

Tugs operate under radar on river

Lack of checks allows problems

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By Jen DeGregorio – Reporter
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Arriving at the worst oil spill on the lower Mississippi River in nearly a decade, Coast Guard officers found a rookie at the helm of the towboat Mel Oliver, which had put the barge it was pushing on a collision course with an oncoming ship.

The man steering the tug was an apprentice mate, the equivalent of a teenage driver with a learner's permit. Coast Guard officers found no trace of master-licensed pilot Terry Carver, who should have been in charge. On a different vessel, the absence of a master might have come as a shock. But towboats such as the Mel Oliver are considered "uninspected towing vessels," which are not subject to regular Coast Guard inspections. Critics say the lack of oversight has fueled a self-policing towboat culture in which unqualified crew and defective equipment run rampant.

"It's a very unsafe operation," said Richard Block, who has been pressing for towboat industry reform as secretary of the National Mariners Association. "The Coast Guard for years has literally ignored . . . towing vessels."

The problem is reputedly worse in New Orleans.

"It's common knowledge out there that you're not going to get boarded in New Orleans," said David Whitehurst, a licensed captain with 40 years of experience on the river, referring to the random Coast Guard inspections known as boardings.

A Coast Guard hearing scheduled for Tuesday should provide new insight into the circumstances of the July 23 collision, which spilled more than 250,000 gallons of No. 6 fuel and continues to disrupt river traffic.

From what Block can tell, the oil spill embodies larger industry troubles. The Mariners Association blames the prevalence of incompetent crew and lax oversight for scores of marine accidents that have ended in economic and environmental disaster and, in some cases, the death of innocent bystanders.

Two companies involved in last month's spill -- American Commercial Lines of Indiana, owner of the tugboat and barge, and DRD Towing, the Harvey company hired to staff the Mel Oliver -- are also repeat offenders. Like many firms in the industry, they have received little more than slaps on the wrist for their roles in accidents, Block and other critics say.

Congress asked the Coast Guard to begin regular inspections of towing vessels in 2004, and the agency is designing a program to do so. In the meantime, the Mariners Association says a crop of small towing companies has been given free run of waterways regardless of their speckled histories.

In the July 23 oil spill, for example, American Commercial Lines hired DRD Towing to staff its tow and fuel barge despite several infractions by the company. In the span of less than two weeks last month, DRD caused two wrecks on the Mississippi River.

Just 11 days before the Mel Oliver's barge collided with the Tintomara in New Orleans, the Ruby E sank after colliding with Martin Challenger near Westwego. Both times, a DRD-employed apprentice mate was at the helm of the vessel instead of a master-licensed pilot.

And in 2004, the company put an improperly licensed pilot at the wheel of the Mr. Craig towboat, which lost control of a barge and punctured the Eagle Memphis, dumping 2,100 gallons of crude oil into the Mississippi near Algiers Point.

In that instance, pilot Richie Zito held a master's license. But he was sanctioned only to steer vessels as heavy as 100 tons, and the Mr. Craig was 129 tons. The Coast Guard recommended a fine of \$3,000, although DRD ultimately paid \$500, said Randy Waits, DRD's attorney. Waits said DRD otherwise has a strong safety record.

Still, the American Waterways Operators, a private association that acts as the de facto regulator of the towing industry, revoked DRD's membership last week after it flunked a May safety audit and failed to submit a letter agreeing to mandatory annual audits.

American Commercial Lines remains in good standing with the waterways association, although the group requires its members to work with partners with good safety records. American Commercial Lines spokesman David Parker said his company has maintained a clean safety record overall, citing a barge transportation injury rate of 1.8 per 200,000 man hours, compared with an industry rate of 2.5 per 200,000 man hours.

--- 'Little or no training' ---

In the eyes of the Mariners Association, though, American Commercial Lines is part of a class of large barge companies that enlist what Block describes as "subpar" towboat firms because they offer cheaper labor.

In fact, documents filed with the mariners group show the Mel Oliver fared no better under the watch of another operator: Versatility Marine.

The association took a statement from Captain Gary Hensley, who recounted serious problems under the watch of Versatility Marine on a trip with the Mel Oliver to Baton Rouge on April 5, 2007.

Hensley wrote that the towboat's "port generator would not start up, the bilge was full of oily waste and water, there were no flashlights onboard for the crew to use at night or in emergencies, nor was there a green barge navigation light for the vessel to use to operate at night."

Hensley "felt it was unsafe" to operate the Mel Oliver at night and complained to the Coast Guard. Officers responded, boarding the Mel Oliver near Morgan City and terminating the mission.

The bilge had spilled overboard, creating an "oil sheen on the water," Hensley wrote. The freshwater hose was also broken, "causing the crew to be without any way to take a bath . . . or clean the vessel."

In a letter to American Commercial Lines executive Mario Munoz, Block of the Mariners Association criticized the crew aboard the Mel Oliver for having "little or no training in engine operation and maintenance." He urged Munoz, who is also chairman of the Towing Safety Advisory Committee in Washington, D.C., to push Congress for tighter regulations.

American Commercial Lines cut ties with Versatility Marine "as a result of a follow-up conducted after receipt of the letter," Parker said in an e-mail message.

--- Texas bridge crash ---

The mariners group's disapproval of American Commercial Lines goes beyond the company's work on the Mississippi. The company had a hand in one of the most notorious marine accidents in recent memory, which has fueled questions about its credibility and choice of contractors, Block said.

In 2001, four American Commercial Lines barges hit the support beams of the Queen Isabella Causeway in South Padre Island, Texas, collapsing the bridge and killing eight people.

The accident spurred several lawsuits against American Commercial Lines, including one by David Fowler, the pilot of the towboat in the causeway crash. The Coast Guard blamed Fowler for the accident, but the pilot sued American Commercial Lines for chartering an unseaworthy vessel. The company was exonerated, according to Parker.

Fowler himself had only a few weeks' experience aboard the towboat and had been involved in one other bridge strike and two other groundings in the 13 months preceding the causeway crash, according to a 2004 Associated Press report.

Two years after the accident, American Commercial Lines filed for bankruptcy. But today, the publicly traded company's fleet of more than 2,800 barges makes it the biggest in the business, according to the American Waterways Operators

In the past year, American Commercial Lines was party to at least 8 different marine incidents, according to an online Coast Guard database. In September, Coast Guard officers found a mariner without credentials at the helm of a vessel that demolished a pier on the Gulf Intracoastal Waterway.

The database also cites American Commercial Lines' closest peers in the barge industry, listing companies associated with Kirby Corp. of Texas as a party to four incidents and Ingram Marine Group as a party to seven incidents.

--- Limited inspections ---

Private industry has stepped in to fill the regulatory void for the towing business. The American Waterways Operators touts its Responsible Carrier Program, which requires its roughly 350 members to pass third-party safety audits. The group, which claims to represent as much as 80 percent of the industry, issues certificates to members that pass muster.

"I don't think it's a system that's flawed," said Merritt Lane, the group's chairman and chief executive of Canal Barge Co. of New Orleans. "It may not be fail-safe, but it's not flawed. The important elements are sincere interest by the owner to do it, supported by the third-party audit."

Lynn Muench, a senior vice president of the American Waterways Operators, said the oil spill has made the organization re-examine its handling of companies that fail audits. Carpenter, the group's vice president of national advocacy, said DRD's canceled membership is a sign that the group has its eye on wayward companies but that only the Coast Guard can truly regulate the industry.

Last year, the Coast Guard conducted only 291 random on-board inspections of about 7,000 uninspected towing vessels working for the barge industry. Since 2004, such checks led to 1,930 civil penalty cases for unlicensed or underlicensed crew, although only a fraction of those cases have resulted in fines or prosecution. The Coast Guard also initiated 510 proceedings to suspend or revoke towboat-equivalent mariner licenses from 2004 through 2007.

"Our relationship with the maritime industry is not meant to be adversarial," Coast Guard spokesman C.T. O'Neil said in an e-mail message. "We apply enforcement actions commensurate with the severity of the violations we encounter."

Still, government auditors have criticized the Coast Guard's policing of marine incidents. In May, a report by the inspector general of the Department of Homeland Security found the Coast Guard was "hindered by unqualified personnel . . . and ineffective management of a substantial backlog of investigations needing review and closure."

Of more than 15,000 investigations between January 2003 and October 2006, the Coast Guard issued 396 recommendations to mariners, industry or other Coast Guard branches.
"Because of these management shortfalls, the Coast Guard may not be able to determine the causal factors of accidents and may miss opportunities to . . . prevent or minimize similar casualties," the report said.
While the Mariners Association says American Waterways Operators has its place, the group has been pushing for more governmental regulation, including better training and more oversight. Whitehurst said towing firms have dramatically cut training regimens to make up for staffing shortages.
"The companies are trying to move these guys through the system as quickly as possible," Whitehurst said.
"The training isn't what it should be."

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