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DECISION ON APPEAL, Appeal # 05-01
WALLOPING SWEDE vs *BESSIE JAY*
Midwinter Race #4, February 5, 2005.
Host: Golden Gate Yacht Club

June 13, 2005

SUMMARY OF SITUATION:

Three boats were sailing downwind along the San Francisco City Front, close to the shore, in a light wind and an adverse current, all on starboard gybe. As they approached the H-Beam, an obstruction described in the Sailing Instructions, *WALLOPING SWEDE* (a J105) was closest to the shore and most windward ("W"), *BESSIE JAY* (an Express 27) was sailing on a line to leeward of W ("M"), and *ONO* (a Wylie 30) was sailing further offshore, on a line to leeward of M ("L"). Prior to arriving at the H-Beam, W was going faster and was hailing for room from M and L. L gybed away on to port gybe. A short time later, with W and M overlapped, W struck an underwater object and came to a halt, as M gybed away on to port tack. W hailed protest and displayed her red flag. Subsequently, W filed a valid protest against M.

FACTS FOUND BY PC:

1. Sailing Instructions state that the regatta (including this race) would be run under RRS 2001-2004.
2. Wind was variable, 5 to 10 knots from astern; and the current was ebbing at approximately 2 to 3 knots, with the boats sailing directly into it.
3. Boats were sailing almost dead downwind, on starboard gybe, from YRA Mark 16 to a downwind mark beyond the H-Beam, which marked one side of a restricted area (described in the SI).
4. *WALLOPING SWEDE* (W in diagram), is a J105 approximately 38 feet long with sprit extended. She draws approximately 6.5 feet.
5. *BESSIE JAY* (M in diagram) is an Express 27 approximately 30 feet long with kite flying and 27 feet long with kite collapsed. She draws approximately 4 feet.
6. *ONO* (L in diagram) is a Wylie 30 with a cat rig.
7. M and L were sailing close together at a rate of 4 knots.
8. W approached from behind and to windward at a rate approximately 1/3 faster than M and L, or approximately 5.3 knots.
9. At approximately 5 to 8 boat lengths before the obstruction, without an overlap yet established, W hailed for sea room at the obstruction. L responded with, "No way, don't go in there." M made no response.

10. At about the time that an overlap was established the wind dropped and all kites had collapsed, with W slowing to a speed only slightly faster than M and L.
11. W claims the required overlap was established between 2 and 5 boat lengths before the mark.
12. M claims the overlap was established inside the required 2 boat lengths.
13. W hailed several different times for sea room and no response was made by M to any hail.
14. L gybed away before the incident and was not involved any further in the incident.
15. M passed the H-Beam 35 to 40 feet to seaward, and W passed the H-Beam approximately 8 to 10 feet to seaward.
16. At no time was there contact between boats.
17. M gybed away from W at approximately the same time that W struck the underwater object and came to a halt. Her crewmembers were briefly in disarray.
18. Immediately after W was brought under control, she hailed protest and a flag was displayed.
19. M did not hear hail or see protest flag.
20. W sustained approximately \$3,500 in damage to her underbody and keel.

CLARIFICATION OF PC'S DIAGRAM:

1. W, going 1/3 faster than M or L, blankets M and L, and then she herself loses wind and her kite collapses, thereby slowing all boats to approximately the same speed.
2. At #1, all approach the obstruction on the starboard gybe. W hails for room and L responds, "no way." M makes no response.
3. At #2, M reaches 2-boat length zone, L gybes way. W hails for room. No response from M. There may or may not have been an overlap at this time.
4. At #3, W positively gains overlap. W hails M for sea room. No response from M.
5. At #4, W runs aground 8 to 10 feet to seaward of H-Beam. M gybes away.

CONCLUSIONS OF PC AND RULES THAT APPLY:

1. Rule 18.2e requires that if there is doubt as to whether or not an overlap was established it shall be assumed that it was not. Therefore the PC finds that the protest shall be dismissed. We further note that even though she made no response to any hail M did in fact leave room and did stay clear of W.
2. The existence of an underwater object to seaward of the H-Beam is a new piece of information. The practice of most racers is to lay the H-Beam fairly close alongside, both upwind and down.

DECISION OF PC:

The protest is dismissed.

BASIS FOR APPEAL BY W:

1. Several facts found by the PC do not follow a plausible rationale.
2. RRS 18.5 was not considered and its applicability should have been evaluated.
3. RRS 18.2(a) was incorrectly interpreted and applied.

DECISION ON APPEAL:

First, much of appellant's discussion alleges the existence of numerous conditions that are not consistent with the Facts Found (including diagram) by the PC. The PC is responsible for determining the facts per RRS 63.6. This Appeals Committee accepts PC's facts as plausible, and we reject the conflicting alternatives suggested by appellant, particularly those related to the timing of overlaps.

With respect to the applicability of 18.5, ISAF Case 33 clarifies the distinction between a continuing and non-continuing *obstruction*. The breakwater in Case 33 is similar to our *obstruction* which includes the long submerged sewer pipe extending from the shore to the H-Beam. These *obstructions* are considered to be continuous structures, but neither one qualifies "as a continuing *obstruction* since the boats are concerned only with the outer end." Therefore, RRS 18.5 does not apply. Dave Perry, in his book *Understanding the RRS of Sailing* (page 184 of the current edition), provides a more detailed description of this difference.

Based on the facts found by the PC, there was sufficient room for W to pass between the H-Beam and M and, therefore, the H-Beam is not the relevant *obstruction*. W did strike an underwater object near the H-Beam. The true extent of the underwater object is unknown, however, based on the facts found by the PC, including its diagram, the boats reached the underwater object prior to the H-Beam. Thus, there is even more doubt that W established her overlap before M reached the two boat length zone surrounding the underwater object. Rule 18.2(e) is used to determine that Rule 18.2(c) is applicable in this situation. W was not entitled to room at the underwater object and kept clear of M. Thus no rule was broken. The decision of the PC is sustained.

The appeal is denied.

THE APPEALS COMMITTEE OF THE YACHT RACING ASSOCIATION OF SAN FRANCISCO BAY.

Thomas V. Allen, Jr. Chairman

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