

MVI

8 August 1951

(183 FOURTH LARDES -
14' LB - a-9 Bd)

From: Chief, Merchant Vessel Inspection Division
To: Commandant
Via: Chief, Office of Merchant Marine Safety

Subj: Marine Board of Investigation; collision MB 38 F 1500 (FOURTH MARIE)
and 14' outboard motorboat, Detroit River, 15 July 1951, with loss
of life.

1. Pursuant to the provisions of Title 46 CFR Part 136, the record of the Marine Board convened to investigate subject casualty, together with its Findings of Fact, Conclusions and Recommendations, has been reviewed and is forwarded herewith.

2. On the evening of 15 July 1951, a fourteen foot outboard motorboat departed from a small inlet near Biontot, Detroit, for Grosse Pointe with the owner in control of the boat, traveling at a speed of approximately 10 m.p.h. The MB 38 F 1500 (FOURTH MARIE), in charge of an unlicensed operator, was downbound at a speed of approximately 13 to 14 m.p.h. with the vessel's steering controlled by an automatic pilot. Shortly before 2350 the outboard motorboat sighted the green light of the MB 38 F 1500 and took evasive action to avoid a collision. No one on board the MB 38 F 1500, however, had any knowledge of the presence of the outboard motorboat until the MB 38 F 1500 collided with and apparently overrode the smaller craft at approximately 2350 in a position approximately 400 yards downriver from Windmill Point Light, Detroit River. The weather conditions were good. Two passengers on board the outboard motorboat lost their lives as a result of this casualty.

3. The Board made the following Findings of Fact:

"1. That an unnumbered, unregistered 14-foot Wolverine outboard motorboat, owned by Anthony Klinicki, 2521 Harding Avenue, Detroit 14, Michigan, was being operated under power of a 10 hp outboard motor on the Detroit River the evening of 15 July 1951 by Anthony Klinicki with two other persons aboard as passengers, Thomas Leftus, age 53, of 12647 Evanston Avenue, Detroit 13, Michigan, and Hector Cornet, age 53, of 12744 Camden Avenue, Detroit 13, Michigan.

"2. That, at approximately 11:50 p.m. EST, at a position near the center of the downbound channel, about 400 yards downriver from Windmill Point Light, Detroit River, this 14-foot LB was struck by another power boat, the collision resulting in the death by drowning and/or internal injuries of Thomas Leftus and Hector Cornet, and the almost total destruction of the 14-foot LB. Anthony Klinicki was rescued, apparently unharmed.

"3. That the 14-foot LB was operated by Anthony Klinicki the owner, from the time it left its berth in a small inlet near Biontot, Detroit,

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at about 11:15 p.m., until the time of the collision and that it followed an erratic course trending upriver near the American shore, following at first close to the bank near the Riverside Trailer Camp just below Windmill Point and then angling more out into the ship channels as it ascended the river.

"4. That the operator, Klinicki, had the 14-foot LB approximately on an upriver course about parallel to the ship channel courses in the reach just below Windmill Point, and approximately in the middle of the downbound channel when he sighted on his port bow the starboard side light of a power boat, coming downstream and bearing rapidly upon him (Klinicki) at a fairly short distance, just before 11:50 p.m.

"5. That Klinicki changed course to his right to evade collision, but the power boat struck his 14-foot LB approximately amidships, throwing its three occupants into the water, and rendering Klinicki temporarily insensitive to the circumstances due to immersion and shock. Leftus and Cornet were struck by the stern or screws of the power boat either during the collision or as a consequence of the power boat's backing and maneuvering after the collision, suffering severe injuries. Several minutes after the collision Klinicki was pulled aboard the LB FOURTH MARIE, tended for, and later placed ashore at the Belle Isle Coast Guard Station, apparently unharmed. Leftus was pulled from the water by a small LB which hastened to the scene of the collision from the Detroit River Racing Association, and was taken back to the Racing Association's dock. Although badly injured, Leftus was alive for a few minutes on that dock while being given artificial respiration, then died. The body of Hester Cornet, bearing signs of severe injuries, was recovered from the Detroit River by the Detroit Police Department on 20 July 1951 (this information concerning Cornet was imparted verbally to the Board by the Detroit Police Department on 20 July 1951.).

"6. That the 14-foot LB operated by Klinicki was making approximately 10 mph (statute) and it was displaying an all-around white light aft and a combination red-green running light in the bow, both lights in compliance with applicable provisions of the Motorboat Regulations, just prior to the collision.

"7. That the 45-foot twin gas screw motorboat FOURTH MARIE, registered Number 98 P 1500 (name according to Coast Guard Undocumented Vessel Files: MARY-JEAN II, length: 44.7 ft., beam: 12.9 ft., H.P.: 330) owned by the H & H Wheel Service, Inc., of Detroit, Michigan, of which Clair L. Hiles, 251 Harnweather, Grosse Pointe Farms, Michigan, is the

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owner, and being operated by James Ralph Burgess, 2696 Wabashfield, Berthely, Michigan, was proceeding downstream in the downstream channel of the Detroit River just below Windmill Point Light at approximately 11:45 p.m. EST, 15 July 1951. Burgess was operating the FOURTH MARIE alone, with no assistance, from a point directly abaft the wheel and the engine controls inside the enclosed pilothouse with the forward windows of the pilothouse closed and the vessel's steering controlled by the automatic pilot, the course being laid approximately on Livingston Light, and both engines turning about 2300 RPM, driving the FOURTH MARIE through the water at about 13 to 14 mph (statute). Besides Burgess, occupants of the FOURTH MARIE were Clair L. Miles, owner; Murray Knapp, 8100 E. Jefferson Ave., Detroit, Michigan; J. A. Summerlee, 8100 E. Jefferson Ave., Detroit, Michigan; Fred Chalcraft, 1141 Holcomb St., Detroit, Michigan; Mrs. Murray Knapp; Mrs. J. A. Summerlee; and Mrs. Clair L. Miles. None of these occupants were assisting Burgess or taking any part in the operation of the FOURTH MARIE at this time, or keeping any lookout ahead.

"8. That visibility on the river at that time and place was about normal, a clear moonlit night with slight haze, although visibility was somewhat affected by the flashing of Windmill Point Light. Surface conditions were calm.

"9. That a little after 11:45 p.m., occupants of the FOURTH MARIE other than Burgess noticed a sensation of running over solid material, a scraping sound on the bottom and sides and the propellers striking something, and wreckage of the 14-foot walverine outboard motorboat, described herein in paragraph 1 was noticed alongside. Following a shouted warning to Burgess, the operator, the FOURTH MARIE cut her engines, released the automatic pilot, and came about by backing the port engine and going ahead on the starboard engine, then returned to the scene of the wreckage to search for survivors. After seeing, with the aid of a spotlight, a man taken from the water by a runabout, occupants of the FOURTH MARIE pulled Anthony Klinicki aboard. After continuing to search for about a half hour with no further success, the FOURTH MARIE proceeded to the Belle Isle Coast Guard Station, landed Klinicki and reported to the Officer in Charge of that station (see copy of report appended, Belle Isle IS Station to COMI, Detroit, Mich., via GO, CG Group, Detroit, Mich.), Burgess operating the FOURTH MARIE throughout.

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"10. That Klinicki, only survivor from the 14-foot LB could furnish the Board with no positive identification of the boat which struck his boat.

"11. That Burgess as operator of the FOURTH MARIÉ was the only person aboard keeping a lookout forward at the time just before the wreckage was noticed, that he was keeping this lookout from a point abaft the wheel in the enclosed pilothouse, through glass, a distance of about 22 feet from the bow, and that a distance of 100 to 150 feet forward of bow of the FOURTH MARIÉ is obscured from the vision of the operator when he is standing in that position abaft the wheel, with the FOURTH MARIÉ making 13 to 14 mph in calm water.

"12. That Burgess was the boat operator or "Captain" usually employed by Murray Knapp, on Knapp's boat, and that the trip on 15 July 1951 was Burgess' first trip operating the FOURTH MARIÉ. Burgess holds no license, certificate, or marine document of any form issued by the Coast Guard.

"13. That the presence of any other boat than the 14-foot Wolverine outboard motorboat and the FOURTH MARIÉ in the immediate vicinity of the collision at the time of or just prior to or just following the collision cannot be established by the Board.

"14. That satisfactory running lights as required by the Motorboat Regulations were being displayed by the FOURTH MARIÉ.

"15. Examination of the hull of the FOURTH MARIÉ by the Board disclosed recent damage as follows: A distinct notch cut into the sharp brass stem piece about 1 foot below the apparent water line; from this notch a line of scratches and bluishness in the paint and wood leading downward on each side and curving back astern along the planking, a distinct scratch or gouge on the starboard side easily traceable all the way from the notch in the stem to the stern; damage to the leading edges of all three blades of each propeller, more pronounced on the port propeller.

"16. A representative from the U. S. District Attorney's office was present throughout the investigation in Detroit and, at his request, is being furnished a copy of the testimony."

4. The Board expressed the following Conclusions:

"1. That the 14-foot Wolverine outboard motorboat operated by Anthony Klinicki was demolished by being struck by the LB FOURTH MARIÉ shortly before 11:50 p.m. EST, 15 July 1951.

"2. That no failure of material caused or contributed to the cause of the casualty.

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"3. That the proximate cause of the deaths of Thomas Loftus and Hester Garnet was the collision between the 14-foot Walverine outboard motorboat and the MB FOURTH MARIE.

"4. That no Coast Guard personnel nor any representative of any other government agency caused or contributed to the cause of the casualty.

"5. That the primary cause of the casualty was the failure of the MB FOURTH MARIE to keep a proper lookout as required by the Pilot Rules, as Burgess apparently never did see the 14-foot MB until after crossing the wreckage. That Anthony Klinicki was negligent in failing to keep a proper lookout, but to a much lesser degree than Burgess, as Klinicki apparently sighted the approaching vessel when it was still some distance away and tried to take evasive action.

"6. That the H & H Wheel Service, Inc., Detroit, Michigan, as owner of the MB FOURTH MARIE is liable for any penalty imposed for violation of the Pilot Rules.

"7. That any determination of whether the FOURTH MARIE was negligent in failing to alter her course or speed or give way upon meeting another vessel, in accordance with Rule 17 or Rule 18 of the Pilot Rules, seems to be pointless, since apparently nobody on the FOURTH MARIE sighted the 14-foot Walverine outboard motorboat before the collision, and it is not clear just what course or courses the 14-footer maintained before the collision."

5. The Board made the following Recommendations:

"1. That the H & H Wheel Service, Inc., owners of the MB FOURTH MARIE, be proceeded against under the provisions of Section 2 Laws Relating to the Navigation of Vessels of the Great Lakes, (28 Stat. 645-650, as amended; 33 USC 211-214) for violation of Pilot Rule 26, in that the MB FOURTH MARIE, on the evening of 15 July 1951 neglected to keep a proper lookout. Copy of Report of Violation is attached.

"2. That this case be referred to the U. S. District Attorney, Detroit, Michigan, for a determination of whether James Ralph Burgess should be prosecuted for negligence under the provisions of the Motorboat Act of April 25, 1940, Sec. 13; 54 Stat. 166; 46 USC 5261, and Sec. 14; 54 Stat. 166; 46 USC 526a, for operating a motorboat in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

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"3. That wide publicity should be given in the area of Detroit, Michigan, to help indoctrinate the public in the dangers of operating small boats in a congested area such as the Detroit River in a careless or negligent manner or without observing all the precautions of good seamanship as required by the Pilot Rules or without having all required equipment aboard and in good working order."

REMARKS

6. Recommendation 1 of the Board with respect to the assessment of a civil penalty against the owners of the LB 38 F 1500 for failure of the operator of the vessel to maintain a proper lookout is disapproved. There is no apparent reason for assessing the civil penalty provided by 33 USC 244 against the owners of the LB 38 F 1500. In fact, there is genuine doubt that failure to maintain a lookout is a violation of the statutory rule 33 USC 293 which would bring into effect the penalty of 33 USC 244.

7. Recommendation 2 of the Board that the record of subject casualty be transmitted to the Attorney General of the United States is concurred with. A review of the subject casualty indicates that the record contains evidence of criminal liability on the part of James Ralph Burgess, operator in control of the LB 38 F 1500 at the time the subject casualty occurred, arising out of the violations of the following regulations and statutes:

- a. 46 CFR 90.4 - Failure to give passing signals
- b. 46 CFR 90.5 - Failure to effect proper passing
- c. 33 USC 282 - Failure to effect proper passing
- d. 46 USC 526 l and m - Reckless and negligent operation of vessel
- e. 18 USC 1115 - Negligent destruction of life

8. Recommendation 3 of the Board to the effect that wide publicity be given in the Detroit area in the interest of safe small craft operation is concurred with. This recommendation should be put into effect to the

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fullest possible extent by appropriate personnel under the jurisdiction of
the Commander, 9th Coast Guard District.

9. Subject to the foregoing remarks, it is recommended that the Findings
of Fact, Conclusions and Recommendations of the Marine Board of Investigation
be approved.

/s/ P. A. Owendon
P. A. OWENDON
Acting

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24 August 1951

From: Chief, Office of Merchant Marine Safety
To: Commandant

Forwarded, recommending approval.

/s/ H. C. Shephard
H. C. SHEPHEARD

APPROVED:

August 24, 1951

/s/ Merlin O'Neill
MERLIN O'NEILL
Vice Admiral, U. S. Coast Guard
Commandant