STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

CONNECTICUT PILOT COMMISSION

CONNECTICUT PILOT COMMISSION ANNUAL REPORT JULY 1, 2007 – JULY 1, 2008

Pursuant to Conn. Gen. Stat. ch. 263, sec. 15-13c, the Connecticut Pilot Commission advises the Commissioner of Transportation (CDOT) on issues related to the licensure of marine pilots, the safe conduct of vessels, pilotage rates and the protection of the ports and waters of Connecticut. The nine Commission members, including appointees of the Governor and various legislative leaders, a designee of the Commissioner of Transportation and a pilot representative, represent a broad spectrum of business, maritime, and environmental interests. The Commission currently includes members with expertise in admiralty and environmental law, shipping, stevedoring and port operations as well as experience as Merchant Marine, Navy, and Coast Guard officers. Further information regarding the Commission, including monthly minutes, is available at www.ct.gov/dot/cwp/view.asp?a=2314&q=307026. This is a report of the Commission's activities for the period July 1, 2007 through June 30, 2008.

Background

Long Island Sound ports (consisting of Connecticut's three deepwater ports and petroleum terminals on Long Island's north shore) are vital to the regional economy. These ports provide millions of people with access to global commerce and offer the potential to reduce congestion along the northeast corridor. In addition to petroleum products, Connecticut ports handle lumber, rolled steel, scrap metal, coal, salt, fruit and chemical cargoes shipped to and from every part of the world. Cruise ships have been calling on New London with increased regularity.

As is common throughout the maritime world, merchant ships arriving at Long Island Sound ports are required by law to take aboard a local pilot, who has up-to-date knowledge about hazards to navigation, tides and current, communications and vessel traffic. Conn. Gen. Stat. ch. 263, sec. 15-15. As advisors to the ship's Master, pilots direct the vessel's movement in restricted waters, including docking and undocking. Pursuant to the Federal Boundary Waters Act, 46 U.S.C. sec. 8501(b) and Conn. Gen. Stat. ch. 263, sec. 15-15d, Connecticut and New York share authority to regulate pilotage on Long Island Sound. The Boundary Waters Act entitles New York-licensed pilots to pilot ships to all Connecticut ports and Connecticut-licensed pilots to pilot ships on the New York waters of Long Island Sound. The two states are party to a 1999 Memorandum of Agreement ("MOA"), implemented by regulation, under which Connecticut-licensed pilots and New York-licensed pilots participate in a joint rotation to provide pilotage service for all ports on the Long Island Sound. Conn. Agencies Regs. Sec. 15-15a-17. The rotation is administered by a Joint Administrator, designated by the mutual agreement of Connecticut and New York. The Joint Administrator establishes work rules, dispatches pilots to assignments, collects pilotage fees, pays expenses and distributes earnings. During calendar year 2007, the Joint Administrator dispatched pilots to 907 assignments (down from 1,031 in 2006 and 943 in 2005), generating approximately $2 million in pilotage fees.

Under the MOA, CDOT retains authority to regulate the licensing, conduct, and duties of Connecticut-licensed pilots as necessary to ensure public safety and protection of the environment. Conn. Gen. Stat. ch. 263, sec. 15-15a. The Pilot Commission and CDOT work closely with the New York Board of Commissioners of Pilots (NYBCP) to coordinate the regulation of pilotage on Long Island Sound. The Pilot Commission and CDOT also maintain an active working relationship with the U.S. Coast Guard, which regulates many aspects of merchant vessel operations.

Certain U.S. flag vessels in domestic trades ("enrolled vessels") and naval or government-operated vessels ("public vessels") are exempt from compulsory state pilotage. Pilotage of these vessels is regulated by the Coast Guard, which issues federal pilotage endorsements. Connecticut-licensed pilots may pilot enrolled or public vessels on the authority of their federal pilotage endorsements outside the joint rotation.

The Commission Members

Chairman: Michael J. Eisele. Appointed by the Governor for a term ending June 30, 2008 to represent non-recreational maritime industry interests.

Vice-Chairman: Captain Richard E. Barry, Jr. Appointed by the Senate Minority Leader for a term ending June 30, 2010 as a retired ship's Master. Elected Vice-Chair by a vote of the Commission on October 11, 2007.

Member: John C. Love, Esq. Appointed by the House Minority Leader for a term ending June 30, 2011 as a member with expertise in admiralty law.

Member: David T. Shuda. Appointed by the Speaker of the House for a term ending June 30, 2008 to represent non-recreational maritime industry interests.

Member: David E. Pohorylo. Appointed by the Senate Majority Leader for a term ending June 30, 2008 to represent environmental interests.

Member: William C. Gash, Jr. Appointed by the Senate President Pro Tempore for a term that ended June 30, 2007 to represent environmental interests.

Member: Joseph Russo. Appointed by the House Majority Leader for a term that ended June 30, 2007 to represent non-recreational maritime industry interests.

Member: Captain Vincent Cashin. Elected by a majority of Connecticut-only licensed pilots for an indefinite term to represent pilot interests.

Member: CAPT Charles C. Beck, U.S.C.G. (Ret.). Designated by the Commissioner of Transportation for an indefinite term to represent CDOT.

Current Issues

Pilotage Rates

Pursuant to Conn. Gen. Stat. sec. 15-14, CDOT Commissioner is obligated to set pilotage rates. The Commission is charged with advising CDOT on "the establishment of fair and reasonable rates of pilotage . . . including establishment of a hearing process for the setting of fair and reasonable rates of pilotage[.]" Conn. Gen. Stat. Sec. 15-13c.

The Commission engaged in a comprehensive analysis of pilotage rates for several years. The Commission solicited comments from all stakeholders and also reviewed revenues generated by the current rate structure, costs incurred by pilots to provide services, pilotage fees in ports which compete with Connecticut, and income earned by pilots in comparable ports. In conducting its analysis, the Commission sought to balance a desire to keep Connecticut ports competitive with the notion that the rate structure should fairly compensate pilots, justify the substantial capital investment required to acquire and maintain pilot boats, and provide for the costs of training, certification and safety equipment.

On January 9, 2007 the Commission recommended that pilotage rates be increased a total of

18% over a three-year period and that the CDOT begin to regulate fees for certain pilotage services which had not previously been regulated. The Commission also recommended that a 6% fee on gross pilot revenues currently paid by each pilot to the State's General Fund pursuant to Conn. Agencies. Regs. Sec. 15-14-4 instead be escrowed and utilized for the cost of pilot training, certification and safety-related equipment as approved by CDOT. It was the view of the Commission that the establishment of a dedicated fund would enable the pilot organizations to provide essential safety training and equipment at no new cost to the users of pilotage services and with minimal impact on the state treasury. In addition, some members of the Commission believed that it was inequitable to assess a pilotage license fee based on gross revenues.

On January 31, 2007 the Commission was advised that CDOT supported the Commission's recommendation. CDOT prepared proposed regulations for review by the Office of Policy and Management (OPM) in anticipation of a public comment period. On June 8, 2007 the Commission was advised that OPM would not approve the proposed regulations. Among OPM's concerns was the proposed diversion of the existing 6% fee from the General Fund to a dedicated fund for pilot training, certification and safety expenses. In response to that concern, the Commission recommended on July 12, 2007 that CDOT delete those provisions of the proposed rate increase which would have created a dedicated fund if necessary to win OPM support for the proposed rate increase.

On September 18, 2007 CDOT issued a Notice of Intent to Amend Section 15-14-1a of the Regulations of Connecticut State Agencies to increase pilotage rates in accordance with the Commission's recommendations. The Notice of Intent did not include the provisions originally recommended by the Commission relating to a dedicated training, certification and safety fund.

Although the MOA entitles Connecticut and New York to separately set pilotage rates for those pilots operating under their respective authority, the Commission recognized that it is highly desirable for the two states to maintain identical rate structures. Accordingly, the Commission sought to coordinate any change in rates with New York, which requires legislative approval of certain components of its rates. The New York legislature passed a bill to increase pilotage rates effective on July 18, 2007. S. 5303-A, 2007-2008 Reg. Sess. (2007). However, as enacted the New York bill provided for a maximum charge of 500 pilotage units instead of the 600 pilotage units recommended by the Commission and provided in the CDOT's Notice of Intent. On October 10, 2007 the Commission recommended to CDOT that the maximum charge under Connecticut regulation be set at 500 pilotage units to conform with the New York rate structure.

On November 1, 2007, after a public comment period, CDOT implemented the pilotage rate increase, including a maximum charge of 500 pilotage units. As implemented, the new regulation provides for further rate increases on July 20, 2008 and July 20, 2009. Although certain related fees (principally docking and standby fees) not previously regulated by CDOT had been periodically raised, this was the first increase in regulated pilotage rates since 1983. However, even with all of the rate increase Connecticut licensed pilots are among the lowest paid in the nation. The Commission believes that the rate structure must provide in some manner for the funding of pilot training, certification and safety expenses and will continue to explore means to accomplish this end.

Fuel Surcharges

Beginning in February, 2006 CDOT and the New York Board jointly imposed a temporary fuel surcharge based on a November 28, 2005 recommendation of the Commission. The fuel surcharge is intended to compensate pilot boat operators for substantial increases in the cost of diesel fuel, a major factor in the cost of operating pilot boats. Since its imposition, the fuel surcharge has been periodically reviewed and adjusted by CDOT on the recommendation of the Commission. The Commission recommended continuation of the fuel surcharge on July 13, 2006, January 9, 2007, June 15, 2007, November 27, 2007 and June 12, 2008. As approved by

CDOT, the fuel surcharge is currently set at $250 per boarding and disembarkation and will expire on January 31, 2009.

The Commission is currently considering proposals to incorporate a fuel surcharge index into the pilotage rate structure to avoid the necessity of continual review of fuel costs by the Commission and CDOT. Under the concept currently being discussed, a fuel surcharge would periodically be adjusted upward or downward by the Joint Administrator based on a publicly-available fuel cost index. The Commission intends to continue these efforts with the goal of making a recommendation to CDOT during the coming year.

Joint Rotation Operation

Pursuant to the MOA and implementing regulation, participation in the joint rotation is mandatory for both Connecticut-licensed pilots and New York-licensed pilots. The Joint Administrator dispatches pilots, collects fees, pays expenses (including pilot boat costs) and distributes revenues among the pilots. Unlike most other jurisdictions, pilots participating in the joint rotation are not compelled to belong to a single business entity. Currently, five separate pilot organizations (Northeast Marine Pilots, Sandy Hook Pilots of New York and New Jersey, Interport, Long Island Sound State Pilots, Connecticut State Marine Pilots) and a couple of non-affiliated individual pilots operate within the joint rotation, some utilizing there own pilot boats.

Connecticut licensed 16 pilots, 8 of which worked on the New York side of the rotation. Of those 8, 6 are also concurrently licensed by the NYBCP. As a condition of maintaining their Connecticut licenses, all of these pilots must also possess federal licenses endorsed for first-class pilotage. The 8 pilots licensed by Connecticut who participate in the Connecticut side of the joint rotation are allocated 70% of vessel movements subject to the joint rotation pursuant to the terms of the MOA. Pilots licensed by New York (including the 6 pilots who are licensed by both Connecticut and New York) participate on the New York side of the joint rotation and are allocated 30% of vessel movements. During 2007, a total of 14 pilots participated on the New York side of the rotation. The 8 pilots participating on the Connecticut side of the joint rotation covered 620 of the 907 assignments made by the Joint Administrator during that year (68.4%). The most assignments handled by a pilot participating on the Connecticut side of the rotation totaled 108; the least was 11.

The joint rotation is administered by Sound Pilots, Inc. (d/b/a Block Island Pilots), selected by agreement of CDOT and the NYBCP. The operation of the joint rotation is overseen by a Rotation System Executive Board, consisting of three pilots from the Connecticut side and three pilots from the New York side of the rotation. The implementing regulations require an annual evaluation of the Joint Administrator's performance. The Pilot Commission began an evaluation during 2005, but has not yet made a recommendation to CDOT regarding the Joint Administrator.

Boarding Stations

The Commission's mandate specifically includes the provision of advice regarding the designation of pilot boarding and disembarkation stations. Conn. Gen. Stat. ch. 263, sec. 15-13c(e)(9). During 2004, the Commission issued a comprehensive report recommending that CDOT designate mandatory pilot stations at Point Judith, Rhode Island and Montauk Point, New York under authority of existing regulations. After reviewing industry comments and consulting with the NYBCP and U.S. Coast Guard, the CDOT issued instructions to Connecticut-licensed pilots dated March 1, 2005 requiring use of the Point Judith and Montauk Point pilot stations. CDOT's instructions are consistent with the NYBCP's requirements for New York-licensed pilots.

CDOT previously initiated administrative proceedings against a Connecticut-licensed pilot for a failure to use the pilot stations on multiple occasions. Those proceedings culminated in a Hearing Officer's determination upholding CDOT's designation of pilot stations in international waters.

CDOT subsequently received additional complaints regarding boardings and disembarkations by nine pilots at locations other than the designated pilot stations. Those complaints were investigated by CDOT, resulting in the dismissal or consensual resolution of charges against six pilots. Charges against three remaining pilots are expected to be referred to a Hearing Officer for adjudication during the coming year.

On May 30, 2007, in response to industry and pilot concerns, the Commission made a recommendation to CDOT to designate a heavy weather pilot station inside Block Island Sound for use by vessels transiting Montauk Channel. The Commission recommended that use of the heavy weather pilot station only be authorized when (1) weather or sea conditions at Montauk Point preclude safe boarding or disembarkation, (2) in the judgment of the pilot, the vessel is capable of safely transiting Montauk Channel without a pilot aboard, and (3) the vessel is in compliance with U.S. Coast Guard requirements regarding navigational equipment. The Commission's recommendation also calls for a requirement that pilots provide a justification to CDOT each time the heavy weather pilot station is used.

On May 7 and June 16, 2008 CDOT received negative comments from the Rhode Island State Pilotage Commission and the New York Board respectively regarding the establishment of a heavy weather pilot station. The Rhode Island Commission also urged that the use of Montauk Channel be discontinued. As of July 1, CDOT is continuing consideration of the Commission's recommendation.

Broadwater Energy LNG Project

In November, 2004 Broadwater Energy submitted to the U.S. Coast Guard a letter of intent to construct and operate a floating storage and re-gasification unit ("FSRU") for LNG in the New York waters of Long Island Sound. The proposed FSRU would receive shipments from LNG carriers for re-gasification and transmission ashore via submarine pipelines. Broadwater Energy anticipates that the project will involve 100 to 160 vessel calls annually. These ships are expected to be up to 1,000' LOA, drawing as much as 39'.

In March, 2008 the Federal Energy Regulatory Commission approved the Broadwater project. In April, 2008 the State of New York issued a finding that the project was inconsistent with the state's coastal zone management policies. This finding is currently the subject of an administrative appeal by Broadwater to the U.S. Department of Commerce. On June 25, 2008 the Captain of the Port, Long Island Sound issued a Letter of Recommendation stating that the Sound is suitable for LNG traffic with certain mitigation measures. As of July 1, the licensing process is continuing.

At the invitation of the Pilot Commission, representatives of Broadwater Energy have briefed the Commission on the project. The Pilot Commission has no role in the licensing process other than to respond to any inquiries from various regulatory agencies. However, the Pilot Commission believes that the project has important implications for pilotage, particularly given the number, size, and complexity of the LNG vessels which will call at the FSRU. The Pilot Commission continues to monitor the licensing process. Should the project move ahead, the Commission will likely consider issues with respect to the number, selection, training and qualification of pilots handling LNG vessels. The Pilot Commission will also consult closely with the NYBCP in an effort to implement uniform requirements for the pilotage of these vessels.

Apprenticeship and Training

The Commission is obligated to establish (subject to CDOT approval) requirements for pilot licensure and apprenticeship programs as well as the appropriate number of pilots necessary for the "safe, efficient and proper operation of the pilotage system." Conn. Gen. Stat. ch. 263, sec. 15-13c (e). For a number of years, CDOT has maintained a moratorium on new licenses

consistent with recommendations of the Commission. During the past year, the Commission received several requests for the licensure of new pilots to participate on the Connecticut side of the rotation. However, the Commission believes that the current number of pilots are capable of efficiently handling the volume of work and there is no reason to believe that there will be an increase in vessel traffic to justify the immediate licensure of new pilots.

The Commission notes that the average age of the eight Connecticut licensed pilots on the Connecticut side of the rotation is 63; the youngest pilot is 57. Accordingly, the Commission believes that CDOT will be in a position to license new pilots within the next several years. A sub-committee consisting of Captain Barry and Captain Cashin has been engaged in drafting criteria for apprentice pilot selection and training. The Commission will continue in these efforts with the objective of making a recommendation to CDOT during the coming year.

Other Items

Turbana Corporation made its final call at Bridgeport during April, 2008. Turbana ships had made weekly calls at Bridgeport for a number of years. That traffic has been shifted to Philadelphia, in part as a result of the lack of maintenance dredging in Bridgeport harbor and in part due to the cost of doing business in Connecticut (labor, energy, etc) compared to Philadelphia, especially since Pennsylvania provided monetary incentives to the Port Authority of Philadelphia for infrastructure improvements..

The Commission notes the success of the Connecticut Cruise Ship Task Force in promoting New London as a port-of-call for passenger ships. Royal Caribbean Line's EXPLORER OF THE SEAS made two port calls to New London during September and October, 2007 and expects to make two additional calls during July and August, 2008. M/S MAASDAM of Holland America Lines called at New London during May, 2008; Princess Cruises' ROYAL PRINCESS is expected to make five calls during the fall of 2008 and Lindblad Expedition's NATIONAL GEOGRAPHIC EXPLORER will make one call. The pilotage community has been very active in working with the vessel and terminal operators as well as the Coast Guard to ensure the safe transit and docking of these vessels.

The Pilot Commission welcomed Captain Daniel A. Ronan, U.S.C.G. who relieved Captain Peter Boynton as Commanding Officer, Coast Guard Sector Long Island Sound and Captain of the Port on June 1, 2007.

John Love, Esq. was appointed to the Commission in September, 2007 to fill the vacancy left by former Vice-Chairman Vernon C. Miller, Esq. The Commission extended its thanks to Mr. Miller for his many contributions over the previous four years toward the important objectives of the Commission – ensuring the safety of pilots, vessels and the environment, the provision of reliable and efficient pilotage service and the promotion of Connecticut ports and related maritime industries.

The Pilot Commission notes the pending retirement of Robert H. Pouch, Executive Director of the Board of Commissioners of Pilots of the State of New York, scheduled for October 3, 2008. The Commission greatly appreciates the professionalism, expertise and diligence demonstrated by Mr. Pouch during his lengthy tenure with the New York Board, as well as his willingness to work with the Commission and CDOT toward our common objectives.

_____

Captain Richard E. Barry, Jr.
Vice-Chairman, Connecticut Pilot Commission