

UNITED STATES COAST GUARD

Address Reply To:
COMMANDANT
U.S. Coast Guard
Headquarters
Washington 25, D.C.

MVI
8 October, 1951
(PELICAN - a-3 Bd)

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

Subj: Marine Board of Investigation; capsizing of MB PELICAN in
vicinity Montauk Point, Long Island, on 1 September, 1951,
with loss of life

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

2. The motor vessel PELICAN was built in 1940 at Brooklyn, New York for service as a passenger carrying vessel in the fishing and recreation business. She was fitted with two gasoline engines for propulsive purposes, and admeasured 14 gross and 9 net tons. Under the U. S. Marine Safety Statutes, a motor vessel above 15 gross tons is subject to annual inspection to determine that she may be used in her proposed service with safety, and she cannot be operated until an annual certificate of inspection to this effect is issued. The PELICAN admeasuring less than 15 gross tons, was not subject to these federal inspection and certification statutes for seaworthy purposes and could legally operate in the passenger carrying business with no effective legal supervision with respect to any safety standard for the safety of the public patronizing such vessel.

3. On the morning of 1 September, 1951, the PELICAN was moored at the Fishangri-la Pier, Long Island, where in addition to the 2 crew members she embarked 62 passengers for a fishing excursion. At 0830, existing weather conditions were favorable, however, warnings had been issued indicating expected strong winds and stormy weather. The PELICAN had on board 64 persons, although a boat of her dimensions and type could not ordinarily be expected to carry more than about 30 persons with safety on coastwise waters, in the service in which she was engaged. Despite the impending bad weather warnings and her overloaded condition, the PELICAN

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at 0830 departed for a fishing excursion to the southward of eastern Long Island in the vicinity of Ditch Plain Coast Guard Station. The PELICAN arrived at Frisbie Bank at about 1000 while the wind had been gradually increasing in intensity and veering around to the east and northeast. After fishing for approximately one hour, the PELICAN, due to the worsening weather conditions, decided to return to port. On the return trip propulsive machinery difficulties were experienced as only six miles were covered in 2-1/2 hours. As the PELICAN rounded Montauk Point she changed course bringing the wind and sea first on the starboard bow and later on the starboard beam and quarter, causing her to roll heavily to port, at times rolling her port gunwale under water. Two successive heavy seas hit the PELICAN evidently on her starboard quarter which caused her to capsize at 1410, one mile north of Montauk lighthouse. At this time there was a fresh to strong north-east breeze of about 25 to 30 miles with occasional stronger gusts, confused sea, and a 2 knot ebbing current. Visibility was good.

4. Although life preservers were located in 2 lockers on deck abaft the pilot house, and were accessible, no life preservers with one exception were worn by any persons due to the suddenness of the capsizing and the lack of instructions by the operator of the PELICAN to passengers to don life preservers in preparation for a possible emergency. Twelve persons were rescued by the MB BINGO II, 6 persons were rescued by the MB BETTY ANNE, which vessels were in close proximity to the PELICAN at the time she capsized, and one person was rescued by a Coast Guard picketboat. Due to the rough sea and the fact that no life preservers were worn, the remaining 45 persons perished, most, probably from exhaustion, within 30 minutes after the capsizing.

5. The Board made the following Findings of Fact:

FINDINGS OF FACT

"1 The motor passenger boat PELICAN with about 64 persons on board capsized at about 2:10 p.m., Eastern Daylight Time on 1 September, 1951, approximately one mile north of Montauk Lighthouse at the extreme eastern end of Long Island (Lat. 41° 05.5' N, Long. 71° 51.8' W) with resulting loss of about 45 lives. There was a fresh to strong northeast breeze of about 25 to 30 miles per hour, with occasional stronger gusts, confused sea, and a two-knot ebbing current out of Long Island Sound. Visibility was good.

"2. The motor passenger boat PELICAN, official number 239733, was a gasoline propelled vessel powered by two six cylinder Chrysler Crown engines, rated at 100 horse power each. It was a wooden hull, 42.4 feet long, 11.3 feet beam, 4.3 feet depth, measuring 14 tons gross and 9 tons net. It was built in 1940 at Brooklyn, N. Y., and was formerly known as the HELBOY II. The only sheltered compartment below deck was forward of the wheelhouse deck cabin. This compartment could be entered through a hatchway leading below from inside the wheelhouse. At the forward end of the compartment, overhead, there was an escape hatch 17½ inches square, which after the accident showed no evidence of a ladder having been attached. On the starboard side aft of the compartment there was a small head. On the port side near the ingress hatch at about head height there was a shelf for the stowage of life preservers. On the basis of seating room only, the compartment could seat approximately 8 persons. Above deck, the wheelhouse cabin, which was about 10 feet long by 7 feet wide, was fitted with two doors; one opening on the port, and one on the starboard side, the after end being open. There was a locker on each side of the opening aft of the deckhouse for the stowage of life preservers. There were reported to be 86 life preservers on board. The lockers on deck containing the life preservers were not marked. The wheelhouse could shelter approximately 10 to 15 persons standing. Steering control could be manipulated either on the starboard side of the wheelhouse or directly above it on the flying bridge to which the steering control rods extended. Amidships, aft, between the wheelhouse and the stern, on deck, there was a cooling chest for beverages. Aft of the wheelhouse, below the main deck were installed the gasoline tanks, engines, and two fresh water tanks. A guard rail about 30 inches high extended clear around the boat. There was a radio telephone on board and a third class radio operator's permit, issued by the Federal Communications Commission to [REDACTED]. The boat was issued permanent license No. 274 by the U.S. Collector of Customs at New York, N.Y. for vessels under 20 tons on 3 May, 1950, for passenger and fishing service. It was owned and operated by [REDACTED], of Railroad Pier, Montauk, Long Island, N.Y., and [REDACTED], who held Motorboat Operator's License No. [REDACTED]. The owner has been missing since the casualty and is presumed dead. His body has not been recovered.

"3. The vessel had been employed as a "party fishing boat" carrying passengers for hire, operating out of Fishangri-la, Fort Pond Bay, Montauk, Long Island, the entire season beginning in May 1951 until the day of the casualty.

"4. At about 8:00 a.m. on the morning of the casualty, the PELICAN was moored at the outer end of the Fishangri-la pier taking on passengers for a fishing trip off Montauk Point. The owner and licensed operator, [REDACTED], was supervising the loading assisted by one other crew member (unlicensed), [REDACTED] years old, [REDACTED], who served on board as mate. Conflicting testimony was given as to the exact number of passengers taken on board. The mate, [REDACTED], who sold the tickets and retained the stubs did not keep count; he testified the stubs were turned over to Mr. [REDACTED], who later told him that there were 54 passengers on board, making a total of 56 with the 2 crew members. The actual number of passengers was not reported to dock officials nor were passengers' names taken or reported prior to sailing. The testimony of Mr. [REDACTED] as to the number of passengers is in serious doubt as to its accuracy since it conflicts with the total of survivors, known dead, and missing persons, as reported by survivors, Coast Guard, and police authorities. According to these figures the total number is 64, including the 2 crew members.

"5. Witnesses testified that the boat had on board approximately 30 to 35 passengers at about 8:00 a.m., when a Long Island Railroad train, known as the "fisherman's Special," out of New York City, arrived, bringing numerous amateur fishermen, who immediately boarded several of the charter and party boats, including the PELICAN. Approximately 30 more persons boarded the PELICAN. Survivor witnesses stated that the boat was so loaded that several of them thought about disembarking and boarding other boats less crowded. However, fearing that they might not have room on other boats and might miss out altogether, and having the assurance of friends that there would be fishing room for all, they were persuaded to remain. Other witnesses testified that they had sailed on fishing trips in the PELICAN before, were fond of the boat's skipper, [REDACTED] and decided to remain against their better judgment. At about 8:30 a.m. the PELICAN cast off her lines, pulled away from the pier and set course for a spot known locally as Frisbie's Fishing Bank, 1 to 1½ miles south-southeast of Ditch Plain Coast Guard Station, shown on U. S. Coast and Geodetic Survey Chart No. 1211 in Latitude 41° 01.3' N, Longitude 71° 54.6' W, marked "X-1" by the PELICAN's mate, [REDACTED] and introduced into the record of the board as Exhibit "M".

"6. [REDACTED] mater of the PELICAN, testified that on Saturday morning when the vessel sailed from Fishangri-la it was good fishing weather with no sign of a blow. He did not hear any weather forecast over the radio. Weather forecasts were generally passed around by word of mouth from one boat skipper to the other, who in turn either got it from

some boat skipper who had heard a forecast over the radio or had read the forecasts posted on the bulletin board near the entrance door of the Fishangri-la dockmaster's building, located at the head of the pier. Mr. [REDACTED] president of Fishangri-la Incorporated, stated that official U. S. Weather Bureau forecasts are received from several different media, among which are the U. S. Coast Guard, U. S. Weather Bureau, New York Marine Operator, and that in addition unofficial weather forecasts are received through personal friends in the meteorological department of an air line. It was a forecast from the latter source which Mr. [REDACTED] stated was posted at the dockmaster's office between 5:00 p.m. and 7:00 p.m. on Friday, 31 August, 1951. It was read into the record as follows:

"A cold front north of Toronto is moving towards this area and should reach Montauk early Saturday afternoon. We will have increasing south-southwest winds as the front approaches this area, and the maximum will be reached early tomorrow afternoon, at which time we may have south-southwest winds, 25 to 35 miles per hour. We can see possibly, even storm activity during that period with winds shifting during the early evening to northwest, diminishing, however, to 15 or 20 miles per hour. The winds will continue to shift during Saturday night to north, bringing a dry cold into this area. Sky conditions during Saturday night and Sunday morning should be overcast and partly cloudy during Sunday. Winds Sunday are forecast to be north-northeast, 15 to 20 miles per hour. Visibility Sunday will be good."

No forecast differing from the foregoing was posted at Fishangri-la on Saturday morning, 1 September, 1951.

"7. Several party fishing boat skippers, among whom were [REDACTED] owner and skipper of the SEA ROVER, [REDACTED] of the ANONA, [REDACTED] of the HINGO II, and [REDACTED] of the JIGGER II, brother of the missing PELICAN's skipper, testified that they took out parties on that day and testified as to the manner in which they operated and the weather forecasts and actual weather they encountered. [REDACTED], operating out of Gosman's dock at Montauk, testified that he received a weather forecast from other skippers operating out of the same dock, indicating that stormy weather might be expected and consequently took out only 31 although he was in the habit of taking 41 when the weather prospects were good. [REDACTED] also expressed the same apprehension about the weather and limited his passenger load that day.

"8. The PELICAN sailed from Fishangri-la, Montauk, at about 8:30 a.m., with approximately 64 persons on board. A list of passengers as accurate as can be compiled from all reliable sources is included as Exhibits "S", "T", and "U", being a list of survivors, missing, and deceased, respectively. The PELICAN arrived at the Frisbie Bank at about 10:00 a.m., one hour and 30 minutes after departure. Several survivor passenger-witnesses, who had previously sailed on the PELICAN, testified that on this day the boat was overloaded and making less speed than usual and they were under the impression that something was wrong with the engines or that only one engine was running. The mate, [REDACTED] testified that both engines were running all the way from the dock

to the fishing bank. Upon arrival at the fishing bank, the engines were shut down in order to make a drift across the bank for fishing. Witnesses testified that the boat was so crowded that there was insufficient space for all fisherman at the rail at any one time. Some were told not to worry, that others would get seasick which would make sufficient fishing space for them.

"9. From the time the PELICAN arrived at the fishing bank at about 10:00 a.m. the wind had been gradually increasing in intensity and veering around to the east and northeast. While the only surviving crew member, [REDACTED] could not state with any degree of accuracy whether or not the skipper, [REDACTED], had received storm warnings over the radio, at about 10:45 a.m. he was told by [REDACTED] that he ([REDACTED]) thought they should head for port and if necessary return part of the fares to the passengers. Between 9:45 a.m. and 10:30 a.m., some of the fishing boat skippers previously mentioned, who were fishing off Block Island, stated they had heard of northeast small craft warnings over their radios from a fishing trawler several miles off Block Island, and the worsening weather situation being discussed by other fishing vessels. These fishing boat skippers stated that after hearing of these small craft warnings, they decided to head for shelter. [REDACTED] BMC (L), U. S. Coast Guard, Officer-in-Charge of the Ditch Plain Coast Guard Lifeboat Station, testified that a small craft warning was relayed to him via telephone from the Shimecock Coast Guard Lifeboat Station at about 10:20 a.m., which was read into the record as follows:

"Priority X 011340 Zebra. From OGD 3 to Group Command Morich, List 4 through 6. Small craft warnings indicated 5 a.m. today south of Block Island to Delaware Breakwater. Wind shifting to fresh to occasionally strong northeasterly around Long Island this morning and southward to Delaware Breakwater during afternoon. Cloudy with thunder squalls. Poor visibility with fog."

[REDACTED] who was off Block Island, stated he spoke to his brother, [REDACTED] via the radio telephone during the period the PELICAN was still fishing and told him the JIGGER II was heading in because of the worsening weather conditions, to which his brother, [REDACTED] replied, "We're getting a few fish. It's pretty good down here."

"10. At about 11:00 a.m. [REDACTED] decided to return. Difficulty was experienced starting the port engine causing some 10 or 15 minutes delay. Conflicting testimony was given regarding the starting of the port engine. The witness best qualified to testify stated that both engines were running. No other witness stated that both engines were running, and many were quite definite in their testimony that only the starboard engine was running. The board finds that it took the PELICAN approximately 2 $\frac{1}{2}$ hours to cover about 6 miles, leading to the presumption that only one engine was running.

"11. On the return trip the PELICAN was heading into the wind and sea and pitching. As the PELICAN rounded Montauk Point and changed course bringing the wind and sea first on the starboard bow and later on the starboard beam and quarter, the PELICAN took a permanent list to port of about 10 degrees and also rolled deeply, and at times rolled her port gunwale into the water. The passengers favored the port side to avoid the spray, increasing the permanent list resulting from the wind pressure on the starboard side. Two successive heavy seas capsized the PELICAN.

"12. Attempts to shift the passengers before the casualty from the port side to the starboard side were unsuccessful. Passengers were not issued life preservers. One passenger, nicknamed [REDACTED], later identified as [REDACTED] who was rescued, wore a life preserver on his own volition, and consequently incurred some ridicule. (Repeated but unsuccessful attempts were made to obtain the appearance of [REDACTED] as a witness.) The capsizing apparently came as a surprise to all the witnesses who appeared before the board.

"13. The vessels closest to the scene of the PELICAN at the time of capsizing were the BETTY ANNE owned and operated by [REDACTED], a Naval Reservist, which was approximately 250 yards to the westward of the PELICAN and headed westward at the time of capsizing, and the BINGO II, a charter fishing boat, owned and operated by [REDACTED], a Coast Guard Auxiliarist, which was approximately one mile to the northward of the PELICAN at the time of capsizing. Both of these craft proceeded immediately to the rescue. The BETTY ANNE recovered 6 persons from the water and the BINGO II recovered 12 persons from the water. When the rescue vessels arrived on the scene they immediately began throwing over life preservers and other buoyant equipment with lines attached. Most of the survivors were in no condition to help themselves. Many were wasting their strength in calling for help and were unable to reach the life preservers or the lines in the water. The maneuvering of the rescuing craft to reach the survivors was difficult because of the lines which fouled the screws and rudders of the rescuing vessels, and also by the difficulty in maneuvering in the rough seas with people swimming in the area in which the boat was maneuvering. Mr. [REDACTED] of the BETTY ANNE stated that his rescue operations were slowed down and made difficult because the only persons aboard were his elderly father and mother-in-law, his frail wife who weighed only about 100 pounds, and a [REDACTED] year old boy. Both craft were handicapped in their rescue efforts by the inability of the persons in the water to assist themselves in coming aboard, so that it was necessary to lift the dead weights of the rescued persons by sheer manpower without the assistance of any tackle or devices. The BETTY ANNE had fewer personnel on board originally to assist in these rescue operations than had the BINGO II, which probably accounts for the fewer number of survivors rescued by the BETTY ANNE. It appears that the rescue efforts by these two craft terminated within 20 to 25 minutes after they first arrived on the scene, no other persons being seen alive by them after that time. By this time the BETTY ANNE and BINGO II were some

distance from the PELICAN hulk. The CG 38523, the picketboat from Ditch Plain Coast Guard Station, arrived in the vicinity about 3:15 p.m. and was coached by the Coast Guard lookout at Montauk Point to the PELICAN hulk via radio telephone. Upon arrival close to the hulk the picketboat crew found one man still clinging to the capsized hull and succeeded in rescuing him. The picketboat also recovered one body.

"14. The U. S. Coast Guard Ditch Plain Lifeboat Station was apprised of the capsizing via a telephone call at about 2:15 p.m. from the Park Police Barracks at Montauk Point which faces the sea looking north of Montauk Point. [REDACTED], EM 3, USCG, received the call at the station. After checking with the Montauk Point Lighthouse Tower lookout, he and one seaman jumped in a jeep and raced to where the Coast Guard picketboat CG 38523 was normally tied up in Montauk Harbor about 3.8 miles from the station. They arrived at the boat in about 15 minutes. A machinist mate who was standing by the boat and effecting minor motor repairs immediately assembled the engine and in about ten minutes, at about 2:40 p.m., the picketboat CG 38523 left Montauk Harbor for the scene of the capsized PELICAN, where, heading into heavy seas and a fresh head breeze, they arrived about 3:15 p.m.

"15. Visibility from the picketboat was hampered by seas breaking over the bow striking the windshield and obscuring the coxswain's vision, necessitating the use of the radio telephone, where through communication with the Coast Guard Lighthouse Tower lookout at Montauk Point he was guided to the PELICAN. Upon arrival Whiting said he could only see the upturned forward part of the vessel jutting out of the water with one survivor clinging to it and the body of a woman which was snagged with a fish hook from gear extending out from the boat. The survivor and the body were taken aboard the CG 38523 and a search of about two hours was made for additional survivors and bodies. Finding no others and on account of the condition of the lone survivor, Whiting returned to Montauk Harbor. After unloading the survivor and the body, the CG 38523 returned to the area of the PELICAN disaster to continue the search for bodies and keep a lookout on the drifting hulk.

"16. [REDACTED], EM (L), USCG, Officer-in-Charge of the Ditch Plain Coast Guard Station, stated that at the time of the PELICAN's capsizing at about 2:10 p.m. the wind was northeast about 35 miles per hour, with a strong ebb tide running easterly out of Long Island Sound. He further stated that earlier Saturday morning, at 11:50 a.m., he received a distress call notifying him that a small outboard motorboat with three persons aboard was in need of assistance in Napeague Bay. He proceeded with two men to the town dock in Montauk Harbor and got under way with the motor lifeboat CG 36516, and after a thorough search in the area reported that no sign of a distressed boat could be found. At about 2:00 p.m. he went in to Promised Land, and after considerable delay in contacting the person who originated the distress call, he was advised that the boat he

was searching for was safely in port and that the owner had neglected to advise the Coast Guard. [REDACTED], who was having some difficulty with his radio telephone, finally got through to Ditch Plain Coast Guard Station at about 2:20 p.m. and was told that a boat had capsized off Montauk Point and was in need of assistance. At this time [REDACTED], with the CG 36516, was one mile westward off Goff Point, at the spot marked "X-6" on Chart No. 1211, Exhibit "M", and about 12 miles from the drifting PELICAN. [REDACTED] expressed bitterness over the fact that his arrival at the capsized PELICAN was delayed about 1½ hours by a fruitless mission. He stated he arrived near the PELICAN about 3:45 p.m., and with the CG 38523, searched for bodies, assisted by some party fishing vessels. From the time of the capsizing of the PELICAN up to the date of this report 19 survivors were rescued and 26 bodies recovered.

"17. During the night of 1-2 September the hulk of the PELICAN was towed into Montauk Harbor and made fast alongside the fishing trawler MARY OGDEN which was berthed at the end of the town dock. On 2 September the hulk was beached in Montauk Harbor where the board visited and inspected it on 7 September, 1951.

"18. The board on examination of the PELICAN found that her wooden structure was of sound material, and there was nothing apparent to the board on the examination, nor was there any evidence adduced in the investigation to lead to the belief that there was any structural damage to the PELICAN before she capsized.

"19. The board finds no evidence that water was taken aboard the PELICAN in significant amounts before the capsizing.

"20. The board upon inspecting the PELICAN on 7 September, took measurements of the deck space available for passengers, and determined that had the PELICAN been subject to Coast Guard inspection she probably would have been permitted to carry not more than 20 passengers."

6. The Board expressed the following Opinions:

"21. That by any standard the PELICAN was overloaded. This opinion is based primarily on the fact that, without any previous structural damage to her hull, the craft actually did capsize and that the capsizing can be attributed to no other cause than the presence on board of a human and consequently a shifting cargo above the waterline of approximately four tons under sea and weather conditions which probably caused the vessel to list and roll to port until her stability was completely lost. The decisive cause of this condition was the overloading; other contributing causes--wind and sea conditions, failure to distribute passenger weight to the best advantage, and uncertain engine operation--were purely accessory and would have had no serious effect if the primary, governing cause - overloading--had not existed.

"22. By the standard of measured deck space the Coast Guard, if required to certificate this vessel, which was one ton gross under tonnage, would have permitted only about 20 passengers.

"23. By the standard of stability no increase in permitted capacity above that established on the basis of measurement of deck space would have been allowed. Stability data has not been prepared as an inclining experiment and could not be performed on the PELICAN in its present condition.

"24. It is the board's opinion that, in the absence of Coast Guard inspection and certification of capacity, the owner and operator of a vessel assumes greater responsibility than the operator of an inspected vessel. He alone has the responsibility of determining how many persons he can safely carry on his vessel. In the case of such gross and obvious overloading as existed on the PELICAN, he cannot avoid responsibility for the disaster and loss of life resulting therefrom.

"25. From the facts adduced it would appear that the owner and operator of the PELICAN, if alive and able to defend himself, would be subject to serious charges of gross and criminal negligence. Placing the most charitable construction on the events because of his inability to appear to justify and explain his action or lack of action, there appears to be no possible evidence to refute the following charges of imprudent and unskillful operation of his vessel:

- (a) Imprudent, because he permitted the vessel to be grossly overloaded.
- (b) Imprudent, because either he failed to keep himself adequately informed about the weather, or, if so informed, to take foresighted and prudent action.
- (c) Unskillful, because he did not take effective action to properly distribute the dangerously excessive load of passengers.

- (d) Unskillful, because he navigated close to shore where tide rips and sea conditions were, at the very least, more uncertain if not definitely more dangerous under the existing weather conditions.
- (e) Unskillful, because, as an experienced seaman familiar with his vessel and presumably aware of its probable action under sea condition and loading, he appears to have brought the vessel safely through head winds and seas only to have her capsize as he brought the wind and sea on the beam and quarter. He might well have continued to windward further into Block Island Sound before attempting the dangerous change of course, and thus have minimized the period when the PELICAN would have wind and sea on the beam and quarters.

"26. Under extremely adverse weather conditions the rescuing personnel, civilian, Coast Guard Auxiliary, and regular Coast Guard on the scene acquitted themselves with great credit. The board considers it remarkable that so many lives were saved after sixty-four persons of both sexes and various ages, swimmers and non-swimmers alike, fully clothed, were thrown into rough water without life preservers. There was little or no floating wreckage to grasp, and the hulk was exceedingly slippery and without hand-holes, so that actually only two survivors, so far as is known, can attribute assistance in their rescue to the hulk. Only the fortunate presence nearby of other vessels prevented the loss of almost every person on board.

"27. By the time the rescuing vessels arrived those persons yet alive had, in many cases, already become so weakened that they were unable to reach life preservers and other buoyant equipment thrown to them or hang on to lines, let alone help themselves to board the rescuing vessels. Within approximately 20 to 30 minutes after the capsizing, no additional survivors in the water could be located beyond those already on board the RINGO II and the BETTY ANNE.

"28. That, with the exception of one survivor clinging to the hulk until rescued by a Coast Guard picketboat, all rescues were made by vessels in the immediate vicinity, and it appears that even under the most favorable circumstances no vessel could have reached the scene from port in time to have saved any additional survivors.

"29. That the weather and sea conditions contributed to the disaster, but, as stated above, were accessory only to the primary and decisive cause which was the overloading.

"30. That weather forecasts are of little importance because apparently no effective efforts are made to keep informed of detailed, up-to-date weather forecasts, and even the simple, easily-understood small craft warnings are frequently disregarded. Existing weather conditions rather than forecasts seem to determine whether operations are undertaken. The weather forecast actually posted at Fishangri-la during the evening of 31 August indicated increasing south-southwest winds of 25 to 35 miles per hour.

Therefore, the advisability of remaining in port or operating with great caution should have been considered. The entire system of weather forecasting and the posting of warnings does not appear to effectively prevent departure of small craft in the face of approaching bad weather if the weather is reasonably good at the time of sailing.

"31. The board feels, although of no direct effect nor of particular importance in this incident, there were certain examples of less than perfect functioning of Governmental activities. Delay in getting Coast Guard vessels on the scene appears not to have affected the number who might have been saved in this instance, but in future cases might be determining factors. Better Coast Guard operating facilities at Montauk Harbor should be arranged as soon as possible to meet the recently increased small craft activity and important operational requirements.

"32. Tardiness in hoisting small craft warnings at Ditch Plain and other Coast Guard stations on 1 September resulted from a communications delay. An improved and speedier system of communications between the Weather Bureau's New York office and the Coast Guard Operation Center in New York, as set up following the storm of 4 July 1949 failed in this instance to insure delivery of the warnings to the Coast Guard without delay after the forecast had been received at the New York Weather Bureau Office from Washington. A checkup system installed immediately after this incident will avoid a repetition.

"33. That the Coast Guard had boarded the PELICAN during the current season and determined that the vessel was in compliance with existing law. The board is of the opinion that the vessel was provided with all the equipment required for this type motorboat; the life preservers were sufficient and in good, serviceable condition; and that the vessel itself was structurally sound.

"34. The testimony of the mate, [REDACTED], that both engines were running after leaving the Frisbie Fishing Bank at about 11:00 a.m. must be rejected in view of the preponderance of evidence to the contrary. This rejection is further supported by the fact that the vessel averaged only approximately two knots from the time it left the fishing bank until it capsized about one mile north of Montauk Point Lighthouse.

"35. The passengers were not requested to don life preservers and only one did so of his own accord. This passenger was rescued.

"36. There appeared to be little apprehension on the part of the passengers that the vessel was in any particular peril. Moreover, the danger of capsizing was never apparent to the majority of passengers prior to the occurrence.

"37. Since no radio calls for assistance by the PELICAN were heard, and since the mate and surviving passengers testified they at no time saw or heard the radio used, the board is of the opinion that it was not used after the vessel left the fishing bank. Moreover, the rapidity with which the boat capsized left no time to transmit radio distress calls after the casualty.

"38. That the timely arrival of the BINGO II and the BETTY ANNE within a few minutes after the casualty was most fortunate. Their proximity to the PELICAN enabled them to rescue a total of 18 persons. The board feels that the operators of these vessels, [REDACTED] and [REDACTED], respectively, are deserving of commendation for their courage and excellent seamanship in safely maneuvering their vessels under extremely adverse weather and sea conditions. Both were handicapped by meager personnel assistance in pulling helpless persons out of the water.

"39. It is the opinion of the board that present Coast Guard operating facilities at the eastern end of Long Island are poorly arranged and are inadequate for the purpose of providing efficient search and rescue facilities to the large volume of commercial and pleasure fishing in that locality. The volume of boating activities has increased greatly during the past few years. The Ditch Plain Coast Guard Lifeboat Station is located 3.8 miles from the moorings of the station boats. The lookout and radio telephone watches are maintained at Montauk Point Lighthouse, about five miles east of the Lifeboat Station, communications between the two locations being by telephone. The crew should be berthed and quartered at the boat moorings and an operational study made to determine the number and types of boats which should be assigned. (This study has been ordered by the Commander, 3rd CGD, and is now in progress.)

"40. The board is of the opinion that this incident speaks for itself as to the lack of responsible control of this industry when the grave responsibility for determining the safe passenger load on these vessels is placed solely upon the operators who may be skilled fishermen and experienced seamen but whose judgment and knowledge of the simplest principles of naval construction may be so limited that they can endanger the lives of large numbers of passengers through this lack of judgment and ignorance.

"41. The board is of the opinion that compliance with all the laws that could have been invoked by any law enforcement officer was complete and that no law enforcement officer aware of the grossly overloaded condition of the PELICAN at the time of her sailing would have had any authority to prevent the sailing.

"42. The board is of the opinion that the capsizing itself established a case for a charge of gross and criminal negligence against the operator which could not have been established under existing law at any time before the accident actually occurred.

"43. The board is of the opinion that this incident is a clear and unequivocal example of the lack of adequate legislation for the safety of passengers, many of whom apparently go aboard under the impression that some governmental agency has insured that proper safety standards have been met.

"44. The board is of the opinion that repeated recurrences similar to, but probably less spectacular than the case of the PELICAN, will result unless this lack of control is remedied by legislation.

"45. The board is of the opinion that interest developed in this case because of the large number of lives lost and the clear-cut issue as to the decisive cause of the disaster--the overloading of the PELICAN with resultant loss of 45 lives (this under the sole responsibility of the operator who had complied with all effective laws but nevertheless as a result of poor judgment or ignorance was not prevented from taking risks which resulted in loss of life)--should be used to bring to the attention of the appropriate committees of Congress the loop-holes and unsatisfactory provisions of the present laws which permit these conditions to exist.

"46. The board is of the opinion that the most important single provision of the law which permitted the overloading of the PELICAN is the exemption of vessels under 15 tons from the provisions of the inspection laws which would have limited the passenger carrying capacity of the PELICAN on the basis of the deck space available, with due consideration for the vessel's stability. Further, the inspection law would have required the stowage of the life preservers to be marked and to come under specific requirements as to the accessibility of life preservers, rather than the more general and less effective provisions of the motor boat laws under whose provisions the PELICAN operated.

"47. The board is of the opinion that legislation intended to prevent the recurrence of a disaster like the PELICAN should be carefully considered so that it does not become an onerous burden on the thousands of owners of smaller craft nor on the administrative agencies charged with administering the law. A law which is too broad in its scope and whose provisions are not carefully considered may do little to improve conditions because of public resistance to controls not demonstrably necessary for safety, aggravated by the administrative overloads which may be placed on presently fully employed staffs.

"48. The board is of the opinion that an extension of the present inspection powers of the Coast Guard, intended to correct this situation, should be limited to vessels carrying passengers for hire.

"49. The board is of the opinion that vessels carrying a limited number of passengers should be exempt from the new provisions of the law.

"50. The board is of the opinion that the cut-off point between exempt and non-exempt vessels should not be on the basis of tonnage but should be on the basis of the number of passengers carried. The exemption on the basis of tonnage is completely unrealistic in that it places no restriction on the number of passengers that may be carried on a smaller and presumably less capable vessel while it does restrict the number carried on the larger and presumably more capable vessel.

"51. The board is of the opinion that cooperation of all agencies, official, semi-official, and private, should be requested to assist in preventing future disasters similar to that of the PELICAN by educating both the public and the operators of motorboats carrying passengers for hire as

to the gravity of responsibility of the operators in the absence of regulations on vessels less than 15 gross tons carrying passengers for hire, and the necessity for the public itself to use ordinary common sense and prudence. The activities of the Coast Guard Auxiliary in this field deserve the greatest encouragement; the fact that a member of this organization saved 12 lives reflects great credit not only on the individual but also the organization. Many other organizations promoting small-boat safety should be encouraged to take action within their respective fields to prevent a recurrence.

"52. Purely as an interim measure pending legislative action, the board is of the opinion that the Commandant, U. S. Coast Guard, should keep the public advised of this legal limitation possibly by authorizing Coast Guard boarding officers to issue to the operators of each such boat at the time of boarding a decalcomania bearing a legend to the following effect:

"This boat, the _____, was boarded by a Coast Guard officer on _____ and found to be in compliance with the Motor Boat Act with respect to equipment and licensed operator. However, this boat, being less than 15 gross tons measurement, is not subject to Coast Guard Inspection. The operator is solely responsible for determining the number of passengers to be carried and the provisions of all safety measures required for the safe operation of this vessel beyond the requirements of the Motor Boat Act."

The operator may display this decalcomania if he so desires, with no penalty if he fails to do so."

Chief, MVI Division to
Commandant

8 October, 1951
(PELICAN - a-3 Bd)

7. The Board made the following Recommendations:

"1. It is recommended that Coast Guard operating facilities on the eastern part of Long Island be modernized and improved to afford more efficient Search and Rescue facilities in the light of recently increased boating and fishing activities carried on from that vicinity. The Commander, Third Coast Guard District has initiated action to this end; specific recommendations will be made to Headquarters in the near future.

"2. Because there appears that criminal negligence was involved on the part of an offender who is missing and presumed dead, it is recommended that the record of proceedings of this board be forwarded to the Department of Justice for information.

"3. In view of the fact that action under R. S. 4450, as amended, is not possible, it is recommended that no further action be taken and that the case be closed."

REMARKS

8. Opinions 41 and 42 of the Board to the effect that the PELICAN was in compliance with all laws at the time she departed in an overloaded condition for a fishing excursion at sea, and that no lawful authority existed to prevent such departure are not entirely concurred with. 46 USC 526(1), in effect, provides that no person shall operate any vessel in a reckless or negligent manner so as to endanger the life, limb or property of any person. 18 USC 2196, in effect, provides that the master or crew of a vessel shall not by wilful breach or neglect of duty, endanger his or their vessel, or endanger life or limb on board such vessel. 46 USC 658, in effect, provides that no person shall knowingly send or attempt to send an American ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered. Violation of the above statutes subjects the offender to fine and imprisonment following reporting to and prosecution through the United States Department of Justice. The application and attempted enforcement of such statutes and the exercise of strong moral suasion by the Coast Guard and its predecessor authority over a considerable number of years proved completely ineffectual in raising the standard of safety of small motor passenger vessels engaged in the passenger carrying service. The

Chief, MVI Division to
Commandant

8 October, 1951
(PELICAN - a-3 Bd)

opinions of the Board to the effect that legislation is required which would subject small motor vessels carrying passengers for hire to annual inspection for the purpose of determining that they may be operated in their proposed service with safety of life, and their annual certification to this effect, is fully concurred with. In this connection, the Coast Guard and its predecessor authority have sponsored and supported proposed legislation to require the annual inspection and certification of all motor passenger vessels, regardless of size, tonnage or waters operated, which carry more than 12 passengers for hire.

9. Opinions 52 of the Board with respect to boarding and issuing a decalcomania to small motor passenger vessels for the purpose indicated, is disapproved since such practice has no foundation in law and has proved and would prove ineffectual in practice.

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

/s/ [REDACTED]
P. A. OVENDEN
Acting

12 October, 1951
M

Ind-1

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

Forwarded, recommending approval.

/s/ [REDACTED]
H. C. SHEPHERD

APPROVED: OCT 15 1951

/s/ [REDACTED]
MERLIN O'NEILL
Vice Adm., U. S. Coast Guard
Commandant

Public Information Section
Third Coast Guard District
80 Lafayette St., N.Y., 13.
Dghy 9-1400, ext. 258, 259

PELICAN case.

SURVIVORS

As of 1200, 6 Sept.: Confirmed by N.Y. State Police. (Corp. Resling, Riverhead, L.I)

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EXHIBIT "S"

Public Information Section

PELICAN case

Unofficial listing of missing as of 1100, 14 September; confirmed by Corp. Reeling,
N.Y. State Police, Riverhead, Long Island.

MISSING:

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EXHIBIT "T"

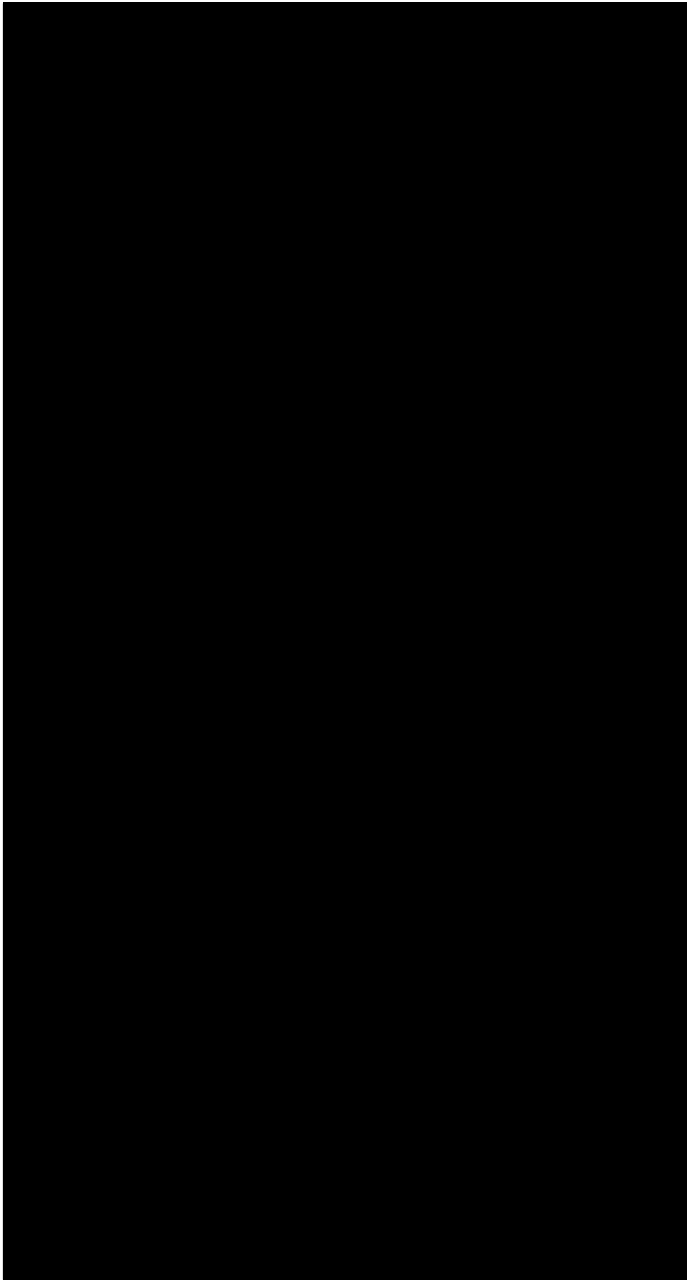
Public Information Section

PELICAN case

Unofficial listing as of 1100, 14 September; confirmed by Corp. Resling, N.Y.
State Police, Riverhead, Long Island.

DECEASED:

1. Acevedo, Constantine
2. Berger, Lawrence
3. Brown, Albert
4. Carlson, John
5. Drew, Charles H.
6. Finkelberg, Solomon
7. Friedel, Helen
8. Friedel, J.A.
9. Hermanns, George C.
10. Hyslop, James
11. Knight, Charles
12. Laurensana, Frank
13. Lewis, Raymond
14. Mallardo, William
15. Manko, Wallace
16. Marino, Frank
17. Menton, Grover
18. O'Brien, Patrick
19. Pinckney, Harold O.
20. Ramirez, Manuel



(Continued on next page)

DECEASED: (continued)

21. Salveterra, Sissinio
22. Short, George
23. Sigal, Louis
24. Stern, Joseph E.
25. Testa, Angela
26. Wallace, George

