

**UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD**

UNITED STATES COAST GUARD

Complainant

VS

JEFFREY OVERSTREET

Respondent.

Docket Number CG S&R 03-0329

CG Enforcement No. 1792585

DECISION AND ORDER

Issued: March 23, 2004

Issued by: Edwin M. Bladen, Administrative Law Judge

Appearances:

For the Coast Guard

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For the Respondent

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PRELIMINARY STATEMENT

Respondent is licensed as a Master of uninspected towing vessels on the inland rivers (No. 1048017). He is charged in a three count amended complaint alleging: (1) While serving as a river Pilot¹ of the M/V LAURA ELIZABETH he was negligent in his duties and responsibilities by committing an act or failing to perform an act that contributed to the allision between the vessel LAURA ELIZABETH and the Jefferson Street Bridge in Joliet, Illinois. The allegation essentially asserts Respondent, while operating under the authority of his license, (1) failed to safely navigate the vessel and struck the bridge which was a well charted and fixed object; (2) violated 33 USC § 2005 by failing to maintain a proper lookout and; (3) violated 33 USC § 2006 when he failed to maintain a safe speed.

Thus, under the authority of 46 USC § 7703, 46 CFR § 5.29, § 5.33 and 5 USC §§ 556-558, this proceeding was brought by the Coast Guard seeking a three [3] months suspension of Respondent's license for each of the three alleged violations for a total of nine [9] months suspension.

Respondent obtained an attorney who answered the complaint admitting the jurisdictional allegations and denying the factual allegations. Respondent's counsel asserted the affirmative defense that the:

Jefferson Street Bridge is an unreasonable obstruction to free navigation. The owner of the bridge was negligent in failing to install appropriate protection for the right descending pier of the bridge. Those responsible for controlling the flow of the river and providing accurate information about the flow of the river were negligent.

¹ A pilot is apparently a term used on inland rivers with tugs and barges and essentially identifies an assistant master and is not a traditional pilot as that term is understood in maritime law.

Respondent demanded a hearing which was held on December 2 and 3, 2003 at the Will County Courthouse, 14 West Jefferson Street, Room 312, Joliet, Illinois.

No *ex parte* communications were received or made during the course of this proceeding.²

At the close of the Coast Guard's case, Respondent requested that all three counts of the complaint be dismissed. This judge granted the Respondent's motion as to Count 2 which alleged the failure to have a proper lookout, and denied the request as to the remaining counts.³

At the conclusion of the hearing the parties were offered the opportunity to file proposed findings of fact and conclusions of law as authorized by the Administrative Procedures Act. Instead, the parties preferred to file closing arguments in the form of memoranda of fact and law. A transcript of the proceedings was prepared and provided to the parties. Both parties filed their closing arguments on February 25, 2004. The Coast Guard and Respondent filed their rebuttal briefs on March 16, 2004. Now having reviewed the complete record including the arguments of the parties, this matter is now ripe for decision.

FINDINGS OF FACT

1. On May 2, 2003, the Respondent was serving as the operator on board the M/V LAURA ELIZABETH, which is 114 foot, 3600 horsepower twin engine towing vessel, under the authority of his license which authorizes him to serve as the operator of uninspected towing vessels on the inland waters of the United States.⁴

2. Respondent was in command of the M/V LAURA ELIZABETH which was pushing a flotilla in a transit down bound on the Illinois Waterway.⁵

² See, 5 USC § 557(d)(1)(C)

³ Transcript pp 147-159 [Motion granted p. 159]

⁴ CG Exhibit 3; Transcript p. 14 [Respondent concession as to licensure]

⁵ CG Exhibit 1

3. The vessel and tow were under the actual direction and control of Respondent from their departure at mile marker 291.1 of the Lockport Lock and Dam.⁶

4. The tow, or flotilla, was comprised of fifteen [15] barges in an array 1120 feet long, 105 feet wide, comprised of three across and five down toward the tug which was pushing the fifteen barges in the notch⁷.

5. The first nine [9] barges were empty and the remaining six [6] were loaded and placed nearest the tug at the rear of the flotilla [*i.e.*, tug LAURA ELIZABETH and the 15 barges].⁸

6. The flotilla was made up on May 1, 2003 above the Lockport lock and Dam on the Illinois Waterway.⁹

7. The Joliet section of the Illinois Waterway is known in the maritime community as one difficult to navigate.¹⁰

8. As a flotilla normally proceeds downstream from the Lockport Lock and Dam until the Brandon Road Lock & Dam, it would pass under six bridges: Ruby Street, Jackson Street, Cass Street, Jefferson Street, McDonough Street and Interstate 80.¹¹

9. After leaving the Lockport Lock and Dam, (mile 291.1) and transiting more than two miles of the Illinois Waterway, the flotilla laid up at the Ruby Street Bridge at mile 288.7 at 2100 hours due to a Channel Delay.¹²

10. At the time of the flotilla's transit through the Lockport Lock and Dam, the Dam was discharging water at the rate of 2500 cubic feet per second [CFS].¹³

⁶ CG Exhibit 1; CG Exhibit 3; Transcript pp 41-45

⁷ Respondent's Exhibit H

⁸ Respondent's Exhibit H

⁹ CG Exhibit 1

¹⁰ Transcript pp 491-492 [Respondent]; Transcript p. 45 [Tommy Parrish]

¹¹ Respondent's Exhibit L [U.S. Army Corp of Engineers, Illinois Waterway, Map No. 112]

¹² CG Exhibit 1; Transcript p.404 [Respondent]

¹³ Respondent's Exhibit J

11. The Lockport Lock and Dam increased its discharge of water into the Illinois Waterway at 2048 hours, to 5200 CFS, which was 12 minutes prior to the flotilla's hold up at the Ruby Street Bridge.¹⁴

12. This water flow increased the Illinois Waterway's flow rate and the increase reached the Brandon Lock about 20 minutes later, but reached Respondent's flotilla at the Ruby Street Bridge prior to its departure from Ruby Street Bridge.¹⁵

13. The M/V LAURA ELIZABETH and its tow remained at the Ruby Street Bridge for about one half hour, and again commenced its down-bound transit from the Bridge at 2130 hours.¹⁶

14. The flotilla had two lookouts stationed on the front port and starboard barges.¹⁷

15. The flotilla was transiting at bare steerage way which was at most one mile an hour over the ground.¹⁸

16. One lookout was the first mate on Starboard and the other was an able seaman on the Port side. Both were in a position to observe the area ahead and to the sides of the flotilla and the Starboard lookout was an experienced mariner and lookout.¹⁹

17. At mile 288.2, the Illinois Waterway makes a left turn, just before the Cass Street Bridge.²⁰

18. The Cass Street Bridge is at mile 288.1 on the Illinois Waterway.²¹

19. Respondent set the flotilla in such a manner to navigate the left turn, but the last barge on the starboard side of the tow touched up and scraped the wooden pilings at the Cass Street Bridge.²²

¹⁴ Respondent's Exhibit J [Lockage records for Lockport Lock and Brandon Lock]

¹⁵ Transcript p. 535 [Testimony of R. Granados, U.S. Army Corp. Engineers: When Lockport Lock releases water, it takes 20 minutes for the downstream Brandon Lock to experience the change in flow rate.] Transcript p. 536 [Respondent's expert Edward Henleben]

¹⁶ Transcript p. 61; CG Exh. 1 [M/V Laura Elizabeth Daily Log]

¹⁷ Transcript pp 92-94

¹⁸ Transcript pp. 84- 85 [Tommy Parrish testimony]

¹⁹ Transcript pp 95-104, 107-109

²⁰ Transcript p. 106; Respondent's Exhibit L. [U.S. Army Corp of Engineers Illinois Waterway Maps 112, 113, 114]

²¹ Respondent Exhibit L [Army Corp of Engineers Illinois Waterway Maps]

20. At the same time as the Cass Street Bridge pilings were touched, the starboard lead barge [GSC 9225] struck the Jefferson Street draw bridge,²³ which caused damage shutting the draw bridge to Joliet traffic for approximately six months and causing substantial economic damage to the community.

21. The Jefferson Street Bridge is at mile 287.9.

22. The allision with the Jefferson Street drawbridge pier occurred at 2200 hours or 10:00 P.M.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Jurisdiction is established in this matter with Respondent having admitted the jurisdiction, and by reason of the Respondent having served as the pilot aboard the tug LAURA ELIZABETH during all relevant times pursuant to his license.

2. The Coast Guard's charge that Respondent violated law or regulation, 33 USC § 2005, by failing to maintain a proper lookout was found not proven because there was a lack of substantial, reliable and probative evidence. As a result that charge had been dismissed on Motion of the Respondent at trial.

3. The Coast Guard's charge that Respondent violated law or regulation, 33 USC § 2006, by failing to maintain a safe speed fails for a lack of substantial, reliable and probative evidence. As a result that charge is found not proven and is dismissed.

4. Respondent's affirmative defense that Jefferson Street Bridge is an unreasonable obstruction to free navigation is rejected as not supported by substantial, reliable and probative evidence.

5. Respondent's further affirmative defenses of contributory negligence, *i.e.*, the owner of the bridge was negligent in failing to install appropriate protection for the right descending pier of the bridge, and those responsible for controlling the flow of the river and providing accurate information about the flow of the river were negligent are also rejected because contributory negligence is not a recognized defense in suspension and revocation cases charging a licensee with

²² Transcript pp 62-64

²³ Transcript p. 41 [Tommy Parrish]; Coast Guard Exhibit 1[Laura Elizabeth log]

negligence. See, *Appeal Decision 2402 (Pope)*.

6. Respondent's claim that the substantial increase of the flow of water from the Lockport Lock and Dam suddenly and unexpectedly caused the flotilla to allide with the Jefferson Street Bridge and Cass Street bridge is rejected as not consistent with the evidence.

7. The M/V LAURA ELIZABETH flotilla's allision with the Jefferson Street Bridge is presumed to be the result of negligence unless the negligence is rebutted by substantial evidence. *Appeal Decision 2284 (Brahm)*

8. Respondent has failed to rebut the presumption of negligence arising from the allision.

9. The Coast Guard's charge that Respondent was negligent in his duties and responsibilities by committing an act or failing to perform an act that contributed to the allision between the flotilla's front starboard barge and the Jefferson Street Bridge in Joliet, Illinois is found proven by substantial, reliable and probative evidence.

DISCUSSION

Negligence

Respondent was in command of a large flotilla of barges down bound on the Illinois River. This flotilla's dimensions were 1120 feet by 105 feet consisting of fifteen barges three across and five down with the M/V LAURA ELIZABETH piloted by Respondent, pushing in the notch. Having commenced its tow from the Lockport Lock and Dam it proceeded down the Illinois Waterway and laid up at the Ruby Street Bridge²⁴ for about one half hour beginning at 2100 hours.

When the flotilla left the Lockport Lock and Dam the water flow rate from the Lockport Lock and Dam was 2500 cubic feet per second [CFS]. At 2048 hours, and during the time the flotilla was laid up at the Ruby Street Bridge, the Lockport Lock increased the water flow rate to 5200 CFS. This essentially doubled the water's flow rate. This increased flow rate reached the flotilla while it was still laid up at the Ruby Street Bridge.

²⁴ The Ruby Street Bridge is the first bridge the flotilla encounters after leaving the Lockport Lock and Dam.

Respondent claims he did not recognize or experience this increased flow rate, at the Ruby Street Bridge because he was busy in the wheelhouse with other matters, such as loose barges.²⁵

The flotilla left the Ruby Street Bridge about one half hour after laying up (2130 hours), and proceeded south on the waterway.

Past the Ruby Street Bridge, and just before the Cass Street Bridge, at mile 288.2, the Illinois Waterway makes a left turn. Respondent set the flotilla in such a manner to navigate the left hand turn, but the last barge on the starboard side of the tow touched up and scraped the wooden pilings at the Cass Street Bridge. At about the same time as the Cass Street Bridge pilings were touched, the first starboard side empty barge struck the Jefferson Street draw bridge which caused damage shutting the draw bridge to Joliet traffic for approximately six months and causing substantial economic damage to the community.

The Coast Guard alleges that the allision between the flotilla and the Jefferson Street Bridge was the result of Respondent's negligence. Negligence is defined for purposes of this proceeding at 46 CFR § 5.29 as:

Negligence is the commission of an act which a reasonable and prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act which a reasonable and prudent person of the same station, under the same circumstances would not fail to perform.

The Coast Guard principally relies upon the presumption of negligence arising when a vessel strikes a fixed object citing Appeal Decision 2284 (Brahm). Additionally, the Coast Guard asserts that Respondent failed to take into account the increased water flow in the Illinois waterway and thus navigated the waterway in such a manner as to cause the allision.

The Respondent defends these claims asserting four theories. First, the Jefferson Street Bridge is an unreasonable obstruction to free navigation. Second, the owner of the bridge was

²⁵ Transcript p. 405 [Respondent]

negligent in failing to install appropriate protection for the right descending pier of the bridge. Third, those responsible for controlling the flow of the river and providing accurate information about the flow of the river were negligent. Fourth, the increased flow rate was sudden and unexpected causing the flotilla to allide with the Jefferson Street Bridge.

The first theory that the Jefferson Street bridge is an unreasonable obstruction is centered on the fact this bridge with a one hundred fifty (150) foot wide span, was constructed in the 1930's unlike more modern ones being three hundred feet wide. Respondent's Brief at p. 5. Thus, the passage under the bridge is narrow and does not fully accommodate the size of flotilla involved here.

It is true, that a drawbridge spanning a navigable river is an obstruction to navigation but tolerated because of necessity and convenience to commerce on land. It must be operated and maintained so that navigation may not be impeded more than is absolutely necessary, the right of navigation being paramount. See Griffin on Collision, American Maritime Cases, Inc., 1949 at p. 604 citing *Clement v. Metropolitan Ry Co.*, 123 F. 271 (7th Cir. 1903).

Even so, it has been held in *City of Milwaukee v. Kensington S.S. Co.*, 199 F.109 (7th Cir. 1912) cited in Griffin on Collision, supra at p. 604, where there is a dangerous obstruction to navigation remedied by maintenance of piles, it is the duty of the owner (City of Milwaukee) to put and keep them there. Failure to do so is negligence. It is the duty of the owner to make the obstruction as safe as is reasonably possible. Thus, if there is an improper projection of a bridge, for example, into navigable waters, there is an unreasonable obstruction. It is also the duty of the owner and operator of a drawbridge to open the draw, upon signal by an approaching vessel in time to permit its passage, or if it cannot be opened to give timely warning to the vessel. Griffin on Collision, supra at p. 605-606.

I have heard no evidence that the Jefferson Street Bridge was either dangerous or that it was negligently operated. At most there was the fact there was a history of some allisions with the bridge in spite of the passage of perhaps hundreds of tows through what may be a claimed narrow area. Also, while one or more of the other bridges in this stretch of the Illinois Waterway had protection cells placed around the bridge's steelwork and pilings, there was an effort underway to construct such a cell at the very spot where this allision took place.

Further, there is no evidence in this record which shows there was an absence of compliance with the bridge permit for the Jefferson Street Bridge.

Thus, I am not persuaded that the absence of a protection cell, together with two or more earlier allisions, mandates a finding that the Jefferson Street drawbridge was an unreasonable obstruction to navigation such that it was solely at fault for the allision.

Next, Respondent argues that the owner of the bridge and the lock and dam operators were negligent causing the allision. These arguments are essentially that of contributory negligence. In a Coast Guard suspension and revocation proceeding, the only issue is the negligence of the licensee charged. Contributory negligence of others is not a defense. Appeal Decision 2380 (Hall). I must therefore reject the contributory negligence defense of Respondent.

Lastly, the Respondent emphatically argues the increased flow rate was the main reason the flotilla's starboard front barge ended up among the steel works of the Jefferson Street Bridge putting it out of service for 6 months.

To the contrary, the Coast Guard says the Respondent should have detected this increase in flow rate. Besides, it is argued, the increased flow rate had nothing to do with the allision.

The Coast Guard Investigating Officer in his reply brief demonstrates the evidence is markedly inconsistent with Respondent's claim that the increased flow of water was the culprit. Coast Guard Rebuttal Brief pp. 1-2.

Given the distances between the two locks, the distance from the Lockport Lock and Dam to the Ruby Street, Cass Street and Jefferson Street Bridges and the timing of the increased flow, the speed of the water is mathematically certain. The Coast Guard Investigating Officer [IO] calculates that to be 1.88 miles per hour. The IO then concludes, if the water flowed at that rate only 2.25 miles from the Lockport Lock and Dam, that would bring the increased flow $\frac{3}{4}$ of a mile above the Cass street bridge, or at the Ruby Street Bridge when Respondent was laid up there awaiting a delay. That being so, the increased water could not have affected the tow or been a factor in the allision, since the increased water flow rate would have been past the flotilla when it left the Ruby Street Bridge, and before the time of allision.

All of this tells me that the increased flow rate reached the flotilla while it was laid up at the Ruby Street Bridge. However, the exact time is not precise. But, what is relevant is that it arrived while the flotilla was laid up, and not when Respondent claims, when he was navigating under the Cass Street Bridge and the Jefferson Street Bridge.²⁶

It is well settled that a rebuttable presumption of negligence arises when a moving vessel strikes a fixed object. *The Oregon*, 158 U.S.186, 193 (1894); *Appeal Decision 2380 (Hall)*. Also see *Appeal Decision 2284 (Brahm)* [a strong inference of negligence is established by the fact of an allision and a rebuttal requires the operator of the moving vessel to come forward with more than cursory evidence]. Without adequate rebuttal, the presumption permits an Administrative Law Judge to rely upon the presumption to find negligence in a suspension and revocation proceeding. *Appeal Decision 2380 (Hall)*

I find Respondent has not adequately rebutted the presumption of negligence arising from the allision of the flotilla with the Jefferson Street Bridge. I must conclude the charge of negligence is proven.

²⁶ The flotilla being 1120 feet long its forward barges were virtually at the Jefferson Street Bridge when the last starboard barge scraped up against the piling of the Cass Street Bridge.

Safe Speed

Respondent is also charged with failing to maintain a safe speed while navigating the Illinois Waterway contributing to the collision of the flotilla with the Jefferson Street Bridge. The Inland Navigation Rules are applicable here. Rule 6, 33 USC § 2006 provides:

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

- (a) By all vessels;
 - (i) The state of visibility
 - (ii) The traffic density including concentrations of fishing vessels or any other vessels;
 - (iii) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;
 - (iv) At night the presence of background light such as from shore lights or from back scatter of her own lights;
 - (v) The state of wind, sea and current, and the proximity of navigational hazards;
 - (vi) The draft in relation to the available depth of water.
- (b) Additionally, by vessels with operational radar;
 - (i) the characteristics, efficiency and limitations of the radar equipment;
 - (ii) any constraints imposed by the radar ranges scale in use;
 - (iii) the effect on radar detection of the sea state, weather and other sources of interference;
 - (iv) the possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;
 - (v) the number, location and movement of vessels detected by radar;
 - (vi) the more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

I have identified the following factors to be taken into account. First, the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions. Second, the state of the current, and the proximity of navigational hazards.

Looking at the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions this is a flotilla comprised of 15 barges and a tug.

Nine of the barges are empty and form the front of the flotilla. The remaining six are filled and at the back with the tug in the notch. The overall size is 1120 feet by 105 feet. This does not stand out as a highly maneuverable flotilla. Consequently, the speed at which this tow operated was bare steerage way,²⁷ or the lowest speed consistent with the maintenance of headway.

Moreover, Respondent agreed that the Joliet section of the Illinois Waterway is known in the maritime community is difficult to navigate.²⁸ But he also said he intended to transit the river at what he called "slow bell, and slow bell as possible,"²⁹ or at "clutch speed ...just knuckled in."³⁰

The "state of the current" factor implicates the increase in flow rate of the Illinois Waterway and its effect on the river's current and the speed of the flotilla. Of course, Respondent was not responsible for the increased flow rate, only whether he recognized the increase, took that into account, and made appropriate adjustments in the flotilla's speed.

Respondent says he did not recognize the increased flow rate until it was too late. The flow rate increase must have effected the river's current, especially if the flow rate literally doubled.

The intent of the Safe Speed Rule 6 is expressed in *Decision on Appeal No. 2294 (Tittonis)*:

The intent . . . was to expand its circumstances. "Safe" is used in the relative sense. What is a safe speed must be determined on a case by case basis after analyzing the facts according to the factors listed in the rule. There can be no general rule for such a concept because of the many variables involved in any situation.

²⁷ Testimony of Larry Parrish, Transcript pp. 84-85

²⁸ Transcript p. 491-492

²⁹ Transcript p. 491

³⁰ Transcript 407 [Respondent]

The Coast Guard argues that Respondent failed to take into consideration all of the appropriate conditions when determining his speed while transiting through the Cass Street and Jefferson Street bridges. Coast Guard Closing Argument at p. 5. The Investigating Officer [IO] points out that the Jefferson Street bridge operator observation that the flotilla seemed to “. . .be going a little bit faster than most that I have seen go through.”³¹ The IO commends the operator’s observation as highly credible given he has observed 2500-3000 tows transit through the Jefferson Street Bridge.³²

What does a little bit faster mean? We do know that the flotilla was affected by the increased flow rate, so an increase in speed however small might be noticed by the bridge operator. But, that does not suggest to me an unsafe speed. It appears that Respondent made a conscious choice to operate the flotilla at the lowest speed necessary to maintain control.

Taking into consideration all of the circumstances of the transit of the flotilla, I am not persuaded Respondent operated the flotilla at an unsafe speed.

I must conclude there is a significant lack of substantial, reliable and probative evidence supporting the charge of unsafe speed. Accordingly, I will find that charge not proven.

SANCTION

The Coast Guard requests that Respondent’s license be suspended for three months or more for each of the proven violations. I have dismissed the lookout and safe speed charges. This leaves the Negligence charge.

The record here does not reflect that Respondent has any history of previous violations of the rules applicable to mariners. Of particular note there is no record evidence presented by the

³¹ Coast Guard Closing Argument p. 5 citing Transcript p. 111

³² Coast Guard Closing Argument p. 5 citing Transcript 111

Coast Guard which suggests that Respondent is likely a threat to safety to life at sea or the welfare of mariners.

Moreover, it is of some mitigation that there was an effort by the Illinois Department of Transportation to let a contract to construct a protective cell at the base of the western pilings of the Jefferson Street drawbridge. The state has recognized that flotillas of the magnitude of that here involved do transit the area. The Coast Guard has announced its support for the construction of a protection cell.³³ At the same time, the Coast Guard established a Regulated Navigation Area that limits the configuration of all southbound tows transiting beneath the Jefferson Street Bridge to 89 feet overall width and 800 feet overall length, together with an assist tug.³⁴

However, the Coast Guard points out that Respondent is unwilling to accept responsibility for the allision. I am not so certain that this is true given the defenses raised by Respondent. The fact he vigorously defends the charges does not imply to me he is unwilling to accept responsibility.

Consequently I believe that the configuration of the flotilla together with the failure of the Respondent to recognize the doubling of the waterway's flow rate, and take appropriate precautions knowing of the length and tow and the width of the waterway, demands a sanction. Additionally, this failure resulted in a substantial economic loss to the Joliet community besides the cost of repair.

I will suspend the Respondent's license for four [4] months, two [2] months remitted with 6 months probation to follow after the conclusion of the suspension. As conditions of probation, (1) Respondent shall take and successfully complete a bridge resource management course approved by the Coast Guard; (2) any violation of the rules, regulations or COLREGS by Respondent during the probationary period shall subject Respondent to an outright 2 month suspension besides any further sanction warranted on account of the violation established after a hearing on the matter.

³³ See Respondent's Exhibit A [Letter of Captain R. E. Seebald to Illinois River Carriers Association dated 7 May, 2003]


³⁴ Respondent's Exhibit A [Captain Seebald letter to Illinois River Carriers Association]

ORDER

IT IS ORDERED Respondent's license is suspended for the period of four [4] months, two [2] months of which is remitted, with six [6] months probation to follow. As conditions of probation (1) Respondent shall take and successfully complete a bridge resource management course approved by the Coast Guard; (2) any violation of the rules, regulations or COLREGS by Respondent during the probationary period shall subject Respondent to an outright two [2] month suspension besides any further sanction warranted on account of the violation established after a hearing on the matter.

Service of this Decision upon you serves to notify you of your right to appeal as set forth in 33 CFR Subpart J, §20.1001. (Attachment A)

Dated: March 23, 2004.


Edwin M. Bladen
Administrative Law Judge