



## REASSESSMENT OF THE RESPONSE TO TSB RECOMMENDATION M02-01

### **Fitness for duty and employee supervision in seaway safety-sensitive positions**

#### **Background**

On 11 August 2001, at approximately 2054, while proceeding downbound under Bridge 11 in the Welland Canal, at Allanburg, Ontario, the bulk carrier *Windoc* was struck by the bridge's vertical-lift span, which was lowered before the vessel had passed clear of the bridge structure. The vessel's wheelhouse and funnel were destroyed. The vessel drifted downstream, caught fire, and grounded approximately 800 metres from the bridge. Although the vessel's cargo of wheat was not damaged, the vessel was declared a constructive total loss. The bridge sustained structural damage, and the Welland Canal was closed to vessel traffic for two days. There were no serious injuries or oil pollution.

The Board identified safety deficiencies with respect to fitness for duty and employee supervision in safety-sensitive positions, emergency preparedness, and bridge defences against inadvertent lowering. The Board also identified safety issues concerning accessibility of fire control plans and installation of sprinkler systems.

The Board made five recommendations (M02-01 to M02-05) and two safety concerns. The responses from the Minister of Transport and St. Lawrence Seaway Management Corporation (SLSMC) to those recommendations have been received and the extent to which the safety deficiencies and issues are being resolved is assessed below.

#### **TSB Recommendation M02-01 (January 2003)**

The Board acknowledged that SLSMC has expressed positive intentions in response to safety deficiencies raised throughout this investigation. However, the Board was concerned by SLSMC's philosophy toward the issue of ensuring fitness for duty which was outlined subsequent to these safety communications.

The position adopted by SLSMC with respect to fitness for duty was as follows: all operating positions (operations and maintenance) are deemed to be safety-sensitive positions; individuals are deemed to be fit in accordance with the selection process, medical pre-employment and other procedures agreed with the Union; fitness for duty is a decision made by a contract physician following a clinical evaluation and information made available by the employee to the employer; and, the regime in place for monitoring the medical fitness of employees was in line with the Human Rights Act on the disclosure of personal information.

These policies, in combination, provide limited opportunity and responsibility for peers, supervisors and managers to identify and deal with employees whose fitness for duty may be

compromised for any reason. While it is likely that the regime in place for monitoring medical fitness of employees is not in contravention of the Canadian Human Rights Act, the legislation may permit greater monitoring than is currently exercised by SLSMC.

Therefore, given the limited opportunities for SLSMC management to identify employees who may be experiencing personal problems which could affect their fitness for duty, SLSMC should review their supervision and monitoring with respect to fitness for duty to the full extent permissible under human rights legislation. The Board, therefore, recommended that:

The St. Lawrence Seaway Management Corporation reassess and clearly identify safety sensitive positions in their organization in which incapacity due to impairment could result in direct and significant risk of injury to the employee, others or the environment.

**TSB Recommendation M02-01**

**Response of the St. Lawrence Seaway Management Corporation to Recommendation M02-01 (April 2003)**

The response by SLSMC stated that all operations and marine services positions, including their supervisors, and all positions performing maintenance or material handling work and their supervisors have been identified as safety-sensitive positions. Administrative support staff, cleaning staff and survey staff positions are not safety-sensitive.

**TSB assessment of the response by the St. Lawrence Seaway Management Corporation to Recommendation M02-01 (May 2003)**

A review of the SLSMC's Drug and Alcohol Abuse Policy indicated that a safety-sensitive position included a position "in which the Corporation determines impaired performance could result in a significant safety risk to the employee, to others or to Corporation property or the property of others." A safety-sensitive position also included a position "for which there may be limited or, at times, no supervision included."

It is noted that the policy has the support of the Union. The staff therefore considers that SLSMC has reassessed and clearly identified safety-sensitive positions and thus considers the response to this recommendation to be **Fully Satisfactory**.

The deficiency file is **Closed**.