



REASSESSMENT OF THE RESPONSE TO TSB RECOMMENDATION M02-02

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 M02-02 (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 establish programs and policies which are pro-active and promote early detection of impairment and safety risk of employees occupying safety-sensitive positions by management, supervisors or peers and which provide an effective mechanism for remedial action.

TSB Recommendation M02-02

Response of the St. Lawrence Seaway Management Corporation to Recommendation M02-02 (April 2003)

The response by SLSMC indicated that the Drug and Alcohol Abuse Policy developed in cooperation with the union for the workplace has been introduced to all employees and training in the application of the policy is underway for all SLSMC management personnel, union executives and safety representatives. The response indicated that the policy includes mechanisms to support an employee who requires rehabilitation, and follow-up and monitoring once the employee is ready to return to work. The response also stated that the training program includes procedures, processes and practical means to identify signs of possible impairment or possible dependency.

TSB assessment of the response by the St. Lawrence Seaway Management Corporation to Recommendation M02-02 (May 2003)

The implementation of a policy, which places the responsibility for a substance-free workplace on all stakeholders and has the support of the union, is a positive step toward achieving the goal of promoting the early detection of possible impairment and safety risk of individuals in safety sensitive positions. SLSMC's response indicates that the policy includes procedures and resources for dealing with potential substance abuse issues.

The staff therefore considers that SLSMC has established a policy, program and procedures to promote the early detection of impairment response and safety risk of employees occupying safety-sensitive positions and thus considers the response to this recommendation to be **Fully Satisfactory**.

The deficiency file is **Closed**.