

HJR

25

WESTERN PIONEER, INC.

4601 SHILSHOLE AVE. N.W.
P.O. BOX 70438, SEATTLE, WA 98107
PHONE 206-789-1930
FAX 206-789-1717
800-426-6783

February 23, 1993

Representative Carl Moses
Room 204, State Capitol
Juneau, Alaska 99801-1182

Dear Representative Moses,

We read with interest your House Joint Resolution 25 regarding the proposed Coast Guard regulation for fish tender vessels engaged in the Aleutian trade. As a fish tender operator, we at Western Pioneer share your concern about the impact such regulations will have on the level of service and the freight rates to Aleutian and Alaska Peninsula communities.

The series of proposed regulations from the U.S. Coast Guard will require major structural changes to all Western Pioneer, Coastal and Sunmar vessels. These proposed new regulations were required under the Aleutian Trade Act of 1990, which specifically concluded that no expensive retrofitting of vessels be required. Unfortunately, the Coast Guard did not receive the message and the proposed regulations would effectively put 75% of the existing "mosquito fleet" out of service.

All of the Western Alaska seafood companies and coastal communities would be effected by this change in regulation. By a reduced shipping capacity during the refit and increased rates to pay for the modifications. Shipping option would be severely limited as a result of these proposed regulations.

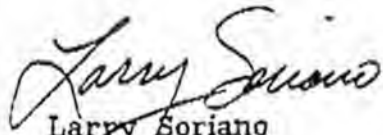
Most of these new regulations are done in the name of "safety," an sensitive area in our industry about which we are all concerned. We are all for enhanced safety, and our track record in this particular area is extremely positive. The proposed Coast Guard regulations, for the most part, have little to do with safety. Instead the proposed regulations call for vessel modifications well in excess of those in the industry for existing fishing vessels.

The public comment period for these proposed regulations is over February 28th. Thus far, only a handful of comments regarding these proposed regulations have been received by the Coast Guard from the fishing industry and the coastal Alaska communities. This is probably because people are not aware of the issues at stake, but given the tremendous effect the new regulations will have on the fishing and seafood industries, along with the coastal communities, your resolution is of critical importance.

Representative Moses
Aleutian Trade Act
February 19, 1993

Attached is some background material on the proposed regulations for anyone who may have questions about the issue or some of the background on the Aleutian Trade Act. If there are questions, please do not hesitate to call us. These regulations are important to not only Western Pioneer, Coastal and Sunmar, but the whole fishing and seafood processing industry and the coastal communities we serve. Your resolution will let the Coast Guard know the sentiments of the good people you represent. We here genuinely appreciate your efforts.

Sincerely,



Larry Soriano
Vice President
Western Pioneer, Inc.

Alaska State Legislature

Representative Carl E. Moses



CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL FISHERIES COMMITTEE

MEMBER
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SESSION:
CAPITOL BUILDING, ROOM 204
JUNEAU, ALASKA 99801-1182
PHONE: (907) 485-4451
FAX: (907) 485-3445

INTERIM:
P.O. BOX 109
UNALASKA, ALASKA 99685
PHONE: (907) 581-1234
FAX: (907) 581-2875

MEMORANDUM

TO: Senator Bert Sharp, Chair
Senate Transportation Committee

FROM: Representative Carl Moses, Chair 
House Rules Committee

DATE: February 25, 1993

RE: Request for scheduling HJR 25

HJR 25 passed the House today and is being transmitted on an expedited basis to your committee. I would respectfully request that it be heard at the earliest possible date.

Residents of the Aleutian Islands have historically relied on domestic fish tender vessels to provide freighter services for general and fisheries cargo. These vessels have provided reliable service to small remote communities along the Aleutian chain on a year-round basis. However, the United States Coast Guard's proposed vessel safety regulations would require extensive alterations so costly that the Coast Guard itself predicts that 75% of the current fleet will be forced out of service. The additional costs due to retrofitting the remaining vessels would be passed directly to the fishing industry and communities of the Aleutian chain.

This resolution expresses the support of the Alaska State Legislature for the continued existence of the small "mosquito" fleet of fish tender vessels in the Aleutian Islands chain.

Although the deadline for public comments is February 28, 1993, I have been assured that any resolution from the Legislature will be included in the public record if it is received shortly after the deadline. For that reason, I ask your assistance in scheduling this resolution for a hearing in your committee on Tuesday, March 2, if at all possible. Thank you for your consideration of this request.

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PROPOSED COAST GUARD REGULATIONS WOULD DRAMATICALLY DECREASE EXISTING FREIGHT SERVICE TO THE ALEUTIAN ISLANDS WHILE SUBSTANTIALLY INCREASING ITS COST

The Coast Guard recently proposed regulations (CGD 88-079a) to implement the Aleutian Trade Act of 1990 (P.L. 101-595) (the "ATA") which, if adopted, would require the fish tender fleet of Coastal Transportation, Sunmar Shipping and Western Pioneer, Inc. (the "Aleutian Trade Vessels") to substantially retrofit their existing vessels - notwithstanding an explicit Congressional directive prohibiting such vessel alterations - in a manner so costly that the Coast Guard itself predicts that 75% of the current fleet will be forced out of service. The additional costs due to retrofitting of the remaining vessels, as well as the increased costs inherent in the reduction of competition among carriers, would be passed directly to the fishing industry and communities of the Aleutian Chain.

1. Congress Has Historically Recognized the Unique Transportation Needs of the Fishing Industry and the Aleutian Islands.

For decades fish tender vessels have filled a unique transportation void by producing freight service to the fishing industry and to remote communities dependent on that industry throughout Alaska. Since the late 1960s Congress has expressly recognized these unique needs in a series of enactments authorizing uninspected fish tender vessels to carry fisheries and other cargoes in service to these communities. The Aleutian Trade Vessels have filled these needs with consistent, economical, reliable and safe service to Western Alaska. The large common carriers that have more recently begun service to Dutch Harbor are not prepared to provide, and have not provided, local service directly to the more remote communities and fishing operations now served by the Aleutian Trade Vessels.

2. The Aleutian Trade Act Balanced the Competing Objectives of Continuing Service to Remote Areas in Alaska and Enhancing Vessel Safety Standards.

In 1989, these large common carriers opposed the continuation of the special authority permitting Aleutian Trade Vessels to serve these communities. In an effort to eliminate their competition, these large carriers argued for retrofits of the existing Aleutian Trade Vessels of such magnitude and cost that many vessels would necessarily

be put out of service. Recognizing that these vessels were the lifeline of many Alaskan communities, Congress fashioned a compromise with the enactment of the ATA that (1) continued without interruption the general cargo/fisheries supply service available only from the Aleutian Trade Vessels while at the same time (2) upgrading the safety and manning requirements for these vessels. In the words of Congressman Don Young (R-AK):

This legislation has been agreed to by all participants in the Aleutian trade...[it] represents a compromise necessary to provide greater safety to vessels in the trade, while ensuring that remote communities in Alaska do not lose their cargo service. (emphasis added)

136 Cong. Rec. H13364 (daily ed. Oct. 27, 1990).

Throughout the negotiations leading up to enactment of the ATA, there was a clear recognition that the retrofiting necessary to achieve the new vessel safety standards could not be so substantial as to render the modifications uneconomic because that would frustrate the ATA's parallel objective of continuing the existing Aleutian service. As finally enacted, the statutory authority for the new requirements contains an express prohibition against the adoption of regulations that require alterations to vessels constructed before the effective date of those regulations. 46 U.S.C. § 4502(e)(2). Participants in the Aleutian Trade would not have agreed to this legislation without this safeguard; otherwise 3 out of 4 vessels would be forced out, resulting in the loss of service to remote areas.

3. The Coast Guard Rule Making Ignores this Congressional Balance by Proposing Cost Prohibitive Retrofitting Which Would Estimate 75% of the Existing Aleutian Trade Vessels While Increasing the Cost of Service of the Remaining Vessels.

While acknowledging the existence of the express Congressional directive against requiring vessel alterations, the Coast Guard nonetheless has proposed an interpretation strongly advocated by the large carriers that would require the existing Aleutian Trade Vessels to comply with regulations designed to apply to new construction and vessels undergoing major conversions. The companies involved in the Aleutian Trade strongly dispute this interpretation.

By the Coast Guard's own admission, these requirements are so stringent that "only five [of the 20 existing fish tender vessels] are expected to remain in the Aleutian Trade." U.S. Coast Guard Draft Regulatory Evaluation (CGD 88-079a) at page 17. The proposed application of these new construction and equipment regulations to the existing vessels would in some cases exceed those required for fully inspected large carriers. For

example, the proposed regulations would require significant and unnecessary alterations such as removal and replacement of all fuel oil service and transfer piping with seamless pipe (proposed rule 46 C.F.R. § 28.335). The use of seamless pipe can be readily accommodated in building a new vessel, but it is unreasonable and exceedingly costly to require perfectly good piping to be ripped out of an existing vessel for the sole purpose of replacing it with the seamless pipe.

Even for those few remaining Aleutian Trade Vessels, the new equipment and construction requirements will cause them to be taken out of service for months while alterations are made. The retrofitting costs will necessarily be passed on to consumers. As competition is reduced, rates are likely to increase particularly with the domination of the Dutch Harbor trade by a single large carrier.

The Aleutian Trade Vessels have provided efficient and reliable service to Western Alaska and have done so with an excellent safety record. The Coast Guard acknowledges there is no evidence "concerning casualties or fatalities on...fish tender vessels operating in the Aleutian Trade." Draft Regulatory Evaluation at page 38. The vessels' owners have already met new manning and safety requirements mandated by the ATA. They are fully prepared to meet additional safety requirements provided only that they are not required to undertake cost prohibitive retrofitting that will frustrate the Congressional purpose of continuing uninterrupted service to the Aleutian Islands.

CONTACT THE COAST GUARD NOW

If you are concerned about increased costs for transportation services to Western Alaska, the reduction of competition, undue reliance on a single large carrier and the complete loss of service to locations other than Dutch Harbor, you should contact the Coast Guard immediately.

The Coast Guard should be told of the importance of the existing service to your business and community and the impact if such service were lost or became significantly more expensive. The Coast Guard should also be urged to follow the Congressional directive in 46 U.S.C. § 4501(e)(2) against requiring vessel alterations to existing fish tender vessels constructed before the effective date of the regulations.

Comments should reference "Implementation of the Aleutian Trade Act (CGD 88-79a)". You may call Coast Guard's toll-free number at 1-800-282-8724 or preferably send written comments to the following address for arrival no later than February 28, 1993:

Executive Secretary
Marine Safety Council (G-LRA-2/3406)

U.S. Coast Guard Headquarters
2100 Second Street S.W.
Washington, D.C. 20593-0001

Copies should also be sent to your Congressional delegation including all of the following:

Senator Ted Stevens
522 Senate Hart Office Bldg.
Washington, D.C. 20510
Fax (202) 224-1044

Senator Slade Gorton
730 Senate Hart Office Bldg.
Washington, D.C. 20510
Fax (202) 224-9393

Senator Frank Murkowski
709 Senate Hart Office Bldg.
Washington, D.C. 20510
Fax (202) 224-5301

Senator Patty Murray
B-34 Dirksen Senate Office Bldg.
Washington, D.C. 20510
Fax (202) 224-0238

Congressman Don Young
2331 Rayburn House Office Bldg.
Washington, D.C. 20515
Fax (202) 225-0425

Congresswoman Jolene Unsoeld
1508 Longworth House Office Bldg.
Washington, D.C. 20515
Fax (202) 225-9095

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COASTAL TRANSPORTATION, INC.

4025 - 13th Avenue West

Seattle, Washington 98119

PROPOSED COAST GUARD REGULATIONS WOULD SUBSTANTIALLY INCREASE
THE COST OF EXISTING FREIGHT SERVICE TO THE ALEUTIAN ISLANDS
AND WOULD RISK REDUCTION AND POSSIBLE LOSS OF SUCH SERVICE

The Coast Guard recently proposed regulations (CGD 88-079a) to implement the Aleutian Trade Act of 1990 (P.L. 101-595) (the "ATA") which, if adopted, would require the fish tender fleet of Coastal Transportation, Sunmar Shipping and Western Pioneer (the "Aleutian Trade Vessels") to substantially retrofit their existing vessels--notwithstanding an explicit Congressional directive prohibiting such vessel alterations--in a manner so costly that the Coast Guard itself predicts that 75% of the current fleet will be forced out of service. The additional costs due to retrofitting of the remaining vessels, as well as the increased costs inherent in the reduction of competition among carriers, would be passed directly to the fishing industry and communities of the Aleutian chain.

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In 1989, these large common carriers opposed the continuation of the special authority permitting Aleutian Trade Vessels to serve these communities. In an effort to eliminate their competition, these large carriers argued for the retrofits of the existing Aleutian Trade Vessels of such magnitude and cost that many vessels would necessarily be put out of service. Recognizing that these vessels were the lifeline of many Alaskan communities, Congress fashioned a compromise with the enactment of the ATA that (1) continued without interruption the general cargo/fisheries supply service available only from the Aleutian Trade Vessels while at the same time (2) upgrading the safety and manning requirements for these vessels. In the words of Congressman Don Young (R-Alaska):

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Throughout the negotiations leading up to the enactment of the ATA, there was a clear recognition that the retrofiting necessary to achieve the new vessel safety standards could not be so substantial as to render the modifications uneconomic because that would frustrate the ATA's parallel objective of continuing the existing Aleutian service. As finally enacted, the statutory authority for the new requirements contains an express prohibition against the adoption of regulations that require alterations to vessels constructed before the effective date of those regulations. 46 U.S.C. § 4502(e)(2).

The Coast Guard Rulemaking Ignores This Congressional Balance by Proposing Cost-Prohibitive Retrofitting Which Would Eliminate 75% of the Existing Aleutian Trade Vessels While Increasing the Cost of Service of the Remaining Vessels.

While acknowledging the existence of the express Congressional directive against requiring vessel alterations, the Coast Guard nonetheless has proposed an interpretation strongly advocated by the large carriers that would require the existing Aleutian Trade Vessels to comply with regulations designed to apply to new construction and to vessels undergoing major conversions. The companies involved in the Aleutian trade strongly dispute this interpretation.

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SESSION:
CAPITOL BUILDING, ROOM 204
JUNEAU, ALASKA 99801-1182
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INTERIM:
P.O. BOX 109
UNALASKA, ALASKA 99585
PHONE: (907) 581-1234
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SPONSOR STATEMENT for HJR 25

Implementation of the Aleutian Trade Act of 1990

Residents of the Aleutian Islands have historically relied on domestic fish tender vessels to provide freighter services for general and fisheries cargo. These vessels, and in particular, those operated by Coastal Transportation, Sunmar Shipping, and Western Pioneer, have provided reliable service to small remote communities along the Aleutian chain on a year-round basis. Unlike foreign freighters, they are regulated, and are willing to take low volume cargo to and from the smaller ports. They have a proven safety record, and have met new manning and safety requirements.

However, the United States Coast Guard is now obligated to implement two new pieces of national legislation - the Aleutian Trade Act of 1990 and the Commercial Fishing Industry Vessel Safety Act of 1988. In the Aleutian Trade Act, Congress fashioned a compromise so that the traditional tender supply service would not be interrupted, yet safety requirements would be upgraded. One provision of the legislation specifically prohibits the adoption of regulations that require alterations to vessels constructed before the effective date of those regulations. However, the Coast Guard's proposed vessel safety regulations ignore that provision, and would require extensive alterations so costly that the Coast Guard itself predicts that 75% of the current fleet will be forced out of service. The additional costs due to retrofitting the remaining vessels would be passed directly to the fishing industry and communities of the Aleutian chain.

This resolution expresses the support of the Alaska State Legislature for the continued existence of the small "mosquito" fleet of fish tender vessels in the Aleutian Islands chain. Although the deadline for public comments is February 28, 1993, I have been assured that any resolution from the Legislature will be included in the public record. I ask your support for this resolution.