

649

SC

FILE NO. 20

649

MARINE  
PILOTS

GUS NORWOOD, FORMER ADMINISTRATOR, ALASKA POWER ADMINISTRATION

FRED SLOAN, BIA - ANEC

FLOYD J. GENTY, PRESIDENT ARCA

ROBERT A. HICKMAN, SECRETARY - TREASURER ARCA

BOTH % GOLDEN VALLEY ELECTRIC ASSOCIATION, INC

758 ILLINOIS

FRESNO 94701



Alaska Standards of Practice ~~seems to be~~ ~~no C found~~

forget now

7. Section 08.62.150 should be amended to include failure to maintain qualifications for the original license as a basis for mandatory revocation, suspension, or refusal to re-issue a license.

8. In keeping with the Board's mandate to provide for the maintenance of efficient pilot service for Alaska, AS 08.62.040(4) should be amended to require that marine pilot associations have their records audited annually by a certified public accountant approved by the Board, a copy of such report shall be submitted promptly to the Board.

\* Pilot present  
- 4 hours  
- services used  
- that would  
- cost.

see AOM letter & bring up  
at next meeting.

Walter Stone +  
O.L.

~~P3 #1, 1 - replace one member  
from up ~~in~~ - 07 expand the  
1 tanker member board by one member.~~

Change membership of  
board

BOARD OF MARINE PILOTS

1. Section 08.62.040(4) should be amended to read:

The Board shall:

*OK*

~~(4) regulate pilotage fees and consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), justifying the setting of these fees.~~

*The cost of audits required by regulation to carry out this section shall be the responsibility of the board.*

OR

The Board shall:

~~(4) regulate pilotage fees and develop specific regulations to substantiate these fees.~~

~~(a) the Board shall establish regulations for input by marine pilots, industry, and public in the setting of these fees.~~

2. AS 08.62.040 (a) (3) Repeal [vessels] [operators] and [managers] in section.

(a) The Board shall:

OK  
(3) Keep a register of licensed pilots and agents. Evidently, vessels with over 1600 gross tons of cargo, or those vessels which carry dangerous cargo (chemicals, etc.) must give 24-hour notice to the Coast Guard before their arrival to the Captain of the particular port. (Registry, etc.)

Operators and managers are not proper terms.

3. Agents who represent ships subject to the state pilotage Act shall pay a biennial registration fee of \$100.00.

OK  
The agents are not paying any registration fee at this time and by doing so they would be more likely to register. There is evidently a large number of agents who are not registered at this time and this suggestion could help alleviate this problem. The pilots are required to pay a fee so the agents should also. This would also give the general fund more monies which might allow more than one meeting a year by the Board of Marine Pilots.

BOARD OF MARINE PILOTS

For the Committee's information see attached letter from the Department of Transportation, State of Washington, regarding the procedures in establishing their pilotage fees.



STATE OF  
WASHINGTON

Dixy Lee Ray  
Governor

DEPARTMENT OF TRANSPORTATION

Washington State Ferries, Seattle Ferry Terminal  
Seattle, Washington 98104 206/464-7800

BOARD OF PILOTAGE COMMISSIONERS

October 23, 1979

Ms. Elaine Garrett  
Department of Commerce & Economic  
Development  
Division of Occupational Licensing  
Pouch D  
Juneau, AK 99811

Dear Ms. Elaine Garrett:

This letter responds to your telephone inquiry as to how pilotage tariffs are set in Washington State.

The Board of Pilotage Commissioners is charged with the annual setting of pilotage fees (RCW 88.16.035(4)). A copy of the current pilotage act is attached. For many years it has been the practice that the pilots associations, and the Puget Sound Steamship Operators Association (their pilotage committee) will negotiate a level of fees to which both sides ultimately come to an agreement. With previous communication, as the negotiations progress, the Board will set a hearing date to hear testimony and ask questions of the two sides as to how the agreement was reached. Because of the agreement between the parties, the Board is usually inclined to adopt the rates as proposed. The rate hearings are therefore usually very short in duration and when completed the usual monthly meeting is commenced (the hearing is set on the day of the regular meeting).

Last year the Grays Harbor pilots received a 7% increase; the Puget Sound pilots received a rate increase of 8.3%, covering an 18 months period. Negotiations are commencing now for the next round.

As you can see the Board spends very little time in the actual tariff making process. We feel this is better handled by the parties directly involved, i.e., the ones providing the services and the ones paying the bills.

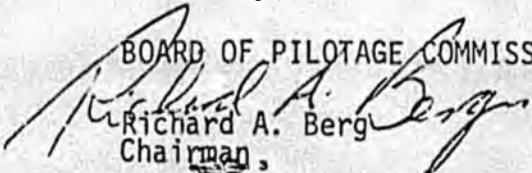
Copies of the two current tariffs are attached along with copies of minutes of the two hearings at which they were adopted.

We hope this information will be of assistance to you in your efforts to establish your next set of tariff changes. If any members of the Commission or your staff are interested, our Board meetings are held the second Thursday of each month. We would be delighted to have you attend so as to exchange matters of mutual interest and concern.

Please let us know if we can be of further assistance.

Sincerely,

BOARD OF PILOTAGE COMMISSIONERS

  
Richard A. Berg  
Chairman

RAB: ht  
enc.

*Chris*  
**Southeastern Alaska Pilots' Association**

CABLE ADDRESS: SEAPILOTS

P. O. BOX 6100  
KETCHIKAN, ALASKA 99901**SOUTHEASTERN ALASKA PILOTS' ASSOCIATION**  
Testimony (Teleconference)  
Senate Commerce Committee  
December 10, 1979

Good afternoon Mr. Chairman. My name is Eugene Richards and I am a marine pilot living in Ketchikan. I represent the Southeastern Alaska Pilots' Association as their Association president.

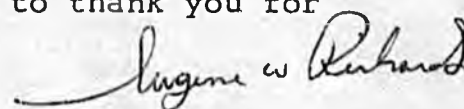
Our Association recommends that the Board of Marine Pilots be retained. We firmly believe that the State should not relinquish any further jurisdiction of our state waters to the Federal Government.

Furthermore, the Commandant of the U.S. Coast Guard has already stated his policy regarding state pilotage in his letter to Captain Pat Neely, President of the American Pilot Association. The complete letter was forwarded previously to your audit board.

I would like to quote one paragraph as follows:

"The first issue is with respect to the position of the Coast Guard on state pilot organizations. On this issue I would like to set the record straight, once and for all. The Coast Guard has no intent or desire to supplant or replace the state pilots organizations with a federal pilot scheme. State pilots have played and will continue to play a major role in United States pilotage."

This concludes my testimony and I wish to thank you for this opportunity.

  
Capt. Eugene W. Richards  
President

EWR/cjp

AMERICAN INSTITUTE OF MERCHANT SHIPPING

Testimony Before

ALASKA HOUSE COMMERCE COMMITTEE

SUNSET HEARINGS ON ALASKA BOARD OF MARINE PILOTS

January 30, 1980

By D. J. Paul, Jr.

West Coast Fleet Manager

Exxon Co., USA

My name is Dan Paul, West Coast Fleet Manager, Exxon Co., USA. Today I represent the American Institute of Merchant Shipping (AIMS), a national trade association comprised of 28 companies who own, operate or charter the majority of United States flag tankers, liquefied gas carriers and other bulk carriers, aggregating nine (9) million deadweight tons.

AIMS acts as a voice for many activities in our industry, one of which pertains to marine pilotage. Within AIMS' structure we have a number of committees that interface with U.S. delegations participating in deliberations with the Intergovernmental Maritime Consultative Organization (IMCO). IMCO's main objective is to facilitate cooperation among governments on technical matters affecting international shipping, in order to achieve the highest practicable standards of maritime safety and navigation.

Our Pilotage Committee philosophy embodies this concept as we are concerned with qualifications, training and licensing; the master-pilot relationship and other matters which follow the objective of maritime pilotage which, as I think you will agree, is the enhancement of safety.

AIMS' National Pilotage committee and its subcommittees include among its membership a substantial percentage of the users of pilotage services rendered by Alaska State Pilots. I would like to thank you for the opportunity to express AIMS' views regarding the Alaska Board of Marine Pilots.

AIMS concurs with the Division of Legislative Audit's report that the Board of Marine pilots should continue to regulate and license Marine pilots for the State of Alaska. The report highlighted several key issues which AIMS agrees deserve the legislature's attention. I would like to focus your attention on a few of the more important of these in my testimony today.

#### Licensing State Pilots

AIMS is dedicated to the establishment and maintenance of high levels of pilotage performance and believes that this can best be achieved through the development and acceptance of universally applicable standards which should be established by a

national pilotage authority.

Under the U.S. Constitution, pilotage legislation falls within the purview of the Federal Government as part of its authority to regulate commerce. However, the first Congress delegated to the states the right to control pilotage for vessels "until further provision is made by Congress." Congress has since exempted U.S. Flag vessels operating under enrollment from state pilotage and returned them to Federal control.

The U.S. Coast Guard is charged with the responsibility to insure that federally licensed pilots possess the requisite knowledge and skills and is the logical choice to play the lead role in establishing proper uniform standards for pilotage, both state and federal. When these standards are developed, they can provide guidelines for the coast Guard as well as state and local authorities in establishing necessary training and certification programs. Until this long range goal can be accomplished, AIMS urges the State of Alaska to establish active liaison with the U.S. Coast Guard to accomplish the following:

- 1) Continue to require federal pilotage endorsements as a prerequisite to state pilotage.
- 2) Eliminate those state license examination requirements which duplicate federal pilotage examinations.
- 3) Seek active U.S. Coast Guard liaison on the Board of Marine Pilots.

#### Pilot Recertification

AIMS agrees with the state that recertification procedures are required to insure that pilot qualification is maintained. However, the recertification procedures are too vague to assure that the intent of the regulation is met. AIMS would be happy to assist the Board in developing realistic recertification procedures which insure pilot competency in each port area. In this regard, I understand that the USCG will, in the near future, initiate new procedures for recertification of federal pilots. We would encourage the Board's thorough evaluation of these procedures.

Pilot Discipline

Implicit in the authority to certify a pilot is the responsibility and authority to investigate casualties and take disciplinary action. Alaska has recognized this responsibility by allowing the Board to take action against a pilot who "is incompetent in the performance of his pilotage duties" or "is guilty of misconduct during the course of his employment." However, AIMS agrees with the Legislative Audit report that these terms are too vague and need to be clarified and suggests seeking the advice of the Coast Guard, the pilots and the industry in doing so. We also agree that provisions should be made for revocation or suspension of a state license if corresponding action is taken against the pilot's federal license by the USCG.

Regulation of Fees

The Board is currently directed by statute to regulate pilotage fees. Because of the monopoly situation created by state pilot associations with respect to Foreign Flag Vessels and U.S. Flag Vessels under registry, AIMS agrees with the Legislative Audit report that it is in the public interest for the Board to continue this responsibility. AIMS is pleased with the Board's increased interest and more active involvement in regulating fees, because we believe the Board provides a proper forum for public debate of the complex issues involved in establishing fair and equitable rates. In fact, we believe that active involvement of the Board in establishing pilot tariffs is the only viable mechanism currently available to the pilots and industry to debate the issues and would strongly object to any reduction in the Board's involvement.

As evidence of the Board's responsiveness to this need, it recently adopted standards for the review of pilotage rate proposals. AIMS commends the Board for moving in this direction, but proposes once again that the more detailed standards which AIMS recommended to the Board in December would provide a more suitable framework within which to fully consider the pertinent issues associated with changes

in pilotage rates. These issues include, among others, individual pilot income, workload, time off, benefits, travel and standby time, expenses and equitable distribution of costs to users by pilotage ground and vessel size.

As a matter of good business practice, AIMS strongly recommends that state pilot associations be required to have their financial records audited annually by a certified public accountant. This will also insure that consistent records are available when required for consideration of a rate increase.

#### Board Administration

AIMS supports the Legislative Audit report's recommendation that the Board prepare a procedures manual to govern its activities and to improve its efficiency.

#### Board Composition

Since the start up of the trans-Alaska Pipeline System, the tanker industry has become a significant user of Alaskan State Pilotage. Because of the increased importance of this industry as a user group and because of the significant contribution it could make to the Board through its resources and experience, AIMS recommends that the tanker industry be represented on the Board.

#### Regulation of Enrolled Vessels

As stated earlier in my testimony, regulation of enrolled vessels was returned to federal control sometime ago by Congress. However, in 1977 Alaska enacted a statute which established certain pilotage requirements for enrolled tankers. The Legislative Audit report points out in Section III.2 on Page 20 that the state has no jurisdiction over these vessels because of federal law. AIMS shares this view and strongly recommends that the legislature take steps to repeal those sections of the statute (AS 08.62) as required to conform to federal law. As I indicated earlier, the vessels affected by this statute are already required to be under federal pilotage, and it is AIMS' view that the welfare of the State would not be compromised by this action.

In closing, let me thank you again for permitting me to express AIMS' views on these issues. I will be happy to try to answer any question you may have.

## Southeastern Alaska Pilots' Association

CABLE ADDRESS: SEAPILOTS

P. O. BOX 6100  
KETCHIKAN, ALASKA 99901

January 28, 1980

T E S T I M O N Y

Good morning Mr. Chairman, members of the committee. I am Harley Clough and I live in Juneau. I am an active pilot and am President of the Southeast Alaska Pilots Association. I am here to testify in support of retaining the Board of Marine Pilots, essentially in its' present form. In reading and studying the Performance Review of the Board of Marine Pilots, I feel the Division of Legislative Audit has failed to grasp and understand the state pilotage system and I have several comments on this subject.

The report states the State Pilot exam duplicates the C.G. exam and recommends eliminating the state exam. Here, the legislative audit has completely missed the mark. I will agree there are some duplications which perhaps should be changed but the exams do not duplicate each other. The state exam concentrates on the daily gut work of a pilot; his detailed knowledge of Alaskan waters and his ability to maneuver large ships in and out of ports under Alaskan conditions. These things are not learned from a book and are the foundation of a pilot's job.

The Coast Guard exam is an academic exercise based on texts and federal government publications. You could purchase this information in any city in the country, and if the CG would permit, take and pass the Coast Guard test without ever seeing Alaska. There is no way an applicant can pass the oral and written state pilot exam without really knowing the Alaskan ports and really knowing how to handle ships. For Alaskan Pilotage, a far better argument would be to eliminate the CG exam and expand the State Pilot test.

Throughout this report, legislative audit has attributed the Coast Guard with a capability and an expertise they do not possess. In Alaskan pilotage, we are concerned in a through knowledge of Alaskan waters and with mainly handling of large ships. The Coast Guard has no large ships and have little experience in this area. Similarly, military rotation and other policies severely limit the sea-going experience of any CG officer in Alaskan waters. The degree of practical experience of the Coast Guard in Alaskan pilotage matters is almost non-existent. Believe me, the State Board of Marine Pilots is a far more experienced and competent regulatory body to supervise Alaskan pilotage matters than the United State Coast Guard.

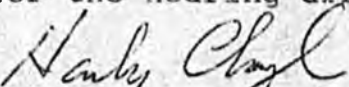
Also, as a long time Alaskan resident, I strongly object to any suggestion which invites a federal regulatory agency to assume an interest in state affairs.

The legislative audit report states the Board of Marine Pilots takes little interest in tariff matters and has been a rubber stamp for previously arranged pilot-industry agreements. This simply is not true. I have appeared before the Board on a number of occasions to discuss tariff matters. The Board has always taken a high degree of interest in the tariff. Several years ago the Commissioner of Commerce suggested the pilots and agents get together and work out a preliminary tariff for the Board. This duplicated a long established precedent used in Washington state. This was done on only one occasion and the Board has subsequently rejected this procedure. In Southeast Alaska 98% of pilot tariffs are paid by foreign ship owners. The U.S. agents have been diligent in protecting the foreign interests. There have been no tariff give-aways. Indeed, I have been often dismayed at the length the Board and the State have gone to secure and protect these foreign business interests.

On Page 41 of the Performance Report there is a ship owners and agents comment which states "We have no control of a pilot, we hire through an Association". Now this comment would appear to be a legitimate criticism of the Pilotage system and I'm sure that the legislative audit specifically included it in the report for this reason. A casual reader of the report might also agree that their critical remark has merit. However, he would be wrong to do so - completely and absolutely dead wrong. A state licensed pilot is not supposed to be under control of the ship owner. A pilot's main responsibility is for the safety of the ship - not financial interest of a Greek owner of a Liberian ship sailing with a Chinese captain and mixed nationality crew. A pilots first responsibility is to protect the lives and property of Alaskans and the Alaskan environment - not adhere to some oil company's shipping schedules. This is what the state pilotage system is all about.

In conclusion, Mr. Chairman, I want to commend the Board of Marine Pilots to the committee. The Board has done a good job during the ten years of its existance. Board members have put in many hours of work without remuneration. The Board has cost the state virtually nothing to operate during the period. Indeed, much of legislative audit criticism is directly due to the lack of necessary funds for the Board to conduct its business. Again, I say the Board has done a good job for the State, for the citizens of Alaska, and for the marine industry.

I appreciate the opportunity to testify before this committee and I want to thank the committee and its staff for the hearing arrangements they have provided.

  
Harley Clough  
President  
Southeast Alaska Pilots

A  
I  
M  
S

# AMERICAN INSTITUTE OF MERCHANT SHIPPING

1625 K Street, N.W., Suite 1000, Washington, D.C. 20006

Telephone 202/783-6440

Telex: 89-424 AIMSHIP WSH

February 29, 1980

Honorable W. E. Bradley  
Chairman, Senate Commerce Committee  
State of Alaska  
State Capitol  
Pouch V - Mail Stop 3100  
Juneau, Alaska 99811

Dear Senator Bradley:

At the January 30, 1980, Sunset Hearings on the Board of Marine Pilots held by the House Commerce Committee in Juneau, I presented testimony on behalf of the American Institute of Merchant Shipping (AIMS). During discussions following my prepared testimony, I was requested to categorize AIMS' recommendations into statutory and regulatory proposals. I am pleased to respond at this time to that request, and would also like to take this opportunity to offer further comment on other issues not fully explored during the Hearing which may have a bearing on your deliberations.

With respect to categorizing AIMS' recommendations into statutory or regulatory proposals, I offer the following:

### Licensing State Pilots

1. Continue to require Federal pilotage endorsements as a prerequisite to State pilotage.

*No action is requested. This requirement is included under 12 AAC 56.030(2).*

2. Eliminate those State license examination requirements which duplicate Federal pilotage examinations.

*It is recommended that language be added to AS 08.62.-040(2) permitting elimination of examination requirements*

3. Seek active USCG liaison with the Board of Marine Pilots.

*It is recommended that the Board of Marine Pilots be encouraged to solicit active liaison with the U. S. Coast Guard regarding establishment of appropriate guidelines for pilot qualification, examination, recertification and discipline. In this regard, we encourage the State to request such a U. S. Coast Guard representative to be stationed in, or be in close contact with, U. S. Coast Guard Headquarters in Washington. This will ensure uniformity of application nationwide.*

Pilot Recertification

As indicated in AIMS' Testimony, recertification procedures are too vague to assure that the intent of the legislature is met. In addition, the USCG will, in the near future, issue new procedures for recertification of Federal pilots. AIMS proposes that a committee of interested parties, including the pilots, industry, USCG and Board of Members be established to identify and recommend statutory or regulatory changes to strengthen this most important area.

Pilot Discipline

1. Clarify the terms "incompetent" and "misconduct."

*This subject should be included in the scope of the previously recommended Committee's work.*

2. Suggest Alaska standards for revocation or suspension of State pilot licenses be established similar to USCG standards and procedures for revocation or suspension of Federal pilot licenses.

*AIMS proposes Section 08.62.150 should be amended to include failure to maintain qualifications for the original license as a basis for mandatory revocation, suspension, or refusal to re-issue a license.*

Regulation of Fees

1. Provide more detailed criteria for evaluating pilot-age rate changes.

*Section 08.62.040(4) should be amended to require that*

*individual pilot compensation must be adequate, but not excessive, to assure that qualified personnel are attracted to the service, and that consideration must be given to difficulty of pilotage, length of time on the job, hours on standby, area standards of living, ratio of time off to time worked, benefits, necessary expenses, including pilot boat cost if required, and equitable distribution of these costs to the users of the pilotage service.*

2. Require annual financial audit of pilot associations by state auditors with the audit available to the public.

*In keeping with the Board's mandate to provide for the maintenance of efficient pilot service for Alaska, AS 08.62.040(4) should be amended to require that marine pilot associations have their records audited annually by a certified public accountant approved by the Board, a copy of such report shall be submitted promptly to the Board.*

#### Board Composition

1. Provide for tanker industry representation on the Board.

*It is proposed that AS 08.62.101 be amended to specify that one industry member of the Board be a representative of the tanker industry. This member could make a significant contribution to the Board through the industry's resources and experience. In order to assure that a person of sufficient experience and knowledge is available for service to the Board, the State residency requirement for that representative should also be expanded to permit any U.S. citizen to qualify for appointment.*

#### Regulation of Enrolled Vessels

1. Eliminate those Sections of State Statute AS 08.62 added by passage of HB 510 in 1977 because they conflict with Federal law.

*AS 08.62.185 should be repealed in its entirety for reasons already presented in AIMS' testimony.*

In addition to clarifying AIMS' proposals to the Committee, I would like to discuss more fully two statements which were made by others during the Hearings which were inaccurate.

The first was that pilots assume responsibility for the safe navigation of the vessel when piloting. This statement is not consistent with the widely recognized master/pilot relationship which, by Federal and international law, holds the master fully and ultimately responsible for the safe navigation of the vessel at all times except when transiting the Panama Canal. The pilot, whether required by law or not, acts as an advisor to the master with respect to local conditions. Any orders which the pilot may give to the helmsman are given under the direct supervision of the master and with his approval. The master has the responsibility and authority to countermand any order given by the pilot, or to relieve the pilot if he believes the safety of the ship is being jeopardized.

A second statement was made that Federal, or employee, pilots are influenced by the vessel owner to "maintain schedule or move the vessel with unacceptable margins of safety," and therefore the State pilot "places a higher priority on the protection of life, property and the environment." This argument is obviously without merit when one considers the owner's investment in his ship, its cargo and crew and the social and financial consequences which would result from a vessel casualty. No one has more to lose than the U.S. ship owner when safety is not the paramount consideration in vessel operation.

Furthermore, it is not necessary for a Federal pilot to be an employee of the shipowner or operator. Independent Federal pilot services are available at many U.S. ports and provide both channel navigation and docking pilot services.

In closing, let me thank you again for the opportunity to express AIMS' views on this most important matter. I will be happy to try to provide you and other members of the Committee with any further information you may request.

Very truly yours,



Mark R. Johnson  
Assistant to the Director  
of Marine Affairs

/for/ Daniel J. Paul, Jr.

cc: Honorable Fred Brown  
✓Honorable Arliss Sturgulewski  
Honorable Tim Kelley  
Honorable Frank R. Ferguson  
Honorable Terry Stimson  
Honorable Joyce Munson  
Honorable Hugh Malone  
Honorable Alvin Osterback  
Honorable Robert Bettisworth  
Honorable Richard Halford  
Honorable Richard Randolph  
Commissioner Charles Webber, Chairman, Board of Marine  
Pilots

TESTIMONY FOR SUNSET LEGISLATION  
ON STATE PILOT BOARD

The term pilot can be described in a couple of different ways.

The federally or Coast Guard licensed pilot is subject to the selection and control of the shipowner. The Coast Guard license can be obtained by getting between 5 and 20 observation trips and then sitting for an examination. This by law qualifies any person to pilot enrolled vessels with no demonstration of abilities.

Secondly, the term pilot means a State licensed pilot who is not subject to the selection and control of the shipowner. To obtain a license in the State of Alaska one is required to make 20 dockings and 20 undockings under the supervision of State licensed pilots, with no more than 5 dockings and undockings with any one pilot. The applicant must also take a written examination that is made up by professional pilots. Also the applicant must already have the Coast Guard pilotage endorsement and a 500 ton Masters License before applying for the State endorsement.

It is obvious that the State of Alaska has a much more effective means of licensing than the Coast Guard in that the State requires a demonstration of abilities.

However, some of the companies with the largest investments in ships and docks seemed to think that both the federal and State requirements are not adequate.

For example, in order to dock a ship at the Drift River terminal, each pilot must be observed several times by the shoreside personnel while he

is actually docking the ship. Then a letter must be submitted to the Cook Inlet Pipeline Marine Committee and they must make the final approval.

Also before a pilot can handle the LNG ships into the Phillips dock at Nikiski he must comply with the following requirements as set up by Phillips and Marathon:

1. Removed any tonnage limitation from his pilotage endorsements
2. Completed the Association training program and has been approved by the Association Board of Directors to handle all tonnages at the T.A.P.S. terminal at Valdez.
3. Been approved by the Cook Inlet Pipeline Company Marine Committee to dock and undock vessels at the Drift River platform.
4. Operated in Cook Inlet under ice conditions for at least 2 winters previously.
5. Made at least 3 observer trips to and from the LNG dock at Nikiski in Cook Inlet on the LNG vessels, two of which shall have been under heavy ice conditions.
6. Been approved by the Association Board of Directors to pilot the LNG vessels.

Southwest Alaska Pilots Association agrees that the requirements by both the Coast Guard and State are not adequate. Before we turn a pilot loose in Valdez he first has to become a proficient pilot in the remainder of the territory that the Southwest Alaska Pilots Association cover. This in itself is a tremendous recommendation based on performance. Also we require that each pilot, at our expense, attends the ship handling school in Grenoble, France.

So within the piloting community there are pilots and professional pilots. The companies with the largest investments in ships and docks insist upon letting only the most experienced of the professional pilots

handle their investments during the most critical part of the ships operation.

The Southwest Alaska Pilots Association recognizes the need for higher professional standards and we are presently re-evaluating our training program to increase these standards. We recognized this as a fact of life because the only thing we have marketable is a service, and if that service is not totally professional then we no longer have anything to offer. Because customarily pilots do not work under contracts and at any time the companies or agents can stop using our service.

If the State of Alaska decides to eliminate the State Pilot Board, they relinquish all regulatory control over the quality of pilots that handle the largest ships in the United States within Alaskan waters. Southwest Alaska Pilots Association believes there is a need for even higher standards within the State framework, but with the State Pilot Board, the mechanism for increasing these standards is there.

Also if there is no compulsory pilotage within the State framework, then the shipowner has the right of selection and control over his employees in the performance of their duties. Future employment will be dependant upon how well the employee satisfies the demands of his employer. However with the State compulsory pilotage system the shipowner draws their pilot from a pool of pilots and therefore each pilot can operate to serve the States superior interest and is relatively insulated from the demands and pressures that can be placed on an ordinary employee to compromise the margins of safety.

Let me ask the State of Alaska whether they would like a voice in choosing which pilots shall handle the ships plying the environmentally sensitive waters of this great state.

There is no doubt that the State Pilot Board is absolutely necessary to ensure the highest degree of professionalism among pilots.

JAMES HURD PRESIDENT S.W. AK. PILOTS ASSN

P. O. Box 1171  
Juneau, Alaska 99802  
December 20, 1979

T E S T I M O N Y

Sunset Hearing - Marine Pilot Board

Mr. Chairman, I am Harley Clough and live in Juneau, Alaska. I am an active pilot member of the Southeastern Alaska Pilots' Association.

I have several comments concerning the legislative audit performance review of the Board of Marine Pilots. The report states the State Pilot exam duplicates the C.G. exam and recommends eliminating the state exam. Here, the legislative audit has completely missed the mark. I will agree there are some duplications which perhaps should be changed but the exams do not duplicate each other. The state exam concentrates on the daily gut work of a pilot; his detailed knowledge of Alaskan waters and his ability to maneuver large ships in and out of ports under Alaskan conditions. These things are not learned from a book and are the foundation of a pilot's job.

The Coast Guard exam is entirely an academic exercise based on texts and federal government publications. You could purchase this information in any city in the country, and if the CG would permit, take and pass the Coast Guard test without ever seeing Alaska. There is no way an applicant can pass the oral and written state pilot exam without really knowing the Alaskan ports and really knowing how to handle ships. For Alaskan Pilotage, a far better argument would be to eliminate the CG exam and expand the State Pilot test.

Throughout this report, legislative audit has attributed the Coast Guard with a capability and an expertise they do not possess. In Alaskan pilotage, we are concerned in a thorough knowledge of Alaskan waters and with mainly handling of large ships. The Coast Guard has no large ships and have no practical experience in this area. Similarly, military rotation and other policies severely limit the sea-going experience of any CG officer in Alaska waters. The degree of practical experience of the Coast Guard in Alaskan pilotage matters is almost non-existent. Believe me, the State Board of Marine Pilots is a far more experienced and competent regulatory body to supervise Alaskan pilotage matters than the United States Coast Guard.

Also, as a long time Alaska resident, I strongly object to any suggestion which invites a federal regulatory agency to assume an interest in state affairs. Although the Coast Guard

Testimony - Marine Pilot Board  
December 20, 1979  
Page 2

may need the knowledge and experience of the Board of Marine Pilots on occasion; the Board of Marine Pilots has little need for the advise of the CG on piloting matters.

The legislative audit report states the Board of Marine Pilots takes little interest in tariff matters and has been a rubber stamp for previously arranged pilot-industry agreements. This simply is not true. I have appeared before the Board on a number of occasions to discuss tariff matters. The Board has always taken a high degree of interest in the tariff. Several years ago the Commissioner of Commerce suggested the pilots and agents get together and work out a preliminary tariff for the Board. This duplicated a long established precedent used in Washington state. This was done on only one occasion and the Board has subsequently rejected this procedure now. In Southeast Alaska 98% of pilot tariffs are paid by foreign ship owners. The U.S. agents of these owners have been very deligent in protecting the foreign interests. There have been no tariff give-aways. Indeed, I have been often been dismayed at the length the Board and the State have gone to secure and protect these foreign business interests.

I appreciate the opportunity to testify before this committee and I want to thank the committee and its staff for the extensive hearing arrangements they have provided.

Thank You.

  
Capt. A. Harley Clough

AHC/cjp  
CC: Senate Commerce / House Commerce

CHARTER MEMBERS:  
CAPT. F. W. BUCKLER  
CAPT. W. L. JOHNSON  
CAPT. R. W. SWETT  
CAPT. J. W. HOPKINS



TELEPHONE A.C. 907  
HOMER: 235-8526  
SELDOVIA: 234-7842  
CABLE: ALMARPILOT

## ASSOCIATION OF ALASKA MARINE PILOTS

LICENSED MASTER MARINER PILOTS FOR ALASKAN PORTS

P. O. BOX 273 - HOMER, ALASKA 99603 — P. O. BOX 163 - SELDOVIA, ALASKA 99663

RADIO CALL LETTERS: 8SB-WKD34 AND VHF-KTE21

15 December 1979

Mr. Christian Basler  
Administrative Assistant  
Senate Commerce Committee  
1016 West Sixth Ave., Suite 201  
Anchorage, AK 99501

Dear Mr. Basler:

Thank you for your letter of 7 December 1979 with enclosed copy of the "Performance Review of the Board of Marine Pilots" and the opportunity to submit comment.

I am in agreement with recommendations submitted and also with the majority opinions generated by questionnaires to pilots, agents, and board members.

Discontinuance of the board and its functions, I strongly feel will be destructive to the State Pilotage System in Alaska. The State Pilotage System has been found a very necessary adjunct to the maritime commerce of the coastal States. The history of development and accomplishments of these systems has been well documented by the American Pilots Association. Problems cited giving rise to this audit I believe are "growing pains" no doubt somewhat similar to those encountered by like organizations in the lower forty eight.

In my opinion this Review has generated the necessary attention of those concerned to an element of the State's commercial maturation having growing import.

Thank you again for your reply.

Sincerely yours,

  
Roger W. Swett

address;

453 Klickitat Drive  
La Conner, WA 98257

MARINE PILOTS REPORT:  
TOUR SHIPS

By Ron E. Whitcraft  
Legislative Assistant  
to the  
Interim Committee on Transportation

September 22, 1978

## 1. Introduction

It is a very well known fact that one of the main industries of Southeast and Southcentral Alaskan port cities is tourism. It was, therefore, the desire of the Interim Committee on Transportation to look into the problems of bringing the big tour ships into Alaskan ports. Tourism is an ever increasing industry in Alaska and it was brought to the Committee's attention that the pilots, who bring the tour ships into port, have legitimate problems.

## 2. Southeastern Alaskan Pilots Association

The Committee pursued the problems by going to the Southeastern Alaskan Pilots Association. The Pilots Association is located in Ketchikan and assigns duty to its licensed pilot members. A member is assigned to each of the tour ships while it is in Alaskan waters and must safely take the tour ship into and out of Alaskan ports of call. The Committee did all of its interviewing and research while tour ships were in port at Juneau.

With hopes of getting a cross reference of views, the Committee recorded five of the pilots and has entered those interviews in this report. Several problems, pointed out by the pilots, were reoccurring during the interviews and a couple of other problems were brought out.

## 3. Pilots Problems Summary

Problems that were discussed often were problems relating to docking facilities. Most of the pilots in this report felt many of the docking facilities in Southeast Alaska are not strong enough to handle the large

tour ships. Particularly mentioned was the tour ship docking facility at Skagway. The pilots, who discussed the Skagway dock, said that dock was not only weak but also in a bad structural state.

The Alaska Steamship dock was mentioned as a problem because of its shallow docking area. It was discussed that this dock is in an excellent location at Juneau's downtown. As things are currently, only two or three of the tour ships can dock there. There were at least ten tour ships going into Juneau this summer.

It was brought out that often times there are too many fishing boats tying up to the docking facilities. Pilots said maneuverability was cut way down in docking the ships and sometimes there was no mooring area at all.

A problem that came up was that areas that should be lighted, by the Coast Guard, were in fact not lighted. This problem creates a hazard and, unless the pilot is a veteran of Southeast waters, could be a serious problem to the tour ship.

A need for more powerful tugs for the large tour ships was discussed in this report. Pilots felt much in-port time was lost just getting the ship into place at the docks. Some tour ships have a short tie-up time. It was realized, at the same time, that this problem is of a private enterprise nature.

A definite grievance was entered into this report over the large number of fishing vessels in the corridors of tour ships. It was explicit that the

tour ships must travel in a corridor and has little maneuverability. It was felt that these fishing vessels must be made aware of the tour ship corridor.

One other priority problem that stemmed from this inquiry was that the National Oceanic and Atmospheric Administration is not making available much of the needed charting information for Alaskan waters. The tour ships are larger vessels than those vessels utilized by the Alaskan Marine Highway System. The pilots need to know where they can take the tour ships.

#### 4. Interviews With Pilots

The following are the interviews with pilots who bring tour ships into Alaskan waters. These pilots, once again, are members of the Southeastern Alaskan Pilots Association.

INTERVIEW WITH PILOT FROM THE UNIVERSE

Ron Whitcraft:

Are there any problems that you see, any complaints that you see right now, that pilots are enduring to bring these tour ships into Alaska? Is there anything that can be upgraded or something that can be looked at?

Pilot:

I don't have any complaints but there are some factors that can be upgraded, particularly the conditions of the docks. One example would be to request to bring the Rotterdam into the dock in Juneau, and the size of the ship, the dock is not suitable for that size ship unless improvements or extensions are made on it. We have a similar problem in Skagway that's being resolved, hopefully tomorrow. But we're out to take the Fairsea into the dock in Skagway next year. Prior to doing this we wrote to the port captain and advised him that the condition of the dock is deteriorating, particular at the south end and in case of adverse winds, if any strain was put on the dock we wouldn't be able to check the ships motion. There are other moorings there such as the one over ashore, but the longshoremen won't handle lines off the dock, and so it means that we have to get the ship into the dock before you can actually run these lines. So it's after the fact and they really didn't help you under adverse conditions. Another factor that we reported to them is the fact that we don't have adequate size tugs up there. As a matter of fact the tugs we're using here are doing the job and they're the same tugs we used in Skagway last year and we got by. It would be preferable to have a little bit more horsepower if we could, but you have to use what's available and we can't expect a company that has large tugs to just assign one to that area. Not enough traffic to warrant it. So we try to do the best we can with what we have available. Another condition of Skagway is the fact that they load container ships up there for White Pass and they're changing those over to barges here shortly. So there will always be a barge at the dock. These things we can live with if we can improve the dock structure itself, the mooring facilities. What we had proposed to do was bring an additional tug from Juneau up to Skagway. We have two small tugs there. Captain \_\_\_\_\_ who is a port captain will be in Skagway tomorrow and Captain \_\_\_\_\_ will be on a ship that is due in there, the Pacific Princess. They plan to discuss. Here in Juneau we have a situation where there's a shoal up at the head of the old Alaska Steam Dock. Some of the larger ships are restricted from mooring there because of the shoal at the head of the dock. Also they're restricted because of small boat traffic. The cold storage has got to survive too. You can't expect them to stop fishing. This is something that we can live with, but it would be helpful if they could do some dredging and make that dock more

useful. Ketchikan, it seems like there's a movement away from Ketchikan as far as tour ships are concerned and I think it's basically because of the lack of tourist attractions compared to Glacier Bay and what you have to offer here in Juneau. Everyone seems to be going to the seven day schedule so they have to eliminate something. And the tendency has been to eliminate Ketchikan, I think.

Ron Whitcraft: How's Sitka?

Pilot: Sitka, of course, is strictly an anchorage. We have no dock. We can anchor three ships there in suitable anchorage at a time and we have another inner-anchorage which is a little marginal under adverse weather conditions. It can be used as long as conditions are good. So there hasn't been too much of a serious problem there. As far as the tour ships are concerned they might not appreciate it too much to have a longer trip with us. As far as we're concerned, I don't see any problems.

Ron Whitcraft: How about Wrangell and Petersburg?

Pilot: Wrangell has a dock there for the ships we're taking in. It's a new dock. It has a little current action there but this we can live with. It's a little bit better oriented than the dock that we used to use. There was some comment about the Rotterdam going into Wrangell. But the thought there was that they would just go to anchor. The Rotterdam was mentioned to replace the Prinsendam. I think this is probably two years off.

Ron Whitcraft: How about bringing the ships up the Inside Passage? Are you having any problems with the passageway through the channels? Any problems with markers at all or anything like that?

Pilot: Well, we're usually able to resolve those with the Coast Guard. We've asked for a few aids here and there. And generally, within reasonable time, we get the cooperation. They always have a budgeting problem. We can ask for something they'd like to give us, but it takes a while for them to get the money in their budget in order to do this. That's the case with Snow Pass. We asked for a buoy down there. They were trying to put it in their budget and this year they found it in their budget. It's supposed to go in sometime this week or next week. So they've been quite cooperative. You asked me about Petersburg. We really don't have too many ships of this size that go into Petersburg. We used to take vessels through Wrangell Narrows which were comparable to the size of the ferries. The possibility of large tour ships calling at Petersburg is probably rather remote. We had one situation come up this year that we'd like to try and resolve with the navy. In past years on the Fourth of July the navy has come in with destroyer type vessels up here and they're always able to moor at the government facilities here or Ketchikan. This year was quite a change in that they

sent relatively large ships up here. We had an ammunition ship anchor in Ketchikan and an oiler anchored here in Juneau. It's rather restricted swinging room. It worked out here all right, in Juneau, moving around a little bit. And in Ketchikan we had to anchor two vessels in an area that we normally put one. The thought was, and I discussed it with the Coast Guard, that possibly if we were to contact the navy and point out to them that a smaller vessel...we want the navy to come. We're not trying to drive them out. But if they were to send smaller vessels it would probably be less interruptions to commercial trade of tourism.

Ron Whitcraft: Were there two ships more in Juneau's harbor this weekend? Or was it just that navy ship?

Pilot: There was the Veendam I believe at that time. But we have anchored two ships here in Juneau but when you anchor two large ships in Juneau they really get tight. What people don't stop and think about is not just the length of the ship involved but you have to put out enough chain so that you have adequate support to hold the vessel. So we put out considerable chain and they have quite a swinging radius. Actually, those are some of the reasons we're bored with...handle the ship under those conditions. But anytime we can eliminate a problem before it arises we like to do that too.

Ron Whitcraft: I know you have a designated corridor you follow when the tour ships come into the Inside Passage. Do you have any problems with fishermen getting into that corridor and dodging them when necessary?

Pilot: I think what you probably have reference to is the gill netters. They're more of a problem than any other type fishing vessel. We from time to time have crossing situations with fishing vessels when we're even in the wide channels. But where the critical situations arise is south of Haines it's a very narrow channel. And when Fish and Game opened this area for gill netting, it's very difficult to get some of these ships through that narrow passage, also an area where they're doing extensive gill net fishing. This year has been relatively easy because there hasn't been too much fishing in that area. The area they're fishing in has been off to the side of the channel. But later as the seasons open up then possibly they'll be fishing... The main thing as far as we're concerned is we have to slow down and when you slow down you lose a certain amount of maneuverability. Particularly some of these large ships like the Veendam, the Fairsea, they won't hardly turn unless you're going six to eight knots. You have to have enough speed to get the action on the rudders. But this year, as I say, we haven't had much problem with the gill netting because of the nature of the openings. They haven't been in the areas where we've had to transit.

Ron Whitcraft: Any other situations that have occurred that you would like to present?

Pilot: One thing that we try to do at any pertinent facility, and this would include places like the pulp mill, or Metlekatla, the lumber mill, we try to obtain adequate charting data there that we can safely moor the ships there. Since I was formally with...an agency that's responsible for charting, has been able to get their assistance in providing this data to us in a timely manner. Either that or surveys at Skagway, we've asked for surveys at Ketchikan, Wrangell, and I'm in the process now of probably requesting a survey at Ketchikan pulp mill. There seems to be a shoaling there and some of the ships are starting to rest on the bottom when they're loading on the side. This is federal program that can be used to the benefit of the state for improved navigation. And some one keeps putting this information in they'll respond to it. If we don't get any input we don't respond to it. They have their other programs which are maybe a five year program or something like that or maybe high priority. They routinely work on whatever's highest priority. So if we don't say anything about inadequate charts in our harbor we don't get anything out of it. But so far anytime I've asked for anything I've been able to get it. We have now adequate charting information of Glacier Bay and Tracy Arm, Endicott Arm. Those surveys, not so much Glacier Bay, but Tracy Arm and Endicott Arm, were done primarily at the request of the Southeast Alaska Pilots Association.

Ron Whitcraft: What are you proposing here?

Pilot: I'm saying that sometimes it's better for the Southeast Alaska Pilots requesting surveys, it would have more emphasis if it came from your office or something like that. I'm thinking about this problem here locally, this shoal at the end of the dock. I've already discussed it on the telephone with them and they said they expected to have a ship here later this summer, probably late September, that could be assigned to that, if desirable. I talked to one of the city engineers and they seemed to be interested in getting the information. But it all depends on how much emphasis.

Ron Whitcraft: This is with the NOAA?

Pilot: Right. I'm requesting a survey down at Ward Cove and you probably could request this for the same time. But I have to bear in mind that they have other things that may be higher priority. And they may or may not succeed in getting it done. So I think probably that's one area that you could assist all the maritime industry

here. We have at Metlekatla requests for taking larger and larger ships into there. Of course the dock is only so long and we can extend the bow beyond it if there wasn't a shoal there, but that would be a shoal. The more information we have, give us more information about what size ship we can bring in there.

Ron Whitcraft: You don't have information on that?

Pilot: Not too good information. We have some that we obtained from their prior survey. And even a survey might not solve the problem. It may say that there's something there and then it's up to the corps of engineers or industry to dredge it out. There's an awful lot of dredging done up here in Alaska. One other problem we have which is not related to your tour ships, is violation of state pilot laws. Some of these, particularly the smaller fishing vessels that come in, of course they are not always too knowledgeable to what the requirements are. So the Department of Commerce does have an investigation team. When there is a violation they follow up on it.

Ron Whitcraft: There is a set of regulations for all those fishing ships out there right?

Pilot: Any foreign vessel...there are certain exceptions in Southeast Alaska. Chatham Straights of course is an exception and also the pilot stations are exceptions. They go through the pilot stations and request a pilot, then they're not in violation. But they take a devious route and go into pilot waters without a pilot, then they are in violation. We've had two of those situations occur just recently.

Ron Whitcraft: What do you do to them when you catch them violating?

Pilot: We don't do anything. It's up to the Department of Commerce, the Occupational Licensing Division. They follow it up.

Ron Whitcraft: How do they check that? How do they check to see if the pilot's on there or not?

Pilot: First of all, they're supposed to be flying a pilot flag. We see them and call them on the radio, they're supposed to maintain a radio. If they don't answer the radio then you board it and find out whether they do have a pilot on board. We have a list of all the state pilots. So you could go through that list of pilots and contact each one of them. Kind of a roundabout way of doing it. But most of those pilots from that list either belong to Southeastern Alaska Pilots or Southwestern Alaska Pilots Association. Of course the associations know whether or not any of these people are aboard. There are a few free lance pilots. The list that we used to have gave their license limitations. In other words told what portions they were licensed to work in.

I think that pretty well covers it. I think it's important maritime industry get as much as they can from federal charting agencies. You don't tell them what we need and they don't know.

Ron Whitcraft: Thank you very much for your time.

INTERVIEW WITH PILOT FROM THE PACIFIC PRINCESS

Ron Whitcraft: Are there any particular problems in bringing these ships, first of all, into Southeast that bother you?

Pilot: No. I can't truthfully think of anything right now. During the ten years I've been here I've noticed quite an improvement generally, I'd say particularly in Juneau. I think perhaps there's been a little closer surveillance by the Coast Guard. None of this is in the form of criticism. As you know, as the years go by the ships have a tendency to get a little bit larger. I guess at some point they'll reach a point above which they can grow any bigger. Some of these harbors are limited in their capability of the size of the ship, for instance Juneau harbor. If you put a couple of these over 600 feet in here you have a little bit of a problem. This occasionally happens. That's just a simple reality that we have to face.

Ron Whitcraft: How about the docking facilities throughout Southeast? Are you noticing any problems with them? I understand Skagway has got a problem up there. How do you feel about that?

Pilot: There again, in past years, we have had occasions where we've had to stick a rather large cruise ship behind the Klondike or the Canadian bore vessels. This is a touchy maneuver in certain weather conditions. I would think maybe that the White Pass and the Yukon dock could stand a little bit of repair, particularly in the southern end. I'm sure a surveyor could assess that. The simple business of getting over some good stern lines in a heavy southerly wind is bound to occur and eventually become a real problem. Recently, I believe, one of the cruise ships destined for Skagway had to cancel that call because of severe weather a couple of weeks ago.

Ron Whitcraft: By severe weather you mean the winds?

Pilot: Yes, southerly winds on docking prevented the Royal Viking Sky from calling there about two or three weeks ago. Actually, this may be something that no one could have any control over.

Ron Whitcraft: That's what I wanted to know. Is that fault with the docks?

Pilot: That's questionable, but the fact is that had they managed to get alongside, they might have been in some jeopardy while they were there during the visit, had the winds increased. I'm concerned about adequate

Pacific Princess - Continued

mooring facilities for large vessels, 20,000 tons and over.

Ron Whitcraft: How big is the Pacific Princess?

Pilot: She's about 21,000 tons. I think we have about four ships that size coming here. I believe there's talk of perhaps a larger one next year.

Ron Whitcraft: This is in Skagway?

Pilot: Yes. That is something that perhaps something could be done about. We can't enlarge, say, the harbor of Juneau. That's pretty well established. Maybe just by scheduling we can avoid having two of the larger vessels at anchor at once. Sitka is an anchorage program there. I think there's nothing you can really do about that, unless Sitka decides to build one, berthing facility for cruise ships.

Ron Whitcraft: By anchorage program, does that mean that they cannot dock? They have to anchor out away from Sitka?

Pilot: All cruise ships anchor there. That's kind of accepted as part of the visit to Sitka. But it's worthy of thought. Are the cruise ships here to stay, and if so would it be worthwhile to consider a berthing facility in Sitka?

Ron Whitcraft: What about the current ferry terminal they have there? Is it just not deep enough to pull one in there? It's not strong enough to dock up next to it?

Pilot: It wouldn't be adequate for the size cruise ships. Furthermore, it's not quite that accessible to the city and most of the cruise ships are on limited time. It's get in there, get the people ashore, let them visit a few hours, and move on, and it'll always be that way. So the facility has to be pretty close to the area they're going to visit. I believe that might rule out, among other things, it's not accessible to the open ocean very well.

Ron Whitcraft: How about lighting situations, lighted passes, all the way up here?

Pilot: Navigation aids. I have no criticism. I think they're pretty well serviced and pretty ideally located really.

Ron Whitcraft: I had a complaint by one of the pilots several weeks ago on the fact that there are a lot of fishermen in the path of the tour ships. That is the fishermen could essentially go where he wants to go but the tour ship could only go

Pacific Princess - Continued

so far and that's it.

Pilot:

I'm afraid this is a reality that I feel we have to live with. The fishermen are involved in earning the livelihood and I think it's a rare occasion when they deliberately create a hazard. That would be my feeling. The waterways in Southeast Alaska have fishermen in them like the fields have farmers. So I'm not sure I'm able to really contribute anything. I'm happy to be a part of it. It's an interesting business and I'm glad to see you at least checking into the realities that we have to contend with, from my point of view. I think the relationship with the shipmasters and the companies and the pilots has been very good. As you can see I'm pretty comfortable here. That's about really all I can think of.

Ron Whitcraft:

Very good. I appreciate it.

INTERVIEW WITH PILOTS FROM THE ISLAND PRINCESS

- Pilot 1: Well, they could build a bunch of new docks that are stronger, but I don't think the state could afford that. We'd like to see stronger docks with the bigger ships coming all the time. Maybe a little bit more rapport with the fishing associations, or communications. We have trouble with the fishermen. They obstruct the main ship channels continually. Of course, this is a Fish and Game problem but perhaps through your good officers we might somehow be able to exclude from the fishing waters safe passage for these vessels without constantly having to worry about it. There is plenty of water in Southeast Alaska for all the fishermen. I should think that they'd find some way to be able to have a free fareway of which we could go with these large commercial vessels without being obstructed. I think that's only fair. This is particularly a bad place because fishing is so heavy. The fishermen present quite a strong and vocal political problem. They can fish almost anywhere in the waters yet we can't go anywhere with these ships. That's what it boils down to. We're very restricted.
- Pilot 2: As far as facilities in the state are concerned, I think I'll mention that we get by, but most of the facilities are really marginal.
- Ron Whitcraft: How about the depths of this particular harbor coming in here (Juneau)?
- Pilot 2: The depth at the head of the other dock (Alaska Steamship Dock), and the size of the dock itself, the only ship we take in there is the Sun Princess because we only run our lines on that dock and not over at the cold storage dock, so that's the biggest ship we get in there. At a low minus tide the bow of that ship will touch the bottom at the head of that dock. That's really not much of a problem, we can't take anything bigger in there.
- Pilot 1: See, actually most of the facilities in Southeast are privately owned. This is a city dock. There really aren't any state docks as such as there are in so many of the other states where they operate state port authorities. There just isn't anything here. The state doesn't operate. It's all private.
- Pilot 2: It would appear to be private enterprise to better the facilities, make the docks stronger, larger. We could use some bigger tug boats, stronger tug boats. That's all a matter of the dollar.

Island Princess - Continued

- Pilot 1: Business is so seasonal. I'm sure you're aware of the problem with the shipping industry in Southeast, that it is very seasonal. Until, I suppose, you develop a year round economy in this type of business, there's really not much we can do. And unfortunately, I do not see a twelve month situation developing here for quite a long time. If it was, then we'd have a lot to talk about.
- Pilot 2: You could probably help tourism by building some better facilities. This new ramp that they've put up here (at Alaska Steamship Dock) is a step in the right direction. Things like that make the tourists feel like they're welcome here. You keep them coming and it's a profit not only for the steamship companies, but for the state as well, longshoremen and everybody else.
- Pilot 1: It seems to me this tourist business here, certainly in Southeast, is quite a large business, although seasonal. But it seems to be encouraged only on a local level. I don't, as an individual, see the state really participating in trying to improve facilities. Anything that's done seems to be on a local level in Sitka, Skagway, Juneau or Ketchikan. It just seems to be a community activity. We really don't see too much encouragement or assistance from the state.
- Pilot 2: What we're talking about is like in Wrangell a little high school band composed of about twelve people come down every time a ship comes in there and the band plays on the dock. The people that come from the tour ships, the paying customers, feel like they really want us to come. Shows a little flair for a little town and all the townspeople are doing it for nothing just to encourage the ships to come. It's that sort of thing that means the most to the paying passengers.
- Pilot 1: We're only repeating comments that we have heard from passengers and so forth.
- Ron Whitcraft: Thank you very much for your time.

INTERVIEW WITH PILOT FROM THE SUN PRINCESS

Pilot: I'm just summertime. I'm not up here full year. Of course most of the things we complain about is when you're bringing a tour ship in alongside a dock there's usually, during the fishing season, too many fishing boats tied up abreast and it makes it difficult for a ship this size to get in. Here at this dock (Alaska Steamship Dock), especially when you've got this ebb tide, it's real difficult. And there's a shoal spot right up at the head of the dock that ought to be thinned out a little bit and made a little deeper.

Ron Whitcraft: How about the docking facilities throughout Southeast?

Pilot: Well, everybody on the dock is waiting for the ship to knock something down. So there would be more ships tied up alongside the dock if people weren't so hard pressed to get people to repair the docks for them. Just like Skagway, now that's getting to be in real sad shape and a lot of the ships won't come in. When we came into Skagway on the Fourth of July, Frank H. Brown was in there and he said he would move ahead but the wind was blowing and the ship won't move it in, so the second ship behind him can't tie up because the dock is so rotten. He said he would move, but he never moved. Of course those ships are going to be laid up in March so they don't care what the tour ships do. And I think a lot of the ships, with the condition the docks are getting in, will soon bypass Skagway. Sitka, of course there's all anchorage, so there's no problem there. They've made arrangements there so they can anchor up three ships. Seven or eight years ago they were talking about putting a dock in there in Jamestown. I don't know whatever happened to that. So, as I say, Sitka is strictly anchorage.

The fellows that are up here year round would know more about other conditions that have to do with a yearly basis than I would. I'm strictly on the passenger ships, the tour ships, and I really can't give you a lot of information.

Ron Whitcraft: Any problems coming up through the channels?

Pilot: No, not as far as I'm concerned. But I've been coming up here for 33 years and all these places could use a few more lights, but that comes under Coast Guard. You sit down and argue with them and it seems to work out more where the ferrys want a light, they'll put a light for the ferry but they won't put it for the other ships.

Sun Princess - Continued

Ron Whitcraft: How about the other docks down south - Wrangell, Petersburg, Ketchikan?

Pilot: Of course Montgomery's Dock is getting old. They have the new dock off the Stikine, and they rebuilt a nice new dock in Ketchikan so that's a step in the right direction. It used to be just a hunk of empty pilings. Now that's utilized. Petersburg, nobody ever goes in there. Once in a while a smaller ship used to go in there, but outside of that, it's just a little too touch and go with the current and the dock in Petersburg. So, Petersburg, you might as well forget that, except the egg boats that are coming up here. So you just got Skagway, Juneau, Wrangell and Ketchikan and that's it.

Ron Whitcraft: How about Haines?

Pilot: Well, that dock is not too hot a shape either in the town itself. You can go up to Lutak Inlet and that's a good solid dock but it's not a dock for passengers when you've got logs dumped all over the place. Last time I was in there it should have been fixed up. A lot of passengers wouldn't go ashore because of the condition on the face of the dock itself.

It seems like everybody is out for the buck. Juneau used to give a lot of information. They'd come down and meet the ships when they'd come in. Right now they just get the ships in and get them in the stores and get them out. Ketchikan is no better. The ships want to keep the passengers aboard and the merchants want to get them ashore.

There's really not the room for the passenger ships here. Everybody keeps crowding in and crowding in. Just like this little ramp up ahead here now...it makes it touch...if you've got three fishing boats - wide back out there, why it's pretty hard. You've got a mechanical favor. And it seems like, with this environmental stuff coming on, every town is out to get the ship everyday. You've gotta blow tubes once in a while or some of them, just when they maneuver, put out smoke and before the guy can get to the next port he's got a fine on him. It's not very cooperative to those guys when they're trying to bring in money and the state, the city and business themselves that want the money are the first ones to fine them.

Ron Whitcraft: Do you think there should be more lights along your routes?

Sun Princess - Continued

Pilot: Well, there are places where there are shoal spots that should have a buoy on it.

Ron Whitcraft: Can you think of anyplace in particular?

Pilot: Well, there's one they're trying to get one on coming out of Snow Pass. It's only got four and a half fathoms and it should have a buoy on it. And there's other places where there's beacons, like coming out of Sitka. That light could be more powerful and Cape Edgecombe, that's an ocean-going light and yet you've gotta be right on top of it to see it. And now the ships are coming up seaward and going into Sitka, they could have a little brighter light there.

Ron Whitcraft: What would the one at Cape Edgecombe take?

Pilot: Well, I think it's only got a visibility of about nine miles - and that's on a clear night with a clear atmosphere. You get four miles off it sometimes and you have to look through glasses to find it. And there's another one down there in Dixon entrance and Port Cornwallis and even Cape Chacon which is the main light down there. That power should be increased. I'm not saying it should be like Guard Island which is also an aerial beacon, and even then they cut that down. But there's places where they can have intensive lights for poor visibility without a problem. A lot of these ships come up here with radar on. Of course they've got their electronic experts on there that can fix it. But there's others that don't. And you've got a mixed crew on there with nationalities. On some we have a problem with language barriers. So we have to watch ourselves, too, and not get ourselves in a bind because if something does happen, the Coast Guard's on our necks. We're the only branch in the United States that's under military rule you might say. If the Coast Guard doesn't get you the income tax will. So we have to be careful. Once they suspend your license or take it away you can't work anywhere. We have to watch everything. A lot of things that you have no control over. You could make a squawk about it but until you know the right channels to go through it doesn't do you a bit of good. Unless you can get a whole bunch of guys and get a lot of money to go up and start doing some lobbying, you don't get much satisfaction anyway. You just get the old runaround and nothing's ever done. And maybe in a month, maybe two months, maybe the next year, this thing you've squawked about happens and it costs a lot more than the deal you wanted to put in there or get fixed or something like that.

Sun Princess - Continued

A lot of the lights that we used to go by with Alaska Steam have disappeared and the lights have gone up for the ferrys' use. And you can't blame them because they are there every week or maybe every couple of days. So I could see where they could want lights. But there are places where they've taken them off where they would still come in handy. I don't see why they don't just increase the power of some of these lights so we could see.

Ron Whitcraft: Have you noticed lights gone in just recent years or has it been several years ago?

Pilot: It seems like, as things go, a period of years. A new regime will come in the Coast Guard and he's gonna make marks for himself, so some guy will make improvements and some guy will change things around. Like a lot of times they change lights so they'll all flash in six seconds. Well, if you miss one you might think the second light is the first one. And that's very confusing. Before you'd have one that would flash two and a half seconds, and maybe the next one would be four seconds, and maybe the next would be six seconds, and maybe you might have three in a row of six seconds. You have to keep up. It doesn't pay to be away too long. You can notice changes.

Ron Whitcraft: Thank you very much for your time.

CAPTAIN DONALD OLDOW  
COMMITTEE TESTIMONY ON SUNSET  
REVIEW OF THE BOARD OF MARINE PILOTS

Mr. Chairman and ladies and gentlemen of the committee, I wish to thank you for allowing me to testify in favor of retaining the Alaska Board of Marine Pilots. My name is Donald Oldow, representing the Board of Marine Pilots as the Southwest Alaska pilot member.

You are no doubt aware that the purpose of the Board of Marine Pilots is to provide for the maintenance of an efficient and competent pilot service on all the inside waters of the State of Alaska to assure protection of shipping and the safety of human life and property. The Board is also charged with the responsibility to adopt regulations; establish qualifications, examine and issue licenses to qualified pilots; take disciplinary action against negligent or incompetent pilots; and regulate pilotage fees.

I would like to briefly review the somewhat complex subject of "pilotage". All maritime nations since ancient times have offered inducements for mariners to become pilots and maintain pilotage systems for the protection of shipping. It is probably the oldest regulated profession. Our Colonial Legislatures had pilotage laws in effect prior to our becoming a nation. The first Congress in 1789 quickly passed an Act that left pilotage under state control.

Pilotage remained exclusively a public service under state control until 1871 when Congress acted to provide for federal licensing of pilots of steam vessels engaged in the coastwise or interior commerce of the country. At that time steam engines were considered inherently dangerous and many laws were being passed to protect the public from this new threat. Since many state laws exempted ships engaged in strictly coastwise or interior commerce from the requirements of taking aboard a public pilot, Congress felt there was a need to insure that these new and dangerous steam vessels should employ someone familiar

with the waters being navigated.

This created a different category of pilot - a federally licensed pilot. So now, in the United States, the term "pilot" is used to describe two different sets of relationships.

The first, or original, "pilot" is the state licensed publicly regulated pilot who is not subject to the selection and control of the shipowner and whose terms and conditions of service are established by statute and not subject to negotiation. The relationship is created by compulsion of law and defined by the state compulsory pilotage statute and decided court cases applying principles of maritime law.

The other "pilot" is the federally licensed employee of the ship who is subject to the selection and control of the shipowner and whose terms and conditions of employment are determined by mutual agreement. The relationship is the common law one of employer and employee.

Simply stated the state licensed pilot is exercising a public function on publicly regulated terms and conditions and the federally licensed pilot is acting in a private capacity on privately agreed terms and conditions.

There is a vast difference in the training, experience, perceived duties and responsibilities, working relationships, legal relationships and attitudes that separate the federally licensed employee pilot and the state licensed public pilot.

The federally licensed pilot is a common law employee of the shipowner serving in a private capacity. The shipowner has the right of selection and the right to exercise control over his employees in the performance of their duties. The terms and conditions of employment are privately agreed to with the shipowner. The prospects of future employment are dependent upon how well the employee satisfies the demands placed upon him by his employer.

In contrast, compulsory pilotage is the creation of law, not of contract, and the pilot is not the employee, servant or agent of the shipowner, the ship or the master. He is placed aboard by the state with the conditions of his

service fixed by law. He is required to be accepted by the vessel and placed in charge of her navigation to serve the state's interest in protecting life and property - and in today's world, the environment - from the hazards of navigation. He sees his duty and obligation as being owed to local political authority and the public, rather than to the shipowner in the role of an employer. His fee is set by law and he can receive no increase in fee for accepting greater risks nor be penalized with a lesser fee for taking precautions in conflict with the owner's interests. His future employment does not depend upon satisfying the demands of the shipowner to maintain schedule or move the vessel with unacceptable margins of safety. He is free to exercise independent professional judgement as to the acceptability of the risks. The public nature of his role leads him to place a higher priority on the protection of life, property and the environment than the master who has to consider all decisions in the light of the owners commercial interest. The compulsory pilot's autonomy and independence are the single most important safeguard that exists in the shipping world.

This, then, is the decision that the legislature of the State of Alaska must make at this time. Whether to control pilotage in the State or return that control to the Federal Government and federally licensed pilots. In light of the large amount of oil tanker traffic and large foreign fishing and trading fleets operating in or near the waters of this state, I believe the best interests of the public and the State of Alaska are much better served by choosing, examining, licensing and otherwise controlling those persons who will be responsible to the State for the protection of the safety of those vessels, the public and the environment from the consequences of marine casualties.

With these thoughts in mind, I would like to turn briefly to the recommendation of the Division of Legislative Audit to delete the requirement of a written examination as a condition for obtaining a pilot's license. As one who assists in the preparation of the state licensing exam, I must respectfully

disagree with the statement that there is a duplication of the material that is on the federal pilot's exam, and that the state exams are out of date. The degree to which the state and federal exams overlap is not excessive and the state exams are not out of date, in fact they are being revised continually and examinations for fourteen new ports have been compiled within the past year and one-half to keep up with the ever changing patterns of shipping in the various ports of Alaska. The state examinations are more pilot orientated than the federal exams and deal with information that a practicing pilot should know and use while performing his duties. I believe maintaining the written examination is very important and necessary towards preserving the higher standards of state licensed pilots.

All state licensed pilots of my acquaintance state without reservation that qualifications and standards should, if possible, be increased rather than decreased to preserve the quality of state pilotage.

In conclusion, I would ask the committee to recommend the retention of the Alaska Board of Marine Pilots. Further, I would urge you to recommend that the high professional qualifications and standards be maintained to insure the safety of shipping in Alaska. Thank you.

JAMES F. PETERSEN

ATTORNEY & COUNSELLOR AT LAW  
319 SEWARD STREET  
JUNEAU, ALASKA 99801

MASTER FILE COPY  
HOUSE COMMERCE COMMITTEE

DAVID V. GEORGE, ASSOCIATE

(907) 586-3530

February 4, 1980

Mr. Allan Blume  
Administrative Assistant  
House Commerce Committee  
The Honorable Fred Brown, Chairman  
Pouch V  
Juneau, AK 99811

RE: Marine Pilots Board Sunset Hearing

Dear Allen:

As we discussed after the meeting above-referenced was adjourned, I would like to submit a formal letter with some additional comments regarding the Legislative Audit recommendations for the Marine Pilot Board. These primarily emphasize the fact that, with the duties and obligations imposed upon the Board by both statute and voluntarily assumed by regulation, two meetings per year appear to be insufficient to accomplish those responsibilities and adequately rectify some of the misgivings which have, of late, been focused on the Board.

At the hearing of January 30, 1980, I specifically made reference to the problems that the Board will have in adopting regulations in accordance with the A.P.A., due to the notice requirements of the A.P.A. and the infrequent meetings of the Board of Marine Pilots. Similar restriction upon the Board's practical ability to exercise revocation and licensing censures exists because of the infrequency of Board meetings and/or an insufficient budget. In order that the Board retain its quasi-judicial function, it must, of course, remain impartial throughout the investigation process and the presentation of evidence. Consequently, when an incident is referred to the Board for investigation, it is necessary that, the Division of Occupational Licensing conduct that investigation, then under the A.P.A., the formal papers of Accusation would be filed through the Attorney General's Office and a hearing date would be set. If the full Board is to hear the revocation case, after due notice to the parties, it becomes obvious that the Board,

Mr. Allan Blume  
February 4, 1980  
Page 2

though having previously scheduled a one-day meeting, could end up sitting around listening to evidence for three or four days, depending upon how long the hearing takes. This is not practical in light of the limited number of Board meetings and the other substantial business which the Board must conduct. Consequently, it would seem that the most efficient way to handle this problem would be to allocate additional funds to the Board so that it might appoint independent hearing officers, who would conduct the actual hearing, write a proposed decision, and then submit the proposed decision for adoption, modification or rejection. Of course, the proposed decision would have to be served on all parties, and all parties would be present at the time the Board considers the proposed decision to make comments one way or the other. Notwithstanding the fact that all parties would be there, due to the pre-existence of a proposed decision, the matter would be greatly expedited and specific answers could be posed to the questions of the Board. However, with the limited funds which are now available, such a procedure does not seem feasible as a matter of course.

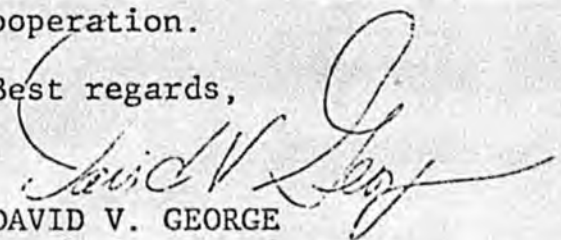
This very procedure has recently been employed by the Board in aid of its resolution of current tariff disputes. Governor Jay Hammond appointed Dick Edwards of Anchorage, an attorney, to act as hearing officer in the tariff rate dispute. Mr. Edwards will be holding a hearing sometime later this month, at which both the pilots and industry representatives will present evidence on what they feel are appropriate tariffs under the guidelines of the Marine Pilots Board statutes. Mr. Edwards will then write a proposed decision and the matter will be submitted to the Board for ultimate action. I anticipate that at that time, with the parties having previously received the proposed decision from the hearing officer, they will also attend and make their comments before the Board. Indeed, this is the most common manner in which serious evidentiary problems are handled by other boards and commissions.

Consequently, I would merely like to reinforce my testimony at the hearing, that the Board is looking at a substantial disability, considering its lack of funds and semi-annual meeting schedule. I would like this letter to be included

Mr. Allan Blume  
February 4, 1980  
Page 3

in the record of the House and Senate Commerce Committee  
hearings on the sunset review of the Board of Marine Pilots.  
I thank you so much for your cooperation.

Best regards,

  
DAVID V. GEORGE  
Member, Board of Marine Pilots

DVG/law

cc: Anne Griggs  
Division of Occupational Licensing



# Alaska State Legislature

## House of Representatives

### Committee on Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

February 20, 1980

David V. George, Associate  
JAMES F. PETERSEN  
Attorney & Counsellor at Law  
319 Seward Street  
Juneau, Alaska 99801

Dear Mr. George:

Thank you for your letter of February 4, 1980. Your letter will be included in the record of the House Commerce Committee hearings on the "Sunset" review of the Board of Marine pilots.

I shall also forward a copy to the Senate Commerce Committee.

Cordially,

A handwritten signature in dark ink, appearing to be "BA", written over a horizontal line.

Bob Aaron  
Administrative Assistant  
House Commerce Committee

BA:kfw

# SOUTHWEST ALASKA PILOTS ASSOCIATION

P. O. Box 977

Telephone (907) 235-8783 Cable: Hornerpilot

Homer, Alaska 99603

CAPTAIN EDWARD MURPHY

COMMITTEE TESTIMONY ON SUNSET

REVIEW OF THE BOARD OF MARINE PILOTS

NOVEMBER 28, 1979 - DECEMBER 10, 1979

Mr. Chairman and ladies and gentlemen of the committee, thank you for this opportunity to testify in favor of retaining the Alaska Board of Marine Pilots. My name is Edward Murphy and I am appearing today as a representative and spokesman from the Southwest Alaska Pilots Association. Southwest Pilots is one of the two associations of state and federally licensed marine pilots in Alaska and provides state pilots to shipping from Cape Spencer north.

I would like to acknowledge the assistance of Captain George Quick and the American Pilots Association in the preparation of this testimony.

Before getting into the details of the report by the division of legislative audit, I would first like to describe the pilotage scene as it exists today for the benefit of those committee members who may not be familiar with the subject.

All maritime nations since ancient times have offered inducements for mariners to become pilots and maintain pilotage systems for the protection of shipping. We may not be the oldest profession but we are certainly the oldest regulated profession. The colonial legislatures had pilotage laws in effect prior to our becoming a nation. The first congress assembled after the adoption of the Constitution in 1789 realized that the delegation of the right to regulate interstate and foreign commerce granted to the federal government by the Constitution would interfere with pilotage systems and regulations in place in the various states and quickly passed an act that left pilotage under state control.

The state laws generally provided for a system of regulated public pilots who con-

ducted to and from the sea and whose terms and conditions of service were established by law. Pilotage remained exclusively a public service under state control until 1871 when congress acted to provide for the federal licensing of pilots on steam vessels engaged in coastwise or interior commerce of the country. At that time steam vessels were considered inherently dangerous and many laws were being passed to protect the public from this new threat created by the industrial revolution. Since many states exempted ships engaged in strictly coastwise or interior commerce from the requirement of taking aboard a public pilot, congress felt that there was a need to insure that these new and dangerous vessels driven by steam employ someone familiar with the waters over which the vessel was navigating.

This new act of congress by creating a different category of federally licensed pilots who were employees of the ship and who often were actually the master or other officer acting as pilot by virtue of additional endorsement on his license has caused confusion in defining the term pilot and in defining the role and function of a pilot.

The term pilot in the United States is used to describe two entirely different sets of relationships:

- 1) It can refer to a federally licensed employee of the ship who is subject to the selection and control of the ship owner and whose terms and conditions of employment are determined by mutual agreement. The relationship is the common law one of employer and employee.

- 2) It can refer to the state licensed publically regulated pilot who is not subject to the control and selection of the ship owner and whose terms and conditions of service are established by statute and not subject to negotiation. The relationship is created by compulsion of law and defined by the state compulsory pilotage statute and decided court cases applying principles of maritime law.

In simple terms, the federally licensed pilot is acting in a private capacity on privately agreed terms and conditions, and the state licensed pilot is exercising a public function on publically regulated terms and conditions.

The legal text writers and the court decisions attempt to avoid confusion by generally referring to the pilot acting in a private capacity as a voluntary pilot and referring to the pilot exercising a public function as a compulsory pilot.

In the voluntary pilot situation the employment contract is by mutual agreement between the ship owner and the employee pilot, even though the ship owner is naturally compelled to select his employee from among a class, i.e. federally licensed pilots. In the compulsory pilot situation the pilot is forced on the ship owner by compulsion of law and under terms and conditions established by law. The concept of compulsory pilotage excludes any right of the ship owner and pilot to mutually agree on the terms of their relationship. The right of selection and control, as well as the terms and conditions of service are not properly the subject of negotiations, they are established by the state to serve the state's superior interests.

There is a vast difference in the training, experience, perceived duties and responsibilities, working relationships, legal relationships and attitudes that separate the federally licensed employee pilot and the state licensed public pilot. An understanding of the differences is necessary.

The state licensed pilot is regulated by state statutes creating compulsory pilotage. His state license is both a certificate of competency and a franchise as a public servant requiring him to assume public obligations in maintaining pilot stations and operating a pilotage system. The rights, duties, and obligations of the owner, the ship, the master and the pilot are created by law and not by mutual agreement between the parties. Common law principles governing the usual employment contract have no application.

The general scheme in effect throughout most of the world is one in which a vessel approaching the coast with the intent of making port has a compulsory obligation to accept a local pilot skilled in navigating those waters and knowledgeable as to local hazards, place him in charge of the navigation of the ship, and pay the fee for his services prescribed by local law. The purpose is to protect the safety of shipping by

assuring a complement of pilots will be available when needed at designated locations (pilot stations) and placing navigational control of the ship in the hands of a qualified local expert when the ship is in a high risk area.

As part of their franchise as a public service it is compulsory for the pilot to maintain pilot boats on established stations known to all mariners, to keep a complement of qualified pilots available to render services as all times, to go to any ship needing his service without discrimination or choice and to provide his services under legally established terms and conditions, and for a fee prescribed by law and published in a tariff.

Compulsory pilotage is a creation of law, not a contract. It is regulated in much the same manner as a public service company and charged with the public responsibility of rendering pilotage services to vessels. The pilot is in no sense the employee or servant of the ship owner or the vessel he pilots. He is required to be accepted by the vessel and placed in charge of her navigation to serve the state's interest in protecting life and property - and in today's world, the environment - from the hazards of navigation. He sees his duty and obligation as being owed to local political authority and to the public, rather than to the ship owner in the role of an employer. The public nature and regulation of the terms and condition of his service protect and insulate him from the demand and pressures that can be placed on an ordinary employee to compromise the margins of safety.

In contrast the federally licensed pilot is a common law employee of the ship owner serving in a private capacity. The ship owner has the right of selection and the right to exercise control over his employees in the performance of their duties. The terms and conditions of employment are privately agreed to with the ship owner. The prospects of future employment are dependent on how well the employee satisfies the demands placed on him by his employer. The master and the federally licensed pilot work for and are answerable to the same employer and are licensed by the same federal agency, the Coast Guard. In some cases the master and pilot may in fact be the same person serving in a

dual capacity. This lack of independence and the absence of checks and balances should give the public cause for concern when they consider that the sea-going coastwise tankers are largely exempt from the protection of state compulsory pilotage laws. Many of them are navigated on our inland waters by company employee pilots or masters serving in the dual capacity of pilot.

So, compulsory state pilotage operating under the authority of the state Board of Marine Pilots functions to protect and insulate independent decision making affecting the safety of ships from commercial pressures by placing navigational control in high risk areas in charge of a compulsory public pilot who does not belong to the ship, i.e. free of the ship owner's interest and control.

I think the committee and the legislature will agree that these are compelling reasons for maintaining state licensed public pilots under the control of the Alaska Board of Marine Pilots.

I would like to turn now to report conclusions and recommendations made by the Division of Legislative Audit. The division recommended that the Board discontinue the requirement of a state administered examination because the state examination duplicates examinations given by the U.S. Coast Guard. This recommendation is misinformed and ill-advised. The state administered examination for an Alaska pilot's license is not duplicative and goes far beyond the Coast Guard written examination. Because the Coast Guard personnel who administer pilotage examinations have little, if any, local experience the written examination is necessarily taken from navigation publications and coast pilots. The state examination, on the other hand, contains questions of a practical and relevant nature which pilots operating in a particular area should be expected to know. The value of the state's examination is unquestioned among practicing state licensed pilots and it should be retained. The division's comment on the state examination being out of date does have relevance. However, in the past year the examinations for Southwest Alaska have been completely renewed and rewritten.

The division also recommended that the Board of Marine Pilots take a more active

role in regulating pilotage tariffs. Southwest Pilots would agree with the recommendation that the Board take a more active role, although we have no specific recommendations to make as to what that role should be. There is a pressing need for published guidelines to be followed by the pilot associations when they request a rate increase.

The other recommendations made by the division concerning the Board's lack of efficiency in processing requests for information, disciplinary action against pilots, and generally conducting it's affairs in a businesslike manner certainly hit the mark.

We believe that the Board's problems are largely the result of insufficient support from the Division of Occupational Licensing and the Attorney General's office. We are also convinced that two meetings a year are not enough to properly conduct the business of the Board. If the Board met quarterly and received proper support from the various state agencies it's efficiency would realize a quantum jump.

In conclusion, I would urge the committee to recommend the retention of the Alaska Board of Marine Pilots in it's present form. State pilotage in Alaska's waters is absolutely essential as any examination of the excellent safety record of shipping piloted by state licensed pilots will prove. That safety record is largely the result of the stringent professional standards which Alaska demands of it's pilots. Standards which are maintained and overseen by the Board of Marine Pilots. Thank you.

*Christian Basler*  
*Work Copy*

**STATE OF ALASKA**



**ROUGH DRAFT**

**CONFIDENTIAL**



**DIVISION OF LEGISLATIVE AUDIT**  
Juneau, Alaska

A PERFORMANCE REVIEW  
OF THE  
BOARD OF MARINE PILOTS

June 15, 1979

**ROUGH DRAFT**

A PERFORMANCE REVIEW  
OF THE  
BOARD OF MARINE PILOTS

June 15, 1979

**ROUGH DRAFT**

Commissioner of the Department  
of Commerce and Economic  
Development

Charles Webber

Deputy Commissioner of the  
Department of Commerce and  
Economic Development

Bertram Wagnon

Members of the  
Board of Marine Pilots

Chairperson  
Member  
Member  
Member  
Member  
Member  
Member

*Comm. & Econ.  
Development*  
Charles Webber  
Captain Donald Oldow  
Captain Jack Maroni  
Charles Stover  
Marvin Taylor  
David Culbertson  
Kenneth Peavyhouse

STATE OF ALASKA

AUDIT DIVISION  
POUCH W—ALASKA OFFICE BUILDING

**THE LEGISLATURE**

FINANCE DIVISION  
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

June 30, 1979

Members of the  
Legislative Budget and Audit Committee:

In accordance with the intent of Titles 24 and 44 of the  
Alaska Statutes, the attached report is submitted for your  
review.

A PERFORMANCE REVIEW  
OF THE  
BOARD OF MARINE PILOTS

June 15, 1979



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Review. . . . .	4
Organization and Function. . . . .	5
Report Conclusion. . . . .	7
Findings and Recommendations . . . . .	9
Analysis of Public Need. . . . .	18
Appendixes:	
A. Board of Marine Pilots Revenues Compared with Expenditures . . . . .	25
B. Administrative Statistics. . . . .	26
C. Schedule of Average Pilots' Incomes. . . . .	27
D. Questionnaire Sent to Board Members. . . . .	28
E. Questionnaire Sent to the Licensed Marine Pilots. . . . .	33
F. Questionnaire Sent to Agents . . . . .	39
Responses:	
Office of the Governor . . . . .	42 (a)
Department of Commerce and Economic Development . . . . .	43 (a)
Board Chairman's Response. . . . .	44 (a)
Board Member's Response. . . . .	45
Board Member's Response. . . . .	46 (a)
Board Member's Response. . . . .	47 (a)
Board Member's Response. . . . .	48 (a)
Board Member's Response. . . . .	49 (a)
Board Member's Response. . . . .	50 (a)

## PURPOSE AND SCOPE OF THE REVIEW

### Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), an audit of the Board of Marine Pilots was conducted to review Board activities and accomplishments to determine if a public need for the Board exists, and if so, to determine if the Board has operated in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Marine Pilots should be reestablished. The law currently specifies that this Board will terminate on June 30, 1980, but will continue until June 30, 1981, for the purpose of concluding its affairs.

### Scope

The major areas reviewed were the Board's operations and its licensing, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

- (1) Applicable statutes and Board regulations;
- (2) interviews with the Board members and questionnaires sent to the Board members;
- (3) tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development;
- (4) interviews with OL employees;
- (5) complaints filed with OL and the Attorney General's Office;
- (6) questionnaires sent to the marine pilots currently licensed by the Board and to shipper's agents;
- (7) interviews and correspondence with a national pilots association and local pilot associations; and
- (8) interviews with personnel from the U.S. Coast Guard.

ORGANIZATION AND FUNCTION

Responsibility for the regulation of marine pilotage is shared by the federal government and state governments. The federal government, through the U.S. Coast Guard (CG), regulates pilotage on enrolled vessels, while the individual states are given the right, in the United States Code, to regulate pilotage on registered vessels. Enrolled vessels are vessels registered in the United States and engaged in commerce between American ports; registered vessels are those vessels engaged in foreign trade. The individual states have the right to regulate pilotage on vessels engaged in foreign trade.

The Alaska Board of Marine Pilots was created under Alaska Statute 08.62 to carry out the State of Alaska's responsibility of regulating pilotage on registered vessels. The Statute became effective in 1970.

*Copy*

The Board is made up of seven members - two marine pilots, two agents or managers of vessels, two public members and the Commissioner of the Department of Commerce and Economic Development. Per the Statutes (08.62), the purposes of the Board of Marine Pilots are to license qualified pilots; to take disciplinary action against negligent or incompetent pilots; and to regulate pilotage fees.

*7 members*

Once a marine pilot has received a license from the Board, he is authorized to pilot registered vessels within the established boundaries of inside waters of the state. The inside waters are defined by regulations as all of South-eastern Alaska, Prince William Sound, Cook Inlet and Resurrection Bay. Alaska Statute 08.62 requires registered vessels to carry State licensed pilots when inside these boundaries. It is the pilot's job to direct a vessel safely through the inside waters and dock and undock the vessel.

①  
*Alaska just  
more strict.  
1) Tides  
2) Weather  
3) Ecology  
4) Vessel  
length*

To obtain an unlimited pilot's license an applicant must first obtain both a pilot's license and a master's license issued by the U. S. Coast Guard. In addition, he must perform ten to twenty dockings and undockings and pass written and oral examinations administered by the Board.

The Board also issues limited pilot's licenses and channel pilot's licenses. The holders of limited pilot's licenses may pilot vessels of 2,000 gross tons or less. Channel pilots may pilot vessels in main ship channels only, and can perform dockings and undockings under the direct supervision of pilots holding unlimited pilot's licenses. Proof of dockings and undockings is not required to obtain these two classes of licenses. Applicants for any of the three licenses

can obtain temporary licenses by meeting all the licensure requirements and taking a temporary license examination. A second examination is required for permanent licensure.

To obtain license renewal, a pilot must show that he has worked at least two months in each area for which he holds a license. The two months' time must have been worked within four years prior to the renewal date. License renewal is required biennially.

The Board is assisted in performing its licensing and other administrative functions by staff support from the Division of Occupational Licensing (OL). OL processes applications, maintains files, answers correspondence dealing with the Board and provides other administrative support as needed by the Board. In addition, OL investigates any complaints or accident reports involving marine pilots.

③ Another function of the Board is regulating fees for pilotage services. Any increases of the fees charged by pilots for their services must be approved by the Board.

There are currently 45 State licensed marine pilots. The majority of the pilots belong to a pilot's association. There are two associations - the Southeast Pilot's Association and the Southwest Pilot's Association. These associations act as dispatching and billing agencies for their pilot members.

*Price Fixing*

REPORT CONCLUSION

Policy Issues

This report contains policy issues raised as a result of our review of the Board of Marine Pilots. The final policy decisions affecting the operation of the Board are not within the scope of this review - they require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and recommendations presented in this report in reaching their decisions.

Report Conclusion

In our opinion, the Board of Marine Pilots should continue to regulate and license the marine pilotage profession. The regulation and licensing of marine pilots by a State agency is necessary to assure the protection of shipping, human life and property, and the environment from potential dangers caused by registered vessels sailing in Alaskan waters. } (f)

During our review we noted that at least one alternative to maintaining the State Board of Marine Pilots exists:

< Strict

Under the Port and Tanker Safety Act of 1978, passed by the U.S. Congress in 1978, the Coast Guard has the authority to assume a state's pilotage responsibilities if the state relinquishes that right.

The personnel of the Seventeenth Coast Guard District feel that this is not a viable alternative in Alaska because it would place too heavy a burden on their present resources.

The legislative oversight committees should carefully consider the impact of relinquishing State jurisdictional authority to a federal agency.

We recommend the following changes be implemented if the Board of Marine Pilots is reestablished:

Alaska

NO!

① The Board should discontinue the requirement of a State-administered examination because the State examination duplicates examinations required for obtaining U.S. Coast Guard-issued officer's and pilot's licenses. (1)

② The requirements for license renewal should be reviewed by the Board members to determine if they are necessary and reasonable or if they are restrictive and should be changed.

③ The Board should establish criteria and describe terms to be used by the pilot associations and the shipping industry in proposing and opposing tariff increase requests. Also, \*

tariff

Look into this!

procedures prescribing the manner in which tariff increase hearings should be conducted should be established.

- ④ Statutes or regulations which define licensing violations and also give pilots an indication of what their professional responsibilities are should be promulgated by the Board.

Finally, the Board and the State agencies which provide support services to it, OL and the Attorney General's office, should coordinate their efforts so that the Board can better achieve its purposes.

*Both need improvement.*

FINDINGS AND RECOMMENDATIONS

Findings and Recommendations No. 1 through No. 4 are addressed to the Board of Marine Pilots, No. 5 is addressed to both the Board and the agencies which provide support services to the Board, and No. 6 and No. 7 are addressed to the Division of Occupational Licensing (OL), and should be read in conjunction with "A Performance Review of the Division of Occupational Licensing, Department of Commerce and Economic Development, October 30, 1978".

*Get from  
Elane  
Garnett!*

Recommendation No. 1

The Board of Marine Pilots should recommend statutory and regulatory changes to delete the requirement of a written examination as a condition for obtaining a pilot's license.

Alaska Statute 08.62.100(3) requires an applicant for a State-issued pilot's license to pass written and oral examinations given by the Board.

During our review of the Board of Marine Pilot's examination function, we noted two problem areas. The first problem area involves the administering of the examinations.

Portions of the Board's examinations and answer keys are out-of-date. Each time an examination is given, the Board informally checks the examinations over and makes corrections accordingly. However, it would be easy to miss a change that should be made using this procedure. Another problem we noted was that if an applicant had to be reexamined for some reason (i.e. either because the applicant failed an examination, or he applied and was tested for a temporary license first and then a permanent license), in many cases he was given the same examination both times.

A pilot applying for a State pilot's license for an area or port for which an examination is not made up is automatically granted a license for that area on the basis of his Coast Guard endorsement for the area without being tested. This points out an inconsistency in the importance placed on the examinations by the Board members.

The Board's oral examinations are not administered in compliance with the regulations. The regulations require an applicant to be tested by oral examination in the following subjects: knowledge of local harbor conditions and regulations; signals; and rules of the road. However, the oral examinations administered by the Board have been limited to questions about the applicants' safety records and seagoing backgrounds.

The second problem area we noted was the duplication of test material on the State and Coast Guard pilot's examinations. To obtain a Coast Guard pilot's license, which is required for State licensure, a pilot must pass an examination administered by the Coast Guard.

The material tested on the State Board's examination can be divided into three categories: 1) questions about the pilot's knowledge of the conditions of the geographical areas he is being tested for; 2) questions about the pilot's knowledge of navigation, ship handling, rules of the road, etc; and 3) questions about the State Marine Pilotage Act and the relationship between a master and pilot.

The Coast Guard pilot's examination consists of filling in blank chartlets (to show depth of water, landmarks, aids to navigation, danger areas, etc.) and answering local knowledge questions for each chartlet area (there are 45 chartlets for Southeast Alaska and 37 for the Southwest area). By these two means, the Coast Guard examination covers local knowledge extensively.

It is true that the local knowledge questions are asked in different forms on the State examination, however the questions on both examinations cover identical material.

The Coast Guard pilot's examination does not test the examinee on general navigation, ship handling or rules of the road. However, by the time a person has obtained a master's license issued by the Coast Guard, he has passed a number of tests which cover these subjects extensively. As an applicant for State pilotage must possess a master's license, he has been tested thoroughly on general navigation, ship handling and rules of the road.

The Coast Guard examination does not cover the subjects listed under number 3 above - the State Marine Pilotage Act and the relationship between the master and pilot. Per the Board's regulations, the Board may test examinees on these subjects.

However, in the recent past, the Board has chosen not to administer tests on these subjects.

We feel that because the State's pilot examination largely duplicates the Coast Guard examination the State exam serves little useful purpose. The usefulness of the State examination is further eroded by the first three problems noted above.

We therefore recommend that the Board of Marine Pilots drop its written examination and instead license State pilots on the basis of the other State licensing requirements. The

other licensing requirements combined with the various examinations administered by the Coast Guard are more than adequate to assure the public that a pilot is qualified to perform pilotage duties.

Recommendation No. 2

The Board of Marine Pilots should recommend regulatory changes to make the license renewal requirements less restrictive and vague.

The regulation which sets down the requirements for the renewal of a State pilot's license is vague and restrictive. Alaska Administrative Code (AAC) 12.56.080 requires applicants for the biennial renewal of their State pilots' licenses to submit proof of having worked at least two months in each area for which they are requesting renewal. The two months must have been worked in a licensed deck officer capacity during the four years prior to the date of renewal of the license. (Note: for the purposes of licensing the Board divides Alaska into two areas, Southeast and Southwest).

The regulation is vague in that the terms and phrases used are not defined. For example, "two months" can mean 60 days or 60 days less week-ends or one trip a week for eight weeks. "Licensed deck officer capacity" can mean any position from third mate to pilot. The regulation states the pilot must have worked "in the area for which he was licensed during the last biennial period." A person licensed for all of southeastern or southwestern Alaska could spend two months in only one of many ports in the area and still fulfill the "in the area" requirement.

The regulation is restrictive in that a pilot holding pilotage in both Southeastern and Southwestern Alaska faces a hardship in trying to make arrangements for two months worth of trips in both areas.

Of the persons who responded to the questionnaire we sent to the licensed marine pilots (see Appendix E), 69 per cent were of the opinion that the renewal requirements are too restrictive.

The intended purpose of the two-month requirement is to provide reasonable assurance that a pilot remains current in his knowledge of the areas he is licensed to pilot in. However, the requirement does not accomplish this purpose since a pilot could conceivably fulfill his two-month requirement by working out of one port in an area, thus obtaining no recent experience in all the other ports in the area.

We feel the Board of Marine Pilots should review AAC 12.56.080 to determine if less restrictive alternatives exist. We encourage the Board to solicit help from the pilotage profession and the shipping industry in exploring alternatives. Regulatory revisions should also be made to define terms used.

Recommendation No. 3

The Board of Marine Pilots should take a more active role in regulating pilotage tariffs.

③ Tariffs

⑤\*

Alaska Statute 08.62.040(a) (4) states that the Board of Marine Pilots "...shall regulate pilotage fees". Until just recently, it has been Board policy to direct the two pilots' associations within the state to negotiate a tariff increase with representatives from the shipping industry. The rate agreed upon by the two parties was then automatically approved by the Board. As a result, the Board in the past has not analyzed or studied the tariff increase requests to determine the need for an increase and the impact of a tariff increase on commerce.

After repeated warnings by the Attorney General's Office that the Board was not fulfilling its statutory responsibility, the Board has decided to become more actively involved in regulating the tariffs. We encourage this action by the Board. However, some further changes to the Board's method of regulating tariffs should be made.

Presently, the Board has no criteria on which requests for tariff increases are to be based. Also, the Board has not set down procedures describing how hearings for tariff increases should be conducted. Because of the lack of any criteria and procedures for the granting of tariff increases, the Board members and representatives from the shipping industry and the pilots associations have a difficult time communicating about what is being requested and why.

We recommend that the Board of Marine Pilots establish criteria to provide a basis for the pilots and shipping industry to follow when a tariff increase is being requested. The criteria should serve as a guide for the Board members in determining whether or not a tariff increase should be approved. The criteria should also list terms and definitions of the terms to be used by the pilot and industry groups in presenting their requests and rebuttals. An example of the terms that should be defined is "time in work status".

The Board should also establish procedures for how the tariff hearings should be conducted. Included in the procedures should be directions for the method and timing of notices of tariff increases to interested parties. The procedures should describe the proper conduct during the Board proceedings of those Board members who have a direct financial interest in a tariff increase. The procedures should also give directions to the parties involved, the pilot groups and the shippers, as to the documentation and information that will be required and the format and timing of proposals and rebuttals.

Recommendation No. 4

The Board of Marine Pilots, in conjunction with the Attorney General's Office, should promulgate statutes or regulations which define license violations.

Alaska Statute 08.62.150(a) outlines license violations which are grounds for the denial, revocation or suspension of a State-issued marine pilot's license. The statute allows the Board to take action against a marine pilot who "is incompetent in the performance of his pilotage duties" or "is guilty of misconduct during the course of his employment".

Nowhere in the Marine Pilotage Act or the regulations are "incompetent" and "misconduct" defined. These terms are too vague to give a marine pilot an indication of what his professional responsibilities as a marine pilot are.

In addition to these shortcomings, neither the statutes nor the regulations make express provisions to allow the Board to suspend or revoke the State-issued license of a pilot whose Coast Guard license has been suspended or revoked. Instead, since Administrative Code sections 12.56.030(2), 040 (b)(2) and 050(2), state that a pilot must possess a valid Coast Guard pilot's license in order to be licensed as a State pilot, it is implied that the suspension or revocation of a pilot's Coast Guard license makes his State license invalid.

We recommend that a provision be added to Alaska Statute 08.62.150(a) to allow the Board to revoke or suspend a license based on the revocation or suspension of a Coast Guard pilot's license. This would speed up disciplinary proceedings since the State would not have to prove that a pilot was negligent or incompetent in his pilotage duties.

We further recommend that the statutes or regulations be amended to define ambiguous terms such as incompetent and misconduct.

Recommendation No. 5

The Board should establish formal procedures to conduct its business more effectively and promote better communication with supporting agencies.

During our review of the Board of Marine Pilots, we noted several problems which hinder the effectiveness of the Board. Those problems are as follows:

- 1) Complaints were made to us by representatives from the shipping industry, Coast Guard personnel and members of the pilotage profession about the

Board's failure to investigate complaints and accidents involving pilotage and its failure to take disciplinary action against negligent pilots.

- 2) We also received complaints from persons interested in State pilotage that the Board and/or the Division of Occupational Licensing is not responsive to requests for information.
- 3) It takes the Board as long as two or more years to implement changes.
- 4) In interviewing Coast Guard personnel, we found that there is little cooperation or communication between the Board and the U.S. Coast Guard. As a result, matters which require the concurrent attention of both entities take longer than necessary to resolve.

The slowness of the Board and its failure to make changes can be attributed to two factors:

- a) The Board only meets twice a year - it is difficult to implement changes and take action on problems when six months elapse between discussions of the changes.
- b) The Division of Occupational Licensing and the Department of Law (Attorney General's Office) have failed to follow through on requests for assistance and information made by the Board.

As a result of the above problems, the effectiveness of the Board is impaired because it is losing credibility with the persons it is attempting to regulate. The Board needs to take steps to improve its image among the marine pilotage profession and the other groups involved with pilotage.

We recommend that the Board of Marine Pilots and the two agencies which support it, the Division of Occupational Licensing and the Attorney General's Office, take steps to efficiently and effectively take action on issues facing the Board, so that the Board can achieve its purposes. We urge all entities involved to be more diligent in following up on the requests and needs of the Board.

Following are recommendations for some specific actions the Board and supporting agencies could take:

1. The Board members and the licensing examiner for the Board should work up a procedures manual to be used by the Board members and the examiner. Many misunderstandings between the licensing examiner

and the Board members can be cleared up this way. In addition, a procedures manual would provide continuity between licensing examiners - this would help alleviate the problems caused by the rapid turnover of license examiners. An example of the type of information that should be included in a procedures manual is the procedure for the approval of the Board's minutes.

2. It is a usual practice of the Division of Occupational Licensing to request opinions from the Attorney General's Office in writing. We approve of this practice and urge both the Division of Occupational Licensing and the Attorney General's Office to follow up on the Board's requests for legal advice as efficiently as possible. Responses to requests for assistance should be communicated to the Board members timely enough so that they can use the information during Board meetings.
3. The Board should consider requesting the Coast Guard to appoint one of its personnel to act as a liaison between the Board and the Coast Guard. This person could possibly act in an advisory capacity to the Board and attend the Board meetings in order to provide a means of communication between the two entities.
4. The problem of slow or nonexistent investigations of accidents and complaints and resultant disciplinary actions is recurrent among all the occupational licensing boards (as we explained in the performance audit of OL). The investigations unit within OL says that they do not have the manpower to give priority to cases, such as most marine pilot cases, which are not "life-threatening". Hopefully, now that the three investigator positions within the unit have been filled, this problem will be alleviated.

Two recommendations for further decreasing the amount of time it takes to investigate complaints and take disciplinary actions are:

- a) The Board should maintain a register of vessels, operators, agents and managers of vessels subject to the Marine Pilotage Act as required by Alaska Statute 08.62.040(a) (3). The investigations unit personnel feel this register would be useful in doing their investigations of marine pilots cases.
- b) Disciplinary actions should be taken by the Board as soon as information needed is available. Disciplinary action is still pending on a marine accident which occurred in 1976. No

action had been taken on the case until February of 1979 because the investigations unit was waiting for the Coast Guard's final decision on an appeal filed by the licensee after the initial determination was handed down. Action could have been taken against the pilot's State license after the Coast Guard's initial determination was made.

Recommendation No. 6

The Board of Marine Pilots should establish formal goals, objectives and quantifiable measures which should be included in the OL's budget document.

Objectives describe what an agency or Board is seeking to accomplish during a specific year. Well formulated objectives are capable of measurement and should include numerical targets so that actual accomplishments can be compared with stated targets. Without goals and objectives, the Board's performance cannot be adequately evaluated and analyzed.

OL establishes its own budget goals and objectives. The budget documents do not include any goals or measures for individual boards. Without each Board's goals and measures being identified or measured, both the Governor's Office and the Legislature cannot evaluate a Board's performance (see the OL Performance Audit Report).

Recommendation No. 7

The Division of Occupational Licensing should collect, record and maintain for five year periods, files and statistics of the licensing and testing of applicants and the related workload of the licensing examiner.

The Division needs relevant facts and statistics for evaluating the performance of its personnel and Board activity. Many past records have not been collected and maintained, such as:

1. Number of marine pilots licensed in past years;
2. records of those applicants failing the examination;
3. numbers of applicants denied the chance to take the examination due to lack of qualifications;
4. number of complaints and criticisms about the performance of the Board and its staff;

5. correspondence workload of license examiners; and
6. number of persons requesting applications.

It is to the advantage of the Division to keep these records in order to support its budget request, evaluate its personnel and keep the Board informed as to its progress. Also, feedback from the Board and the public should be encouraged to determine whether staff performance is adequate.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis of Board activities relates to the public need factors defined in the "sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
  1. The Board of Marine Pilots has operated in the public interest by promulgating regulations which help assure that a State-licensed marine pilot has the experience, knowledge and skill required for safe pilotage. The qualifications required for licensure as a State pilot exceed the requirements for a Coast Guard issued pilot's license as follows:
    - a. Applicant must possess a Coast Guard issued master's license;
    - b. applicant must document having completed 10 to 20 dockings and undockings under the supervision of a State licensed pilot; and
    - c. applicant must be at least 25 years old.

We inquired of the pilotage profession, the shipping industry and the Coast Guard about whether or not they felt the additional requirements are necessary to assure a pilot's competency. All three groups were in favor of the extra requirements - their general consensus was that the extra requirements promote marine safety.

However, the differences between the requirements for a Coast Guard pilot's license and a State pilot's license indicate one of two problems exist.

- a. Either the additional requirements for obtaining a State license are unnecessary, because the Coast Guard requirements are sufficient to assure that a pilot is competent; or
- b. those persons who possess only a Federal pilot's license, and thus are licensed