibility of the vessel to provide these notifications, not the responsibility of the Districts. 46 CFR 401.320(d) (1) provides that "pilotage service will be provided . . . to vessels giving proper notice of arrival time or pilotage service requirements . . ." This notice is to be made to the cognizant dispatch office. In the case of vessels seeking a District 3 pilot, the District 3 dispatch office is where the notification is to be made.

II. Pilot Boat Service

a. Is District 2 Required to Continue Providing District 3 pilots with Pilot Boat Service?

Remaining is the issue of the provision of pilot boat service at Port Huron to District 3 pilots either disembarking a down bound vessel or boarding an up bound vessel at Port Huron. It is here, in connection with this matter, where the District 2 work rules have limited application. Although pilot boat services have not been the subject of the current dispute, issues involving rights of use and operation need to be clarified. The current MOA specifically provides that District 2 will provide pilot boat service at Port Huron. That provision is binding upon District 2 by 46 CFR 401.320. That section states that a "pool (District 2) will coordinate on a reciprocal basis its pool operations . . . pursuant to the provisions of the United States-Canada Memorandum of Arrangements, Great Lakes Pilotage, or any other arrangements established by the United States and Canadian Governments." Similarly, 46 CFR 401.710 provides that as a condition of maintaining a certification to operate a pilotage pool, a pool must "comply with the terms of any agreement for services by registered pilots on the Great Lakes between an appropriate agency of Canada and the Secretary, his designee, or the Director."

Accordingly, District 2 is required to continue providing reliable and timely pilot boat service to District 3 pilots. Fees charged for this service will be reasonable and will bear a direct relationship to the cost of pilot boat operations. This is consistent with 46 CFR 401.320 (d) (5) which provides the Director of Pilotage with the authority to prescribe rules governing the operation of and costs which may be charged in connection with the pools.

46 CFR 401.340 provides that: "United States . . . registered pilots utilizing the facilities and dispatch services of any authorized pool shall comply with its working rules . . . except to the extent inconsistent with the dispatch orders of the Director under 401.720." While the District 3 pilots are not being dispatched by District 2 and, accordingly, are not subject to the District 2 dispatch rules and procedures, they are using the facilities to the limited extent that they use the District 2 pilot boat. Accordingly, to the limited extent that District 3 pilots utilize the District 2 pilot boat, District 2 may require compliance with those of its working rules that are reasonable and have direct application to the use of those boats.

b. Determining Proper Pilot Boat Fees

Finally, District 3 has pointed out that fees charged by District 2 for the use of the pilot boat have risen substantially between 2007 and 2009. According to District 3, the cost of pilot boat service has climbed from $190 per one-way run in 2007 to $359.75 in 2009. The cost for 2010 has not been announced. The current fee charged the Canadian Great Lakes Pilotage Authority by District 2 for the same service is only $135. It appears that District 2 is charging District 3 well over twice the amount it charges the Canadians for

the same service. The discrepancy between these charges is a matter of significant concern. Accordingly, District 2 will be required to account for its pilot boat fees.

III. Director's Orders

Based upon the foregoing, it is determined that dispatch of District 3 pilots within the confines of District 3 has been and remains the exclusive responsibility of the District 3 pilots' association. Accordingly, it is ordered that District 2 immediately cease and desist from engaging in the provision of pilot dispatch services to District 3 pilots. However, as a matter of courtesy, and in furtherance of the tradition of cooperation between associations, District 2 is strongly encouraged to provide vessel notifications to District 3 at no charge. For years, District 3 has provided District 2 three notifications for every ship headed down bound for District 2 and it has done so at no charge to District 2. It is expected this tradition of cooperation for the benefit of all will continue. If not, the pilotage office will look closer into the matter of required notifications between associations. Further, it is ordered that District 2 continue to provide reliable and timely pilot boat service to District 3 pilots at Port Huron. For the reasons stated above, it is ordered that the District 2 pilots' association provide the Great Lakes Pilotage Office a detailed financial justification for the pilot boat fee charged District 3 within twenty (20) days of the date of this Decision and Order. The justification will be reviewed and a separate opinion will be issued concerning an appropriate fee. This order is made in accordance with 46 CFR 401.320 subsections (d) (4) and (5).

In accordance to 46 C.F.R. § 1.03-15 you have a right to appeal this decision to CG-5, which is currently Rear Admiral Brian Salerno. Such an appeal must be submitted in writing and received by this authority within 30 days of you receiving this letter. Upon written request and for good cause, the 30 day time limit may be extended by CG-5. Failure to submit a formal appeal in accordance with the procedures and time limits contained in this subpart results in the decision becoming final agency action.

/s/

Paul M. Wasserman
Director, Great Lakes Pilotage
Marine Transportation System Division
Office of Waterways Management
United States Coast Guard

By direction

Dated: April 16, 2010

[1] The record consists of the following documents:

District 2 Correspondence

- E-mail from Lakes Pilots Association (LPA) to Stu Theis, Executive Director, US Great Lakes Shipping Association, forwarded to USCG and dated 4/7/10 with attachments
- Fax from LPA dated 4/5/10 with attachments
- LPA Letter dated 4/2/10 with attachments
- LPA Letter to Western Great Lakes Pilots Association (WGLPA) and forwarded to USCG by WGLPA dated 2/2/10

District 2 Attorney's Correspondence

- Letter from Kelly, Whipple, Zick & Keyes dated 11/2/09
- Letter from Kelly, Whipple, Zick & Keyes dated 8/10/09

District 3 Correspondence

- WGLPA E-mail dated 4/7/10 with attachment
- WGLPA E-mail dated 4/7/10 with attachment
- WGLPA E-mail dated 4/7/10 with attachments
- WGLPA E-mail dated 4/6/10
- WGLPA E-mail dated 4/6/10
- WGLPA E-mail dated 4/5/10 with attachment
- WGLPA E-mail dated 4/5/10
- WGLPA E-mail dated 3/23/10 with attachment
- WGLPA E-mail dated 9/1/09 with attachment
- WGLPA E-mail dated 8/13/09 with attachment
- WGLPA E-mail dated 7/10/09 with attachments

Industry Correspondence

- E-mail from Stu Theis dated 4/6/10 with attachment
- E-mail from Stu Theis dated 4/2/10 with attachment

USCG Outgoing Correspondence

- E-mail to LPA dated 4/2/10
- E-mail to WGLPA dated 12/15/09
- E-mail to LPA, WGLPA dated 10/21/09 with attachment
- E-mail to LPA, WGLPA dated 10/6/09
- E-mail to LPA, WGLPA dated 9/3/09

LAKES PILOTS EXAMPLES OF

TOUR DE ROLE DISPATCH RECORDS

Tour De Role

DATE April 2007

Cleveland Vessel Movements

D-2 AMERICAN

SHEET # 1

Date	Pilot	P W	Time Reported	Off or From	Unav.	Vessel	P W	Agent	Order Received	ETA	ATA ANC	Time Pilot Called	Time Pilot ABD	Transit From	Transit To	Misc.
—	Harrington			START		To PCO	✓					3/1600				—
—	Loflin			START		funeral leave										—
—	Singler			START		To PCO	✓					3/1700				—
—	Meyers			START		To PCO	✓					5/0730				—
94259 94128	Harrington		4/1345	Isolda Clev		To PCO						6/1830				—
94300 94129	Singler		4/1345 1515	Isolda Clev		To PCO	✓					5/0730				—
94120	Meyers		6/0815	Federal Welland		To PCO	✓					6/1930				—
94119	Singler		6/0815	Federal Welland		To PCO	✓					6/1930				—
94116	Meyers		8/0001	Federal Sequoia		Federal Sequoia		World	2/0830	8/2230		8/1900		Ash	Sup	—
94115	Harrington	1	8/0001 0130	Federal Sequoia		Federal Sequoia		World	3/0830	8/2230		8/1900		Ash	Sup	—
94376 94136	Singler		9/1230 1430	Federal Kumano		To PCO	✓					9/0900				—
94114	Harrington		9/1210 1610	Federal Sequoia Dpb		Federal Kumano		World	13/1530	14/0900		14/0515		Lor	Lor harbor	—
94113	Meyers		9/1210 1710	Federal Sequoia Dpb		To PCO						13/1500				—
—	Loflin		9/0001	funeral	UNAV	9/0001										—
—	Loflin		11/0900	START		To PCO	✓					9/0900				—
94307 94201	Loflin		12/0815	Irma Clev		To PCO						13/1500				—
94313 94144	Singler		12/1230 1400	Daviken Clev		Federal Kumano		World	13/1530	14/0900		14/2500		Lor	QBC	94310 94178
94177	Harrington		14/1100 1230	Federal Kumano Lor Lake		Irma		Columbus	16/1315	17/1500		17/1100		Clev	Bch	—
94146	Loflin		14/1800 2100	Redhead Tol		Daviken		World	16/	17/1600		17/1200		Clev 26W	Tol TWI	—
94147	Meyers		14/1800 2200	Redhead Tol		Daviken		World	16/	17/1600		17/1200		Clev 26W	Tol TWI	—
94182	Singler		16/0720 1220	Katja Det		To PCO	✓					17/2400				—
94138	Harrington		17/2310 0310	Irma Dpb		Isolda		Hakemill	20/0230	20/0730		20/0230		Dpb	M+1 [1]	94164
94167	Singler		18/1810	Federal Shimanto Clev		Federal Power		World	22/1015	23/1830		23/1500		Clev	Mwk	—
94142	Meyers		18/0815 1215	Daviken Tol		Noget	✓	Coulston	22/1115	22/1630		22/0330		Dpb	M+1 [1]	94156
94141	Loflin		18/0815 1115	Daviken Tol		Federal Shimanto		World	20/	20/1630		21/1430		Clev	Bch	—
94159	Loflin		21/0115	Federal Shimanto Dpb		To PCO						2/1900				—
94465 94198	Harrington		22/1030	Federal Power Clev	96	2/0001										—
—	Meyers		23/3330	PCO		To PCO	✓					2/2000				—
94464 94174	Singler		24/0235 0335	Federal Power Dpb		To PCO	✓					2/2000				—
94351 94216	Loflin		3/1830	Finex Clev		To PCO	✓					4/				—
94350 94212	Meyers		4/0650 0320	Isadora Clev		To PCO	✓					4/				—
94341 94203	Singler		4/1905 2035	Federal Asahi Clev		Yarmouth		World	5/	6/1500		6/1200		Clev 26W	Win Marion	—
94204	Meyers		5/1200 1330	Yarmouth Clev		Federal Asahi		World	5/	6/1600		6/1300		Clev 22E		—
94205	Loflin		5/1535 1405	Eider Tol		ISADORA		COLUMBUS	7/1530	8/2100		8/1900		Clev	Mwk	—

Tour De Role

DATE Dec 2007

Port Huron-Detroit Vessel Movements

D-2 AMERICAN

SHEET # 21

Date	Pilot	P W	Time Reported	Dit or From	Unav.	Vessel	P W	Agent	Order Received	ETA	ATA AND	Time Pilot Called	Time Pilot ABD	Transit From	Transit To	Misc
95117	Coulston		4/1115 1215	Juliette		Gadwall		Hull	4/0235	4/0630		4/0430		Biz	Mtl [7]	—
—	D Gallagher		4/1515	UNAV		Juliette		Weld	4/1722	5/1200		5/0930		Det 1	Tol Rom	—
—	Haynes		5/1630	PCO		Federal Hunter		Ell	4/0420	4/0445		4/0445		Dpb	Mtl [5]	95103
—	Knetchel		5/1630	PCO		Federal Hunter		Ell	4/0420	4/0545		4/0745		Dpb	Mtl [5]	
95127	Hebenthal		5/2030 2200	Reserve Desgagnes		Gadwall		Coulston	4/	4/1245		4/0900		Dpb	Mtl [5]	Sauni
—	P Gallagher		5/1015	UNAV		Reserve Desgagnes		Hebenthal	5/1600	5/2015		5/1700		Dpb	Dul	—
95119	D Gallagher		5/1805 2105	Juliette		Gadwall		Coulston	4/	4/1245		4/0900		Dpb	Mtl [5]	95128
9502	Ell		6/1010	Federal Hunter		Bornholm		Johnson	7/0230	7/0415		7/0230		Biz	Mtl [5]	—
95126	P Gallagher		6/0145	Reserve Desgagnes		Juliette		Weld	6/1900	6/800		6/1300		Tol Rom	Mtl [2]	95115
95129	Coulston		6/310	Gadwall		Dongeborg		Hebenthal	7/2105	8/0200		8/0001		Dpb	Mtl [1]	95122
—	Hebenthal		6/1300	Gadwall		Dongeborg		Williams	7/1620	7/2015		7/1855		Biz	Mtl [1]	—
—	Haynes		7/1800	PCO		Eileen Roehrig		Shelton	8/0305	8/0700		8/0530		Biz	Mtl [3]	—
95142	Ell		7/1230 1420	Bornholm		Eileen Roehrig		Haynes	8/	8/1600		8/1300		Dpb	Mtl [3]	95144
—	D Gallagher		7/730	PCO		Belize Energy		Hartsty	9/0240	9/0640		9/0440		Biz	Mtl [5]	—
—	P Gallagher		7/1730	PCO		Isadora		Meyers	8/2330	9/700		9/0415		Dpb	Dul	—
95123	Hebenthal		8/0220 0350	Dongeborg		Belize Energy		D Gallagher	9/0740	9/1230		9/0930		Dpb	Mtl [5]	95135
95130	Knetchel		8/1500	Span Ruby		Kwintebank		Rieper	11/0230	11/0640		11/0340		Biz	Mtl [1]	—
95125	Haynes		8/1620 1750	Eileen Roehrig		Mt Hunter		Neuworth	9/	11/0910		11/0710		Biz	Mtl [1]	—
—	Coulston		9/1300	PCO		Kwintebank		Knetchel	11/	11/1255		11/0955		Dpb	Mtl [1]	95136
95133	P Gallagher		9/1240	Isadora		Kwintebank		Knetchel	11/	11/1255		11/0555		Dpb	Mtl [1]	95137
95114	D Gallagher		9/1300 1450	Belize Energy		Span Ruby		World	1/	11/1700		11/1400		Det Nice	Win	—
—	Ell		10/1200	PCO		Finnex		World	11/0320	12/1600		12/1330		Det Nice	Cho	—
—	Hebenthal		10/1200	PCO		Finnex		World	11/0320	12/1600		12/		Det Nice	Cho	—
95138	Knetchel		10/1300	Kwintebank		To PCO						12/				—
95131	Haynes		10/1545 1715	Mt Hunter		Federal Ems	/	DG WC	14/0320	14/0810		14/0510		Dpb	Mtl [1]	95146
95156	D Gallagher		11/1925 2055	Span Ruby		Federal Ems		Atlas	13/0215	14/0215		14/0100		Biz	Mtl [1]	—
—	Coulston		12/0930	PCO		Federal Ems		Atlas	13/2215	14/0215		14/0045		Biz	Mtl [1]	—
—	P Gallagher		12/0930	PCO		Federal Ems	/	DG WC	14/0320	14/0810		14/0410		Dpb	Mtl [1]	95145
95158	Hebenthal		12/2345	Finex		Kerguelen	/	Weld	13/210	14/1300		14/1000		Det Nice	Mtl	95149
95157	Ell		12/2345	Finex		Kerguelen	/	Weld	13/210	14/1300		14/1000		Det Nice	Mtl	95148
95155	Coulston		14/0840	Federal Ems		Reserve Desgagnes		Kitanda	14/0350	14/0830		14/		Biz	Mtl [1]	—
95154	D Gallagher		14/0840	Federal Ems		Reserve Desgagnes		Kitanda	14/0350	14/0830		14/		Biz	Mtl [1]	—
95160	Knetchel		14/0950 1120	Federal Pioneer		Reserve Desgagnes	/	Dell/Gold	14/0915	14/1415		14/1215		Dpb	Mtl [1]	95161
—	Haynes		15/1550	PCO	UNAV	17/0700										—

Tour De Role

DATE Nov.-Dec. 2007

Canadian Vessel Movements

D-2 Canadian

SHEET # 22

Date	Pilot	P W	Time Reported	Off or From	Unav.	Vessel	P W	Agent	Order Received	ETA	ATA ANC	Time Pilot Called	Time Pilot ABD	Transit From	Transit To	Misc.
	Burgess	✓	29/	Pwl SIA		Algoeast	✓	Mate	28/2200	29/0300		29/0200		Sia	Man	
	Leigh	✓	29/0315	Federal Danube H		Clipperleader	✓	MacKenzie	29	1/0700		1/0600		Sia Nd	Sia Sin	
	Wojtecki	✓	29/0230	Jade Star SIA		ISOLDA	✓	Vanderkorn	29/1110	29/1510		29/1310		BIZ	MTL [6]	
	Burgess	✓	29/0040	Algoeast Dpb		DAVINKEN	✓	Wai Shipping	29/1040	29/1600		29/1400		Win	Bun	
	Wojtecki	✓	29/2125	ISOLDA Dpb		Jade Star	✓	Mate	30/2200	1/0900		1/0600		Sia	Tun	
	Burgess	✓	29/2345	DAVINKEN H		To Pwl	✓					30/0345				
	Williams	✓	29/2115	Federal Kiso Dpb		Ypermachos	✓	Wojtecki	2/	2/1225		2/1025		Dpb	Mtl [2]	
	Leigh	✓	1/0915	Clipperleader SIA		Clipperleader	✓	MacKenzie	2/1315	2/2200		2/2000		Sia Sin	Mtl	
	Wojtecki	✓	1/0945	Jade Star H		Ypermachos	✓	VanderCat	2/0105	2/0600		2/0430		Biz	Mtl [2]	
	Grattan	✓	1/0630	Mittiades Dpb		Sichem Defiance	✓	?	6/0	6/0505		6/0305		Dpb	Sia	
	Wojtecki	✓	2/1225	Ypermachos Dpb		Magdeleen Green	✓	Hoffe	3/0415	3/0115		3/0115		Dpb	Mtn [2]	
	McGregor	✓	2/2200	Pwl WIN		Clipperleader	✓	Leigh	2/2300	3/0305		3/0200		Dpb	Mtl	
	McCormick	✓	2/2200	Pwl WIN		Mittiades	✓	Grattan	3/	3/1530		3/1330		Win Sin	Tun	
	Leigh	✓	3/0315	Clipperleader Dpb		To Pwl	✓					3/1715				
	Hoffe	✓	3/1000	Magdeleen Green Dpb		BBC Ontario	✓	McCormick	5/2000	6/0100		5/2300		Dpb	Mtl [4]	
	Wojtecki	✓	3/1520	Magdeleen Green H		Jade Star	✓	Kolenda	5/1010	5/1350		5/1150		Biz	Sia	
	McCormick	✓	4/1315	Mittiades H		BBC Ontario	✓	Dunn	5/1500	5/1905		5/1705		Biz	Mtl [4]	
	Wojtecki	✓	5/1515	Jade Star SIA		Tradewind Service	✓	McKenzie	5/	6/0220		5/0100		Biz	Sia	
	Merk	✓	5/1210	Pwl		Moor	✓	McNevin	5/2000	6/2030		5/2330		Dpb	Sia	
	McNevin	✓	6/0010	Moor Dpb		Federal Danube	✓	Wojtecki	6/0800	6/1330		6/1130		Dpb	Mtl ki	
	Robertson	✓	6/0514	Algoeast Dpb		Bernhelm	✓	Ell	7/0710	7/1220		7/1020		Dpb	Mtl [5]	
	McGregor	✓	6/0515	Sichem Defiance Dpb		Sichem Defiance	✓	Gidney	7/1100	7/1600		7/1400		Dpb	++++Val	
	Wojtecki	✓	6/0410	Dewitt Service SIA		Federal Danube	✓	Krause	6/0015	6/0355		6/0410	6/0600	Biz	Mtl [4]	
	Merk	✓	6/0230	Moor SIA		Antikeni	✓	Burgess	5/	6/1255 / 1300		5/1100		Dpb	Biz L	
	McCormick	✓	6/0145	BBC Ontario Dpb		Algoeast	✓	Robertson	6/0100	6/0500		6/0300		Dpb	SIA	
	Grattan	✓	6/1130	Sichem Defiance SIA		ALGOEAST	✓	McCormick	7/	8/0140		7/		Dpa	Mtl	
	Wojtecki	✓	6/1350	Federal Danube Dpb		MOOR	✓	MOOR	7/	7/2390		7/		Dpa	Mtl	
	Burgess	✓	6/1310	Antikeni Dpb	UNAV	To Pwl business	✓									
	McCormick	✓	6/1945	Algoeast SIA		Antikeni	✓	Sia Shipping		7/0600		7/0430		Biz L	Sia Sin	
	Merk	✓	6/2030	Antikeni Biz L		MOOR	✓	Sia Shipping	7/0310	7/0810		7/1630		Sia	Mtl	
	Gidney	✓	6/2215	Pwl SIA		Sichem Defiance	✓	Sia Ship.	7/0420	7/0500		7/0300		Sia Ing	Val	
	McCormick	✓	7/1015	Antikeni SIA		ALGOEAST	✓	Mastrac	7/1445	7/2000		7/1820		Sia	Nan	
	Gidney	✓	7/1610	Sichem Defiance Dpb		Federal Asahi	✓	Curtis	8/0035	8/0515		8/0315		Biz	Mtl [2]	
	Pratt	✓	7/1640	Pwl WIN		Federal Asahi	✓	Gindroz	8/	8/1200		8/1000		Dpb	Mtl [2]	

LAKES PILOTS EXAMPLES OF PILOTAGE ASSIGNMENT SHEETS

D-3

Lake ROSTER

PILOTAGE ASSIGNMENT March—April 2006

P.1

Date	Pilot	I.D.	T.I.	Date & Time Reported-In	Vessel	Agent	Date & Time Order Rec'd.	Date & Time Pilot Req'd.	Date & Time Pilot Assigned	B Cert.	From	To	ETA	Source Form Rec'd.	Remarks
	Pickel			27/0430	Algonquin										
	Scivillo				START Federal Kushiro	Smith-Meyer	27/2110	27/2310	27/2110		BIR	Tun			
	Chmielewski				START Federal Kushiro	Smith-Meyer	27/2110	27/2310	27/2110		BIR	Tun			
	Kolenda				START Zeus-Grzywacz	Hampton-Lillie	28/0605	28/1100	28/0900		BIR	Buh			
	Harris				START Utrikon	D. Gallagher-Hubbell	29/	29/.	29/		BIR	Sco			
	Hayes				START Utrikon	D. Gallagher-Hubbell	29/	29/	29/		BIR	Sco			
	Aho				START Menominee	Curtis Ell	30/1315	30/1615	30/1615		BIR	Grb			
	Scivillo				START Menominee	Curtis Ell	30/1315	30/1615	30/1615		BIR	Grb			
	Pickel				START Federal Montreal	Bixby Moore	31/1230	31/1430	31/1230		BIR	Tun			
	Hull				START Federal Montreal	Bixby Moore	31/1230	31/1430	31/1230		BIR	Tun			
	Hayes				Fin Sea Blue Hill	Kuhlke	1/1130	1/1330	1/1130		BIR	Cle			
	Harris				Fin Sea To Cle				1/1200						
	Curtis				START Algonquin	Pratt	1/1600	2/1500	2/1530		BIR	Tun			
	Aho			3/0001	Menominee Gary A.	Pratt	2/	2/	2/		BIR	Cle			
	Scivillo			3/0001	Menominee To DTR				3/						
	Rettle			3/0900	Federal Kushiro 96	Ell	3/0115	3/0630	3/0515		BIR	Buh			
	Chmielewski			3/0900	Federal Kushiro 96										
	Bateman				START To DTR										
	Pickel			6/0000	Federal Montreal Kuwaiti	Habermehl	9/1115	9/1605	9/1400		BIR	Mon			
	Hull			6/0000	Federal Montreal Kuwaiti	Habermehl	9/1115	9/1605	9/0515		BIR	Mon			
	Curtis			7/1330	Algonquin Moder	Ell	10/0545	10/0850	10/0545		BIR	Buh			
	Kolenda			8/0330	Zeus Grzywacz Federal Kiko	Burgess	10/1615	10/2130	10/1930		BIR	Tun			
	Johnson			8/1/	START Algonquin	Hayes	11/1620	11/1820	11/1300		BIR	Dul			
	Stanger			12/	START Wenona	Ell	12/0110	12/0310	12/0140		BIR	Buh			
	Chmielewski			12/	96 To DTR				12/1200						
	Bateman			12/	Algonquin										
	Hardesty			12/	START Federal Kayoe	P. Gallagher	12/1630	12/2130	12/1630		BIR	Dul			
	Hayes			13/1400	Utrikon To DTR				13/1400						
	LaValley			13/	STAR'T Finex	D. Gallagher	13/	13/2015	13/1515		BIR	Cle			
	Mamsworthy			14/1420	Blue Hill To DTR				/						

Lake ROSTER

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PILOTAGE ASSIGNMENT April 2006

p. 2

Date	Pilot	I.D.	T.I.	Date & Time Reported to	Vessel	Agent	Date & Time Order Rec'd.	Date & Time Pilot Req'd.	Date & Time Pilot Assigned	B Cert.	From	To	ETA	Source Form Rec'd.	Remarks
	Stanger			14/	From Cho Stolt Kite	Haberman	14/1740	14/1940	14/		B12	Cho			
	Aho			14/	From Sea Lady Hamilton	McNevin	14/	15/0215	14/2215		B12				
	Rumpca			1 /	START Odyssey Eternity	Roberts	14/2220	15/0330	15/0130		B12	Buh			
	Johnson				START Yarmouth	Ell	15/1615	15/2115	15/1615		B12	Dul			
	Lovelly			16/0040	Finex Yosemite	McNevin	17/1230	17/1745	17/		B12	Tun			
	Kolender			16/0550	Federal Yukon Isabel	Kretchel	15/0730	15/0930	15/0230		B12	Buh			
	Dunn			15/	START Vernebank	Williams	15/0	16/0450	15/2340		B12	BMen			
	Krause			16/	START Greenwing	Coulston	16/1200	17/1400	17/1200		B12	Sea			
	Chrulevich			17/1530	Gang A. Sandviken	Williams	17/1900	17/0030	17/2300		B12	Tun			
	Hull			17/1940	Algonova 96										
	Pahel			18/0530	Odyssey Mariel Kristenberg	Ell	18/1610	18/1810	18/1610		B12	Men			
	Bateman			19/0600	96 Alice	Haberman	19/0350	19/0350	19/0450		B12	Buh			
	Krause			19/1130	From DTR Carola	Hennington	19/0010	19/0200	19/2010		B12	Buh			
	Hayes			19/1130	From DTR Odyssey Mariner	D Gallagher	19/0200	19/1215	19/1130		B12	Dul			
	Hardesty			19/1930	Kuntebank Chios Pride	D Gallagher	20/	20/0900	20/0700		B12	Men			
	Rumpca			20/0245	Stolt Kite Spirit Ruby	McNevin	21/0130	21/1300	21/1100		B12	Buh			
	Vandervoort			20/1700	Mingderin Pentagonus	Coulston	22/0215	22/0415	22/0215		B12	Cho			
	Stanger			21/0950	Isa Brian	Singer	22/0020	22/0535	22/0335		B12	Buh			
	Aho			21/1105	Lady Hamilton Milo	Kretchel	22/1500	22/1700	22/1500		B12	Buh			
	Curtis			22/0245	Yarmouth Pleasantville	Leigh	22/1600	22/1750	22/1550		B12	Buh			
	Kolender			22/1030	Odyssey Eternity Regina Palacio	Haberman	22/1630	22/1830	22/1630		B12	Buh			
	Lovelly			22/1530	Yosemite Federal Nakagawa	Hoffe	23/1120	23/1620	23/1420		B12	Dul			
	Johnson			22/2140	Winona Bluewing	Kretchel	25/1715	25/2245	25/1715		B12	Tun			
	Dunn			22/2140	Federal Nakagawa Victoriaborg	Coulston	24/1500	24/2000	24/1800		B12	Men			
	Hardesty			23/1300	Vernebank Davilen	P. Gallagher	25/0400	25/0600	25/0400		B12	MWK			
	Bateman			23/1400	Palica To DTR				25/1000						
	Chrulevich			24/0540	Dalsviken Yuk Hee	Leigh	26/0001	26/0525	24/0325		B12	Dul			
	Krause			24/1045	Carola Odyssey Merit	Coulston	26/1830	26/0330	27/0445		B12	Tun			
	Hayes			24/1805	From Sea Sofia	Haynes	26/1650	26/1850	26/1805		B12	Cho			

D-3 American + Canadian

Lake ROSTER

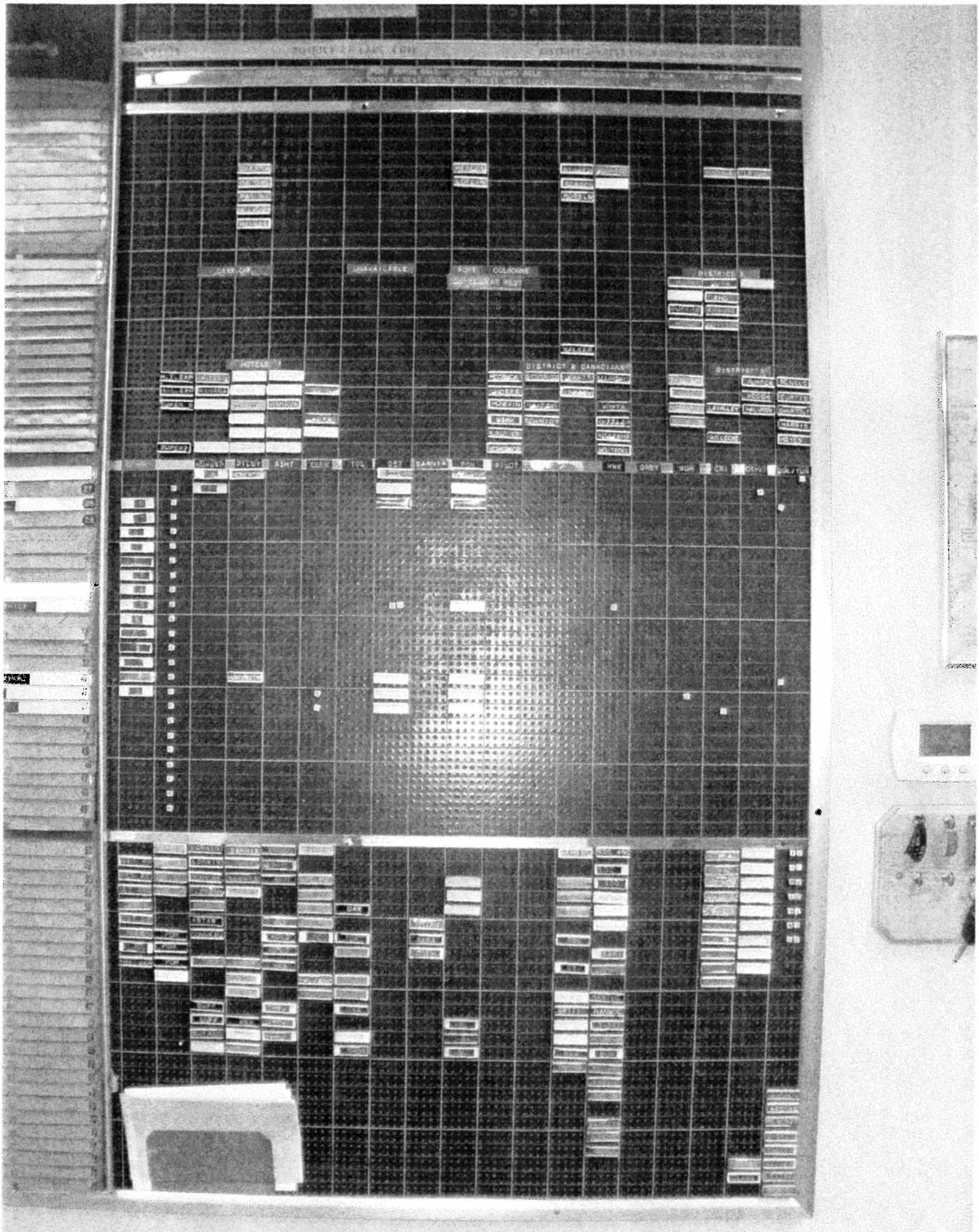
PILOTAGE ASSIGNMENT April - May 2006

p. 3

Date	Pilot	I.D.	T.I.	Date & Time Reported In	Vessel	Agent	Date & Time Order Rec'd.	Date & Time Pilot Req'd.	Date & Time Pilot Assigned	B Cert.	From	To	ETA	Source Form Rec'd.	Remarks
	Radtke			27/1345	Isolda Federal Welland	Hyn	28/1440	28/1640	28/1440		BIZ	Buh			
	Pahel			27/1345	Virginiaborg Federal Welland	D. Gallagher	29/	29/2330	29/2130						
	Swantort			27/1925	Olympic Mentor To DTR				27/1925						
	Curtis			28/1730	Kaptanan A. Ivsna 96										
	Rupke			29/0830	Spar Ruby To DTR				30/						
	Kolenda			29/2125	Federal Mergenes Woody	Walker	2/1435	2/1635	2/1435		BIZ	Dul			
	Stanger			30/1400	Greenwing 96										
	Chmielinski			30/2310	Chios Pride 96										
	Hull			2/0645	Orna To DTR				2/0645						
	Johnson			2/0740	Federal Kivalina Dieschburg	Ell	2/1315	2/1745	2/1545		BIZ	Mtn			
	Krause			2/1220	Olympic Merit Annalisa	D. Gallagher	4/1905	4/1900	4/1730		BIZ	CHO			
	Dunn			3/2110	Victoriaborg Federal Schuna	McGregor	5/0615	5/0810	5/0710		BIZ	Buh			
	Scullo			4/0810	Mila To DTR				4/1500						
	Palmer			5/0120	Federal Weser Antikeri	Knetchel	5/1030	5/1520	5/1320		BIZ	Cho			
	Rumpca			5/0500	Yick Hua Federal Yukino	Schmidt	5/1755	5/2315	5/2115		BIZ	Dul			
	Nieuwenhuy			5/1615	Sofia Zachia Grandezaska	McCormick	6/1640	6/2230	6/1700		BIZ	IOH			
	Hardesty			5/1616	Pontegrios Persenk	D. Gallagher	7/2000	8/0100	7/2000		BIZ	Dul			
	LaValley			8/0630	Davikon Sanga Mayo	Habermehl	8/1940	8/2140	8/1940		BIZ	Mtn			
	Kolenda			8/1600	Woody Federal Oshima	D. Gallagher	9/0001	9/0200	9/0030		BIZ	Buh			
	Betson			9/1045	Federal Welland										
	Pahel			9/	Fran Cho										
	Chmielinski			10/0600	96 To Sco				10/1650						
	LaValley			10/0920	From DTR 96										
	Curtis			11/	96 Huffin	Ell	11/1520	11/2040	11/1515		BIZ	CHO			
	Stanger			11/	96 Menominee	Habermehl	11/2105	12/0200	11/2106		BIZ	GRB			
	Hardesty			11/1820	96 Detroiter										
	Dunn			12/0600	96 Buchung										
	Johnson			12/1900	From Dul Sealink	Gudroz	12/2130	13/0230	13/0030		BIZ	Buh			
	Aho			12/1900	From Dul Meta	B. Haynes	14/0610	14/0810	14/0610		BIZ	Ton			

PHOTOS OF LAKES PILOTS

DISPATCH BOARD TRACKING PILOTS


UNAVAILABLE
PORT COLBORNE
HOTELS
DISTRICT 2 CANADIANS
DISTRICT 3
PILOT
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CLEV
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SARNIA
PILOT
MNK
ORBY
MUR
CHI
DENV
QUALITUS

WESTERN'S WORKING RULES

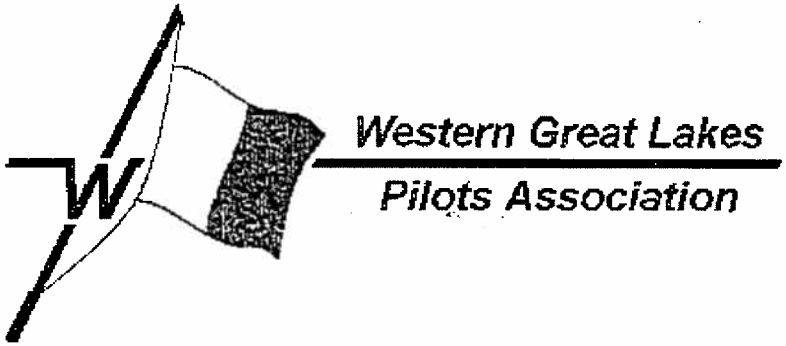
AND DISPATCH PROCEDURES

DATED FEBRUARY 24, 2001

ARTICLES AND BYLAWS

WORKING RULES AND DISPATCH PROCEDURES

OF



WESTERN GREAT LAKES PILOTS ASSOCIATION, LLP

GREAT LAKES PILOTAGE DISTRICT NO. 3

AS APPROVED 24 FEBRUARY 2001

AND AMENDED 04 MARCH 2006

WORKING RULES AND DISPATCH PROCEDURES

WESTERN GREAT LAKES PILOTS ASSOCIATION, LLP

GREAT LAKES PILOTAGE DISTRICT NO. 3

PREAMBLE

1. Western Great Lakes Pilots Association, LLP, which is authorized to form an association for the purposes of providing pilotage services, and its individual members, hereby adopt the following Working Rules in accordance with the Great Lakes Pilotage Act of 1960 and the Great Lakes Pilotage Regulations.

2. The fundamental purpose of these rules is to establish a system in which the fair and orderly distribution of work is assured to pilots through provisions that allow proper and efficient service to the vessels while supplying pilots and dispatchers with clear instructions as to dispatching procedures, including proper control and maintenance of assignment lists and records.

A-GENERAL

A-1 These rules shall not be altered, changed or otherwise revised or rewritten except as provided for in the Regulations. In

accordance with 46 C.F.R. 401.320 (d)(2), the Association shall submit all Working Rules to the Director for approval.

A-2 Unless otherwise stated in these Rules, these Working Rules and Dispatch Procedures shall apply equitably to all United States Pilots serving in District No. 3, and to all dispatching personnel of the Association.

A-3 United States Registered Pilots and Applicant Pilots, and Temporary Registered Pilots may select their areas of operations determined by the Association in accordance with the following criteria:

(a) Approval by the Association Training Committee (in the case of Applicants only),

(b) Seniority in the Association as defined in Section F.

All pilots assigned to an operating area, or to general assignment, shall have equal rights to a place on the assignment list of the area to which they are assigned, subject to the provisions of these Rules. There shall be no bumping or other assertion of seniority in order to take a ship out of turn on the list. Initial assignments at the beginning of the navigation season are made according to the last assignment of the previous season.

A-4 All pilots, prior to becoming a member of the Association, shall enter into a membership agreement with the Association that allows the Association to bill for the member's services and deduct authorized expenses. It will require the member to comply with these working rules, and any other rules which the membership adopts.

A-5 In accordance with 46 C.F.R. § 401.320(b)(2), the Association shall submit all Working Rules to the Director for approval.

B-OPERATING AREAS

B-1 For the purposes of these Rules, the Association's operating areas are:

(a) St. Mary's River-DeTour to Buoy 33.

(b) Port Pilotage areas to be designated by the membership of the Association each year at the Pre-Season Meeting.

(c) General Assignment/Translake Pilotage.

B-2 At the annual pre-season meeting, all pilots in the Association shall be given the opportunity, if qualified, to bid for an operating area. Those qualified under section A-3 of these rules to bid will be honored in accordance with seniority. A pilot need not be present at the meeting to exercise this option. If a pilot is not present his intended bid must be received in writing at the offices of the Association two business days in advance of the pre-season meeting.

B-3 When in the opinion of the Board of Supervisors there is sufficient increase or decrease of traffic to require the temporary or permanent transfer of an additional pilot to an area of operating assignment, the position shall be offered to all Association pilots on the basis of seniority, with the highest seniority pilot being given first choice. If no pilot volunteers for such reassignment, the Board shall select a pilot based on reverse seniority, giving due consideration to qualifications and experience.

B-4 Canadian pilots subject to assignment by the Association shall participate in accordance with the Memorandum of Arrangements between the United States and Canada.

C-ASSIGNMENT OF PILOTS

C-1 At each dispatching station there shall be maintained, as a permanent record, an assignment list containing the following information for each pilot on station and available:

(a) Name

(b) Time placed on assignment list

(c) Order of assignment

(d) Special or miscellaneous information

C-2 Pilots will be assigned to duty in the order in which their names appear on the assignment list, their turn to be determined by the time of arrival on station from a ship, by overland transportation, or returning from rest. On returning from rest the pilot's name shall be placed on the bottom of the list.

C-3 Except as provided herein, all pilots on a station assignment list possess equal rights, and no preferential or discriminatory assignment shall be made.

C-4 Consistent with the applicable federal statutes and regulations regarding Great Lakes pilotage, a pilot taking a vessel in turn will perform all pilotage service required until:

(a) The vessel comes to rest in port,

(b) The pilot is relieved by another pilot,

(c) The vessel leaves the District, or

(d) The vessel goes to anchor and the dispatcher releases the pilot.

C-5 Pilots shall be dispatched to vessels in turn, the vessel's turn to be determined on the basis of a confirmation of the vessel's E.T.A. or the time that a pilot is required to take transportation to an out of town assignment. The time required to leave for overland transportation shall be determined by the dispatcher, based on average travel times.

C-6 A pilot, upon completion of an assignment, shall promptly report to the dispatcher covering the area in which he is then located by contacting one of the following pilot stations:

(a) Superior Pilot Office

(b) DeTour Pilot Station

(c) Port Huron Pilot Office

Upon such contact, the pilot's name shall be placed on the assignment list for that area, and he shall be given information regarding the status of the local list, including the probable period of time he can expect to stay in that area. Pilot's time on the assignment list is to be determined by the time debarking a vessel (if at a berth or lock) or pilot boat. When debarking a vessel (if at berth or lock) or pilot boat at the Soo, a pilot will be given one and one-half (1 1/2) hours travel time before his name is placed on the assignment list at De Tour.

C-7 No pilot shall depart from his area of assignment until he receives instructions from the dispatcher.

C-8 The sequence of names on the assignment list, once established, shall not be altered except under the following conditions:

(a) Alterations in the assignment list caused by pilots returning from rest or being sent on rest.

(b) Pilots may exchange turns by mutual consent, providing no other pilots are affected and that each pilot accepts his assignment. When pilots have exchanged turns, they will promptly notify the dispatch office of the exchange.

(c) A pilot refusing his assignment after trading turns shall be considered unavailable from the time of his original assignment.

(d) Exchange of turns may occur only once for each assignment.

(e) Turns may not be changed when rest period assignments will be upset.

(f) On the basis of registration to provide pilotage services in the assigned area.

(g) The returning of pilots to their permanent area of assignment.

C-9 All pilots, prior to disembarking from vessels on which they have rendered services, shall obtain from the Master or other appropriate ship's officer accurate, current information regarding the vessel's estimated time of departure, itinerary, and estimated pilotage requirement, if any. This information shall be furnished to the dispatcher to whom the pilot reports. Pilots on board ship should send an amended or confirmed E.T.A. to the appropriate reporting station at least 12 hours prior to arrival with the exception of Port Huron, DeTour and Buoy #33 where a 12-hour and a 4-hour call are required.

C-10 Pilots shall be assigned only by the dispatcher. No pilot shall render pilotage services except on call from the appropriate dispatcher or by the Director of Pilotage.

C-11 A pilot shall receive four hours notice regarding the commencement of his assignment or travel, shall be given all

information about his assignment, and shall be kept informed by the dispatcher of all changes in his assignment.

C-12 If a pilot order is canceled after the pilot has boarded the vessel, upon his return to the pilot station he shall be placed at the bottom of the assignment list. If the assignment has been canceled because of weather, mechanical breakdown, or any other reason beyond the ship's control and the pilot has not boarded the vessel, the pilot shall remain first in turn for an assignment.

C-13 Each pilot is responsible for providing the dispatcher with a telephone number where he can be reached.

C-14 A pilot who returns from an excused absence shall report either in person or by telephone to the nearest pilot station upon completion of his absence.

C-15 DISPATCH FOR ST. MARY'S RIVER--Subject to the provisions of Section D, the following rules apply to assignment lists maintained in the restricted area (Designated Waters):

(a) Two assignment lists shall be maintained, River and Translake.

(b) Available pilots shall be assigned from these lists as their names come to the top.

(c) A pilot who has been unavailable, with or without authorization, shall not have his name placed on the assignment list until he has reported in and declared himself available. Upon his return he shall be placed on the top of the assignment list. Conversely, a pilot returning from rest days, a time when he is required by Regulation to be continuously available, shall be placed at the bottom of the assignment list.

(d) Soo River pilots, when returning to the Soo area by overland transportation, shall be placed on the bottom of the assignment list.

C-16 PORT DISPATCH--Subject to the provisions of Section D, the following rules apply to assignment lists maintained for the Ports:

(a) Two lists shall be maintained:

(1) Port Pilotage

(2) Translake Pilotage

(b) Available pilots shall be assigned from these lists as their names come to the top.

(c) A pilot who has been unavailable, with or without authorization, shall not have his name placed on the assignment list until he has reported in and declared himself available. Upon his return, he shall be placed on top of the assignment list. Conversely, a pilot returning from rest days, a time when he is required by Regulation to be continuously available, shall be placed at the bottom of the assignment list.

(d) A harbor pilot returning to his operating area via overland transportation shall be placed at the bottom of the assignment list.

C-17 DISPATCH OF GENERAL ASSIGNMENT PILOTS--Subject to the provisions of Section D, the following shall govern the dispatching of general assignment pilots within the district:

(a) When a general assignment pilot leaves a ship, he will go on the assignment list that is maintained for the operating area in which he departed the ship and

he shall perform all services rendered by pilots in that area.

(b) A general assignment pilot working in an area of operating assignment shall have priority over the pilots assigned to that area for translake moves leaving that area. This priority shall be subordinate to the priority established for pilots returning to their own area of assignment.

(c) A pilot who has been unavailable shall not have his name placed on the assignment list until he has called in and declared himself available. He shall then be placed at the top of the assignment list. Conversely, a pilot returning from rest days, a time when he is required by Regulation to be continuously available, shall be placed at the bottom of the assignment list.

(d) When the needs of traffic require that pilots be ordered by overland transportation from one area to another, the general assignment pilot who is first on the list shall be transferred out of the area before local pilots are so transferred.

D-TRANSFERS

D-1 A transfer, within the meaning of these Rules, is when a pilot or pilots are sent from one pilot station to another, or when a pilot is assigned to a vessel distant from the point at which he is located.

D-2 In the case of an assigned area pilot serving on a list outside of his area, the dispatcher will:

(a) If there is a shortage in the pilot's assigned area, forthwith return the pilot to his area; or

(b) Assign each pilot to the first translate vessel requiring the services of a pilot which is destined for the pilot's assigned area.

D-3 At all pilot stations where in the opinion of the dispatcher there is sufficient number of permanently assigned pilots on the list to handle all foreseeable pilotage requirements within 24 hours, a pilot assigned may be returned immediately to his operating area by overland transportation at the option of the dispatcher.

D-4 If a pilot wishes to move from one point at which he is located to some other point for personal convenience, and this move does not affect the position that he now occupies on the assignment list, the move shall be made only with permission of the dispatcher, and then at the personal expense of the pilot.

D-5 If a pilot is assigned to a vessel distant from the point at which he is located and is transferred by a mode of overland transportation that requires he drive for more than 3 hours, then a pilot may take a half hour rest for every hour driven, to be taken at the destination of the transfer. Average overland travel time between ports or pilot stations will be posted at all pilot stations and will be used by the dispatcher for calculating the amount of travel rest that the pilot has the option of taking.

E-AUTHORIZED AND UNAUTHORIZED UNAVAILABILITY

E-1 Except as authorized in these Rules, any pilot who:

(a) Cannot be located by telephone at the number reported to the dispatcher by the pilot for the receiving of orders;

(b) Refuses an order;

(c) Fails to report when and where required after accepting an order for pilotage assignment;

(d) Reports that he is or will be unavailable;

(e) Fails to report as required to the station upon arrival;

(f) For any other reason is, or becomes, unavailable or unaccounted for;

shall be marked "unavailable" and taken off all assignment lists for 24 hours, starting at the recorded time of unavailability. Upon termination of the 24 hour period, providing that he has personally notified the station that he is now available, he will be placed on the top of all assignment lists.

E-2

(a) In the event of illness, a pilot is to report his unavailability and the dispatcher will record the reason therefor on the availability record and assignment lists, in 24-hour increments. After a pilot receives an assignment or questions the dispatcher regarding pilotage requirements, he cannot refuse the assignment because of illness. A pilot who reports himself unavailable due to illness after receiving an assignment, or questioning the dispatcher regarding pilotage requirements, will be marked unavailable on the availability record, unless and until the pilot provides a medical certificate to the Association confirming the pilot's illness. A pilot who is unavailable because of illness for seven days or more must produce a medical certificate to the Association testifying as to his illness, and asserting that he is able to return to work before he can be listed as available on records and assignment lists. Upon his

return he will be placed at the bottom of the assignment list for the area.

(b) Pilots will be permitted *seven* days of sick leave per season. Pilots unavailable due to illness will receive daily distribution for up to *seven* days each season, but no year-end distribution will be paid for such sick leave taken. Pilots who do not use this sick leave shall receive a credit of one day available for each sick leave day not taken, as part of the year-end distribution.

(c) ***Emergency Family Leave***
Pilots shall be provided with a career leave up to 60 days in duration to deal with a catastrophic family or personal situation. The 60 days can be fractional and will be compensated at $150 per day with no days available pay for year end distribution. The leave can be used during the shipping season with no pay during the off season. All insurances shall be maintained by WGLPA. Documentation of family/personal emergency shall provided to and be approved by the WGLPA Board. The leave shall not be retroactive. Any pay not used under this clause shall be paid to the pilot upon retirement or death of the pilot.

E-3

(a) Pilots are permitted to go off the list for "personal reasons" in 24 hour increments for a period of time not to exceed 72 hours per season. The pilot will try to give the dispatcher as least 24 hours notice before going off the list for personal reasons. Pilots will receive no daily distribution or year end distribution for personal days taken. The pilot will give the dispatcher a 12 hour notification prior to return and will be placed at the top of the assignment list for that area. *A personal day shall be defined as a 24*

hour period that may begin at any hour of the day or night that the pilot specifies. That 24 hour period may fall between jobs that occur on two consecutive days, but it will still cost the pilot a day's pay and distribution.

(b) Pilots will be permitted a four day absence in the event of a death of an immediate family member. Pilots absent for this purpose will receive daily distribution for each day taken but no year end distribution will be paid.

E-4 Pilots may attend meetings or conduct business for the Association at its discretion. ~~Except for emergencies, during the navigation season a maximum of six (6) days per pilot may be used for meetings or Association Business. In any case, meetings or Association business will be conducted in such a manner as to not cause delays to ships. More time for meetings or association Business requires the permission of the Director.~~ Such pilots shall try to remain available but, if it is necessary to go off the list, they shall be placed on the bottom when they return.

E-5 No salaries, compensation, or other form of remuneration shall be paid to any officer or member of the Association for association business / administrative work other than as provided for in E-4 and E-8.

E-6 A pilot who is unavailable shall promptly notify the dispatcher. A pilot who knows in advance that he will be unavailable shall give the dispatcher immediate notice and reason therefor.

E-7 Pilots who are unable to take their turn when called from the list because of excused absence shall go to the bottom of the lists when reporting back from such excused absence.

E-8 Pilots unavailable for assignment because of Association business as authorized by a majority of the Board of Supervisors shall receive both the daily rate and a day available for year end distribution for all such days worked, with the exception of those days coming during a pilot's rest period. Rest days worked on Association business shall be reimbursed at *2.0* times the daily rate, with no allowance made for year end distribution.

F-SENIORITY

F-1 It is recognized that certain matters will require the establishment of a seniority roster by Western Great Lakes Pilots Association, LLP. All at the time of the start of the 1992 Shipping Season as defined in the Articles and Bylaws of Western Great Lakes Pilots Association, LLP shall be placed on the seniority roster in the order in which their names appear on the seniority roster established by ILA Local #444 on 1/4/90. Any member joining after the start of the 1992 Shipping Season shall be placed on the seniority list based on the date on which the member signs his Membership Agreement with the Association. Any seniority disputes will be settled by the Association subject to the approval of the Director of Pilotage.

F-2 When two or more applicant pilots join the Association at the same time, their seniority shall be determined based upon the selection order recommended by the Training Committee.

G-SAFETY

G-1 A pilot shall not consume intoxicants for a minimum of 8 hours before boarding a vessel to perform pilotage service.

G-2 Each pilot shall maintain himself in good physical condition, and in accordance with the regulations, shall have a physical examination at least once each year and will provide the original copy of the results of such examination to the Director of Pilotage each year.

G-3 No pilot shall be assigned to a vessel where his personal health, safety or welfare are in jeopardy, nor shall he be compelled to remain aboard where such conditions exist. When such a condition exists, the Director of Pilotage shall be immediately notified either through the local dispatcher, or directly by the pilot.

G-4 The Association and all pilots will at all times exercise diligence in the prevention of accidents. Detailed reports shall be submitted to the Association, Director of Pilotage, and the U.S. Coast Guard when required pursuant to the Code of Federal Regulations.

H- Rest

H-1 Pilots shall receive a scheduled rest period, when operational requirements allow, from May I through November 15. A rest schedule will be established at the pre-season meeting through a lottery drawing, and will be adhered to for the following season. The following rules shall apply to the scheduled rest periods:

(a) When operational requirements allow, and subject to the provisions of paragraph (d) below, a pilot shall be entitled to a rest period as determined by the Association on an annual basis.

(b) At the pre-season meeting all translake pilots will designate a "home port" for the following season. The home port will be selected from one of the following ports: Port Huron, Chicago, Duluth-

Superior, or De Tour Village. Harbor pilots or St. Mary's River pilots will have their respective areas of assignment designated as their home port. During the season the dispatchers will make sure that a pilot is at his home port when he goes on his rest days. If a pilot is not at his home port, then the dispatcher will transfer the pilot to his home port by overland transportation at the Association's expense. At the end of his rest period the pilot must be available at his station. Once the rest period is over, though, the pilot must be prepared to resume work at that time if needed. Notwithstanding any other provision of this paragraph, pilots normally assigned to specific harbors or to the St. Marys River will have their respective areas of assignment designated as their home port.

(c) A pilot, on completing his last assignment before going on his scheduled rest period, may be asked to work overtime. If he accepts the overtime he will be placed on the bottom of the list where needed and will begin his over-time assignment in turn. In the event pilots on leave are asked to work overtime, they shall be given adequate travel time to get back to the station where needed, and upon returning to the station and reporting to the dispatcher, shall be placed on the bottom of the list where needed. The paid overtime will commence *12 hours before the original time ordered of the first assignment, and end 12 hours after the "off" time.* The overtime distribution will be *2.0* times the normal daily rate.

(d) The Board of Supervisors may, if it deems necessary due to high volumes of traffic, suspend a portion of the rest days or reduce the number of rest days in order to maintain the level of service required by the industry. If the rest days are reduced or suspended, the individual pilots shall be notified about this decision immediately after it is made and shall be

compensated at the overtime rate with the overtime premium being distributed at year end.

H-2 Pilots shall forfeit time from their scheduled rest period at the rate of 1/2 day for each day that a pilot has been unavailable since the pilot last took a day of scheduled rest. Scheduled rest time forfeited under this provision shall be limited to the number of days in the rest period, as determined pursuant to section H-1 (a), and does not accumulate or roll-over into the next rest period. Rest days forfeited are not considered overtime under section H-1 (c).

I-SOURCE FORMS

I-1 Pilots will submit their source forms to the Association not less than once each week. When a pilot delays mailing or delivering his source forms to the office of the Association for more than fifteen days, the pilot shall not be paid for the services and expenses represented by such source forms unless and until the Association collects for such services and expenses.

J-DISCIPLINARY PROCEDURES

J-1 The Association will establish a Disciplinary Committee to hear and refer disciplinary cases thereunder to the membership, and the Director of Pilotage. Disciplinary action can be recommended by the Disciplinary Committee but can only be approved by a two-thirds (2/3) majority vote of the Registered Pilot Members of the Association. In the absence of the appointment of a Disciplinary Committee, the Board of Supervisors shall be empowered to act in that capacity.

APPROVED AND ISSUED BY:

WESTERN GREAT LAKES PILOTS ASSOCIATION, LLP
Superior, Wisconsin

By _____

Mr. John Swartout, Secretary
WGLPA

Date

DIRECTOR OF PILOTAGE
Washington, D.C.

By _____

Frank Flyntz, Director,
Office of Great Lakes Pilotage

Date

AMENDMENT NOTES

Notes

J-2 Any pilot who, without good cause:

(a) Refuses to comply with these Working Rules or other Rules of the Association; or

(b) Refuses to accept an assignment or to obey the lawful order of the Association or dispatcher with regard to an assignment; or

(c) Is unavailable without good cause, as defined in Section E; or

(d) During the course of his duties, boards or services a vessel or assumes a duty status while intoxicated or otherwise impaired by the use of intoxicants or drugs; or

(e) Fails to report to the proper dispatcher in a reasonable time after the completion of his assignment, or fails to keep the appropriate pilot office informed as to his whereabouts as required, or is unaccounted for; or

(f) Refuses to abide by the Great Lakes Pilotage Regulations, or obey the lawful order of the Director of Pilotage; or

(g) Intentionally misuses, destroys, misappropriates, or damages property of the Association, its members or employees; or

(h) Engages in other misconduct which the Disciplinary Committee deems harmful to the Association, its operations, members or employees,

shall be subject to discipline hereunder.

J-3 There shall be a penalty for each 24 hour period or part thereof in which a pilot refuses an assignment or cannot be

located for assignment. Only one such fine may be levied during any 24-hour period.

J-4 Pilots must report in writing to the Board of Supervisors any complaints against a dispatcher in regard to misconduct, abuse of privilege, or deviation from these Working Rules. If there is doubt, however, as to the interpretation of these Rules or any other applicable rules or regulations, and there is not time to obtain clarification, the pilot shall follow the order of the dispatcher and subsequently report the issue to the Board of Supervisors.

J-5 All violations referred to in this section may be reviewed by the Disciplinary Committee and, pursuant to reasonable notice and opportunity for hearing, penalties assessed in an amount not to exceed $ 1,000.

J-6 The Director of Pilotage shall be kept informed of all complaints, reports, or recommendations related to disciplinary action and the Association shall fully cooperate with the Director concerning all matters of discipline.