

From: Wanetta Ayers <[REDACTED]>
Sent: Tuesday, February 20, 2024 6:40 PM
To: Sen. James Kaufman
Cc: Emma Torkelson; [REDACTED]
Subject: EO131 and today's testimony

Dear Chair Kaufman and Members of the Senate Transportation Committee:

Thank you for this opportunity to provide written testimony regarding Executive Order 131, proposing changes to the process for appointing members to the Alaska Marine Highway Operations Board.

I have been a member of the AMHOB since its inception as an appointee by the Speaker of the House. During the first year of the AMHOB, I served as Vice Chair. I was unable to fulfill that role in a subsequent year, so I stepped back in favor of another board member.

Today, I listened to the testimony by Commissioner Ryan Anderson and Special Assistant Andy Mills regarding EO 131. I was taken aback by several statements and characterizations. While there is room for different interpretations of what has transpired over the life of the AMHOB, the net message I took from their testimony is that the board is dysfunctional, provides no advice, and it is populated by individuals who mean well but contribute nothing.

Let me preface my comments with two points. First, I believe the executive, whomever that may be, should be given wide latitude to assemble the executive team necessary to fulfill their vision and directives within the law and the resources appropriated for that purpose. I have served as a political appointee in both the executive branch and on several boards and councils. I have seen appointees removed for failure to participate to the full extent required to have a functional board or council. I have seen board members asked to resign over distracting behavior unrelated to their role. But I can't recall any circumstances where the executive branch seeks to mute the role of the legislative branch by restructuring how board or council members are appointed, especially since the legislative branch structured the board to begin with AND impugned an entire board in the manner I saw today. Alaska has a strong governor form of governance. In truth, the administration is very much in the driver's seat already with the AMHOB. We, the board, are reliant on the DOT and AMHS staff for administrative support, the flow of information, and the execution of the planning process. Board packets, often lengthy and dense in nature, are provided mostly at the last minute, with some slight improvement in the past year. Over and over, this has hampered board member's ability to participate meaningfully in many meetings or to spend valuable meeting time doing discovery so we can discuss and vote as needed. Again, this flow of information has mostly been controlled through the Commissioner's office.

As a volunteer, (in my recollection) I have missed only one board meeting, which was due to travel for medical treatment. I have attended informational sessions with ferry stakeholders outside of board meetings, and I have used my network in Coastal Alaska to ensure Alaskans engage in the planning process. Prior to my appointment to the AMHOB, I served on the AMHS Reshaping Working Group, the Marine Transportation Advisory Board (for a brief time) and provided multiple opportunities for AMHS and DOT to engage with communities in Southwest Alaska and Prince William Sound as the director of regional economic development groups. There's more I could say about my involvement with AMHS, but I will leave it there. However, I will add that I am deeply committed to the success of the AMHS. So, it is both troubling and galling to hear the Commissioner and Mr. Mills call into question the service of AMHOB members.

With those two points in mind, the Commissioner has a representative on the AMHOB. For most of the past year, the Deputy Commissioner has either remained silent or called on other staff to answer questions. This is quite different than the prior DC. Staff members are uncomfortable and constrained about what they can say. When additional information is sought from the DC, the question is deferred, and no additional information is forthcoming. I can think of at least half a dozen times when it has been clear that the DC has additional information but is unwilling to share it with the board – a fundamental violation of the DC's duties to the board. We do not sit at the table as equals if one member has information pertinent to the discussion but chooses to or has been told to withhold it. The proper thing to do under these circumstances may be to go into executive session. However, the DC either does not know this or chooses to ignore it. Again, the administration is very much in control of the flow of information. These are unforced errors. There are both procedural and diplomatic ways to smooth over these situations. But there is no effort forthcoming from the DC. If the Commissioner has no information from the AMHOB, it is because he is not being briefed by his DC. He is not reading reports on which he is copied. And he attends only brief snippets of the meetings. Giving him the benefit of the doubt, perhaps he is listening to recordings after the fact, but there is no clear indication this is the case. And I get that he has a huge job. Also, in fairness, he did call me prior to the announcement that Capt. Falvey was leaving AMHS.

The board sought and was given an opportunity to meet and interview the top candidate for AMHS General Manager. The board concurred with the decision to hire Mr. Tornga. Mr. Tornga's presence has improved the flow of information to the board. It has also helped to accelerate the pace of work on short- and long-term plans. Speaking for myself, I feel confident Mr. Tornga can restore a culture of excellence within AMHS and improve morale with all staff and crew.

I want to speak about the process for electing the chair of the AMHOB in 2023 because it was characterized that something amiss occurred. When the subject was brought up on the agenda, I asked to speak and was granted the floor. I had spoken to Mrs. Marquardt and Mr. Page prior to the meeting, asking if they are interested in serving as chair and vice chair, respectively. Both indicated they were amenable to serving in those capacities. As I began speaking, I indicated I could not serve a second term as vice chair due to what I knew would be several trips for medical care in 2023 and perhaps beyond. With that said, I nominated Shirley Marquardt for a second term and the motion was seconded. The DC and Mr. Mills objected to the motion because they had a different plan in mind - adopting election rules that the board had never seen before and nominating Ed Page as chair. It was awkward, but only so much as they became reluctant to act on the motion on the floor. I said I would not withdraw my motion as there was a second and we were in agreement. I asked that the motion be voted either up or down. Depending on the outcome of the vote, the board could then take up other motions. The board voted 8 – 1 (I think that was the final count) with only the DC voting against the motion. If the matter was awkward, I suggest it was on the part of the DC and Mr. Mills. There may have been some other procedural shuffling, but this is my recollection. It's all recorded somewhere.

Time is precious. If my service is no longer necessary or in some way disruptive, I am happy to step aside. However, the characterizations made today by Commissioner Anderson and Mr. Mills are insulting and detrimental to the role of volunteer service in state government. I copy them here as a courtesy they did not afford me or the other members of the AMHOB in advance of today's meeting. At AMHOB meetings, I ask questions and vote according to my values, my aspirations for the AMHS, and my understanding of the critical need of AMHS service to coastal communities. I am quite comfortable that I have done more than a little bit of good for the AMHS over the past forty years, long before either Commissioner Anderson or Mr. Mills knew there was an AMHS. And frankly, if there had ever been a candid conversation with either of them, I might feel better about what transpired today. But they never did reach out to me to share a concern or try to establish something beyond the cursory relationship formed during a board meeting.

Respectfully submitted,

Wanetta Ayers

A volunteer.

Shirley Marquardt

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21st February, 2024

Senate Transportation Committee, Juneau, Alaska

Senator Kaufman, Chair

Senator Wilson, Vice Chair

Senator Tobin

Senator Kiehl

Senator Myers

Public Comment Regarding: EO 131

Members of the Senate Transportation Committee,

The Alaska Marine Highway Operations Board (AMHOB) was created by the Legislature and unanimously passed by both the House and Senate as HB63 in 2021. At the time of its creation, the Administration advised the Legislature that the bill should be amended to provide the Governor with the sole authority to appoint all members of the AMHOB thus removing the Legislature from a participatory role in the creation of a long needed Long Range Plan (RFP) and oversight of the future of the Alaska Marine Highway System through the AMHOB selection process. The Legislature unanimously rejected the Administration's approach realizing the importance of the participation of duly elected regional representatives and senators to meet the intent of HB63 and passed the bill as presented (minor changes in language were made).

ADOT&PF describes the function of the AMHOB on their website as:

“ ***The Board provides input*** on the short-term plan and a comprehensive long-range plan for development and improvement of the Alaska Marine Highway System (AMHS).”

“The Board shall annually submit recommendations to the DOT&PF regarding the preparation of the STIP.”

The Board has received the STIP when out for public comment and has not been involved in the actual preparation of the STIP. The Board has made recommendations on the STIP during public comment in 2022 and 2023.

It is the ADOT&PF who are tasked with the physical work and authority to create the plan, the AMHOB is to provide advice and recommendations through the process. Several of my fellow board members were taken aback at what seemed like a suggestion from DOL in the STA meeting yesterday that it was AMHOB who was tasked with creating the LRP. If we were so tasked, one would assume that the AMHOB would have had a participatory role in writing the RFP and reviewing the respondents for the consultant(s) hired by ADOT as well as working with them directly as opposed to quarterly updates and presentations as an element of a four hour meeting.

The AMHOB has diligently pursued the creation of a timely, responsible and feasible LRP under the direction of ADOT and their planning consultants both in-house and out of state. This strategic long-range planning process is by nature a marathon, not a foot race, and the AMHOB has continuously looked for ways to simplify or streamline the process for efficiency, and to make the best use of what is almost certainly one time critical federal funding to stabilize, re-size and revitalize the AMHS.

The Board has made recommendations, given advice and questioned data presented or used by ADOT consultants at every meeting in 2023. AMHOB By-laws were crafted and approved at the July meeting as well as a RACI chart that clearly laid out the responsibility and roles of the AMHOB, ADOT&PF and AMHS in the Long range and Short term planning process. This chart was presented to the Board for their review and analysis by Senator Kaufman, and after several months of review and some clarifying edits by the Board and the ADOT team, it was adopted. We greatly appreciate the clarity this has brought to the process.

The members of the Board selected by the Governor, Senate President, and House Speaker since the start of the AMHOB in February of 2022 have provided experience, familiarity and first-hand knowledge across the range of preferred capabilities/skills listed in the statutory language of HB63. Project Management, Marine Operations, Strategic Planning, Regulatory Experience and Communications have the highest number of the board's sector experience, and the broad regional knowledge they bring is critical to the design of a successful LRP.

The AMHOB annual report to the Governor and Legislature will be delivered at our March 5 AMHOB meeting in Juneau and covers much ground.

The AMHOB is a respectful, committed group of Alaskan's who are doing their best to work through the complex challenges of stabilizing the system in the short term, and planning for the future with multiple consultants, ADOT planners, the public and the Legislature.

Director Craig Tornga has been drinking water from a firehose for months, and he is more than capable to lead the AMHS now and into the future if he has the autonomy and authority to use his decades of maritime, business and planning experience to create a new team, and make decisions that are in the best interests of the AMHS and the State. If you have any questions, please feel free to reach out to me. I am actually pretty darn nice.

Respectfully,

Shirley Marquardt AMHOB Chair 2022-2023