

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7500 SENATE LABOR & COMMERCE

CHAIRMAN DAVE DONLEY CALLED THE MEETING TO ORDER AT 2:00 P.M. INVITING MEMBERS IN ATTENDANCE. THE FIRST ITEM ON THE AGENDA WAS CONSIDERATION OF HB 194 WHICH DEALT WITH THE REGULATION OF MARINE PILOTS.

MD
4/91
REPRESENTATIVE CHERI DAVIS, PRIME SPONSOR OF HB 194 INFORMED MEMBERS THAT MARINE PILOTING INVOLVED THE SKILL AND DISCIPLINE OF NAVIGATING LARGE SHIPS IN CLOSE PROXIMITY TO SHORE PORTS AND OTHER VESSELS. SHE NOTED THAT NO MATTER HOW COMPETENT THE MASTER OF A SHIP WAS IN OPEN SEA, HE/SHE COULD NOT BE EXPECTED TO BE FAMILIAR WITH THE LOCAL NAVIGATION HAZARDS AT EACH HARBOR ENCOUNTERED AS HE/SHE CONDUCTS A SHIP IN THE COURSE OF MARITIME TRADE.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT IT HAD LONG BEEN THE PRACTICE TO EMPLOY A LOCAL PILOT AT EACH PORT THE SHIP ENTERS AND LEAVES WHO HAS INTIMATE FAMILIARITY OF THE WATERS OF THE PORT TO GUIDE THE VESSEL TO AND FROM THE OPEN SEA.

REPRESENTATIVE DAVIS STATED THAT CONSUMERS OF PILOT SERVICES WERE OFTEN FOREIGN FLAGGED VESSELS ENTERING PORTS IN THE STATE WHOSE OWNERS WERE CONCERNED WITH PROFITS. SHE NOTED THAT THERE WAS A SIGNIFICANT CONFLICT OF INTEREST BETWEEN A VESSEL OWNER'S ECONOMIC NEEDS AND THE PUBLIC INTEREST IN SAFE PASSAGE. REPRESENTATIVE DAVIS EXPLAINED THAT IT WAS IN THE PUBLIC INTEREST FOR THE PILOT'S JUDGMENT TO BE ABSOLUTELY FREE OF THE ECONOMIC CONSIDERATIONS OF THE SHIP OWNER.

REPRESENTATIVE DAVIS FURTHER STATED THAT IT WAS FUNDAMENTAL TO AN EFFECTIVE, COMPULSORY PILOTAGE SYSTEM THAT THE SELECTION, CONTROL, AND COMPENSATION OF THE PILOT BE FIXED AND BEYOND THE INFLUENCE OF A SHIP OWNER.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT CSNB 194 (L & C) ESTABLISHES NEW TRAINING STANDARDS AND NEW GUIDELINES FOR PILOTS IN ALASKA. SHE NOTED THAT THE LABOR AND COMMERCE VERSION OF HB 194 WAS THE RESULT OF A COMPROMISE BETWEEN INDUSTRY AND PILOTS.

EDWARD MURPHY, MEMBER, SOUTHWEST ALASKA PILOTS ASSOCIATION, (SWAPA) ADVISED MEMBERS THAT HE PILOTED SHIPS THROUGHOUT SOUTHWEST ALASKA INCLUDING LARGE CRUDE CARRIERS AND OTHER TANKERS, CRUISE SHIPS, CONTAINER SHIPS, AND BULK CARRIERS. HE ADVISED MEMBERS THAT HE HAD SERVED ON THE ALASKA BOARD OF MARINE PILOTS FOR FOUR YEARS, AND WAS CHAIRMAN OF THAT BOARD FOR THREE YEARS.

MR. MURPHY ADVISED MEMBERS THAT IN JANUARY OF 1990 HE HAD WRITTEN GOVERNOR COWPER A LETTER CONCERNING GRAVE SAFETY PROBLEMS HE SAW EMERGING IN THE ALASKA STATE PILOTING SYSTEM. HE NOTED THAT ALASKA HAD ONE OF THE LOWEST ENTRY STANDARDS FOR LICENSING IN THE COUNTRY WITH NO STATE MANDATED STANDARDS OR REQUIREMENTS FOR PILOT TRAINING INORDINATE DELAYS IN PILOT DISCIPLINE CASES, AND PILOT ASSOCIATIONS HAD LEGAL PROBLEMS IN TRAINING PILOTS AND MAINTAINING HIGH STANDARDS.

MR. MURPHY EXPLAINED THAT GOVERNOR CORPER RESPONDED TO THE CONCERNS EXPRESSED IN HIS LETTER BY ORDERING THE OFFICE OF MANAGEMENT AND BUDGET TO CONDUCT AN INDEPENDENT STUDY OF ALASKA'S STATE PILOTING SYSTEM AND TO MAKE RECOMMENDATIONS FOR IMPROVEMENTS BASED ON THE FINDINGS. HE ADVISED MEMBERS THAT THE RESULT OF THAT STUDY WAS A REPORT ENTITLED IMPROVING ALASKA'S MARINE PILOTAGE SYSTEM.

MR. MURPHY STATED THAT THE PILOTS WHO LIVE AND WORK IN ALASKA BELIEVE THAT HB 194, BASED UPON THE FINDINGS OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB), WAS LEGISLATION THAT ONE COULD BE PROUD OF BECAUSE IT WAS ULTIMATELY A SAFETY BILL. HE POINTED OUT THAT THE FINDINGS SECTION MAKE CLEAR FOR THE FIRST TIME THE PUBLIC SERVICE NATURE OF A PILOT'S WORK BY STATING THAT "THE FIRST AND PARAMOUNT DUTY OF MARINE PILOTS IS TO PROVIDE FOR THE PUBLIC SAFETY AND THE PROTECTION OF THE MARINE ENVIRONMENT". IT ALSO STATES THAT "MARINE PILOTS OPERATING INDEPENDENTLY IN THE SHIPPING INDUSTRY HAVE PROVIDED AND WILL CONTINUE TO PROVIDE ESSENTIAL SERVICE TO THE STATE". MR. MURPHY STATED THAT THE INDEPENDENCE OF THE PILOTS IS A CRUCIAL ELEMENT OF SAFETY, LONG RECOGNIZED BY STATE PILOTS AND IDENTIFIED BY THE OMB STUDY.

MR. MURPHY POINTED OUT THAT THE FEDERAL GOVERNMENT RECOGNIZES THE ESSENTIAL ELEMENTS OF PILOTING IN THE OIL POLLUTION ACT OF 1990. HE STATED THAT THE ACT REQUIRES STATE LICENSED PILOTS, WHO ARE NOT A MEMBER OF THE SHIP'S CREW, TO PILOT TANKERS IN PRINCE WILLIAM SOUND. MR. MURPHY STATED THAT HB 194 CLEARLY ESTABLISHED THE POWERS AND DUTIES OF THE BOARD OF MARINE PILOTS, POINTING OUT THAT THE AMBIGUITIES IN EXISTING LAW HAD LONG BEEN THE CAUSE OF CONFLICTING INTERPRETATIONS BY STAFF ATTORNEYS FROM THE ATTORNEY GENERAL'S OFFICE, RESULTING IN MORE CONFUSION, FRUSTRATION, AND LAW SUITS.

MR. MURPHY CONTINUED, POINTING OUT THAT THE PROPOSED LEGISLATION RAISED THE ENTRY STANDARDS FOR PILOT LICENSE APPLICANTS. THE BILL ALSO ESTABLISHES A DEPUTY PILOT SYSTEM IN WHICH NEW PILOTS CAN BE TRAINED UNDER THE SUPERVISION OF VETERANS, AND REQUIRES THE PILOT BOARD TO ESTABLISH STANDARDS FOR TRAINING PROGRAMS, NOTING THAT PILOT TRAINING WAS NOT CURRENTLY ADDRESSED IN PRESENT STATE STATUTES.

MR. MURPHY ADVISED MEMBERS THAT THE STAFF POINTED OUT THE IMPORTANCE OF LOCAL KNOWLEDGE IN ALL MARINE PILOTING, AND RECOMMENDED THAT ALASKA'S VAST COASTLINE BE DIVIDED INTO PILOT REGIONS WHICH WOULD RESTRICT PILOTS TO OPERATING IN ONE REGION. THIS WAS ADDRESSED IN HB 194.

MR. MURPHY ADVISED MEMBERS THAT THE BILL LIMITS A PILOT'S LIABILITY AND THAT OF PILOT ORGANIZATIONS. HE STATED THAT EVERY TIME A PILOT STEPS ON A SHIP THE PILOT FACES FINANCIAL RUIN. MR. MURPHY EXPLAINED THAT POSSIBLE CRIMINAL PENALTIES MAY ALSO BE IMPOSED ON A PILOT IF THE VESSEL SUFFERS AN ACCIDENT. HE EXPRESSED THAT CRIMINAL PENALTIES WERE PROVIDED FOR IN HB 315 WHICH PASSED THE LEGISLATURE THE PREVIOUS YEAR.

MR. MURPHY POINTED OUT THAT MARINE PILOTING WAS A HIGH RISK PROFESSION AND FEW PILOTS COULD STAND THE SORT OF LIABILITY THAT COULD BE IMPOSED. HE STATED THAT SOME SORT OF LIABILITY LIMITATION WAS REASONABLE, AS LEGISLATURES OF OTHER STATES HAD FOUND. MR. MURPHY STATED THAT WASHINGTON'S PILOT ACT SETS A LIABILITY LIMIT OF \$5000. HE ADVISED MEMBERS THAT NOTHING IN HB 194 LIMITS THE LIABILITY IF THE PILOT'S ERROR OR NEGLIGENCE WAS WILLFUL. MR. MURPHY STATED THAT HE WOULD LIKE TO SEE SOME LIMITS OF LIABILITY SET OUT IN THE BILL IN ORDER THAT TO ALLOW PILOTS TO OBTAIN INSURANCE.

MR. MURPHY STATED THAT LIABILITY WAS ALSO A MAJOR PROBLEM FOR PILOT ORGANIZATIONS BECAUSE THEY ARE CAUGHT IN A CATCH-22 SITUATION. HE ADVISED MEMBERS THAT THE STATE DOES NOT REQUIRE PILOT TRAINING, YET ALL MARINERS AND LAYMEN TOO, KNOW THAT PILOTS NEED TO BE WELL TRAINED. MR. MURPHY STATED THAT WHEN ASSOCIATIONS TRAIN NEW PILOTS, THE ASSOCIATION COULD BE SUED IF THE PILOT HAS AN ACCIDENT. HE POINTED OUT THAT IF AN ASSOCIATION FAILS TO TRAIN A NEW PILOT, THEY COULD BE LOUSILY LIABLE AND FELT THAT PRESENTED ANOTHER COMPELLING REASON WHY THE STATE MUST BOTH REQUIRE PILOT TRAINING AND LIMIT THE LIABILITY FOR PILOT ORGANIZATIONS IN THEIR TRAINING FUNCTION.

MR. MURPHY EXPLAINED THAT HB 194 GAVE THE BOARD THE AUTHORITY TO RECOGNIZE ORGANIZATIONS OF MARINE PILOTS FOR CERTAIN PILOT REGIONS OF THE STATE. HE FELT IT WAS IMPORTANT TO RECOGNIZE THAT THE STATE COULD NOT REALISTICALLY MAINTAIN ITS OWN PILOT TRAINING DISPATCH SERVICE. MR. MURPHY ADVISED MEMBERS THAT PILOTS FORM THEMSELVES INTO ORGANIZATIONAL STRUCTURES, AND THOSE ASSOCIATIONS PROVIDE PILOTS, CENTRAL DISPATCHING, EMPLOYEES, BOATS, EQUIPMENT, PILOT STATIONS, RADIOS, TRANSPORTATION, TRAINING AND ADMINISTRATION. MR. MURPHY ADVISED MEMBERS THAT HB 194 RECOGNIZED THOSE FACTS AND REQUIRES GROUPS OF PILOTS TO DO CERTAIN THINGS IN ORDER TO BE RECOGNIZED. HE NOTED THAT THE BILL REQUIRES COMPLIANCE WITH STATE STANDARDS IN TERMS OF NONDISCRIMINATION, PROMOTING A PROFESSIONAL PILOTING SERVICE, MAINTAINING SUFFICIENT PILOTS, AND MAINTAINING TRAINING PROGRAMS.

MR. MURPHY EXPRESSED HIS OPINION THAT HB 194 DID NOT FRANCHISE PARTICULAR PILOT GROUPS OR ASSOCIATIONS, AND DID NOT REQUIRE INDIVIDUAL PILOTS TO BELONG.

MR. MURPHY POINTED OUT THAT ALASKA'S PILOTING ACT HAD CHANGED LITTLE SINCE IT WAS ENACTED IN 1970, HOWEVER, SHIPPING IN THE STATE HAD INCREASED MANYFOLD WITH LARGER AND FASTER SHIPS, THAT CARRIED MORE DANGEROUS CARGOS. HE STATED THAT THE CONSEQUENCES OF A PILOT FAILING TO ADEQUATELY MEET THE DEMANDS PLACED UPON HIM OR HER COULD HAVE PROFOUND CONSEQUENCES FOR THE MARINE ENVIRONMENT AND CITIZENS OF ALASKA. HE STATED THAT ALASKA'S CITIZENS HAD THE RIGHT TO EXPECT THE STATE PILOTS TO MEET HIGH ENTRY STANDARDS, UNDERGO RIGOROUS TRAINING, AND POSSESS EXTENSIVE LOCAL KNOWLEDGE OF THE AREA. MR. MURPHY STATED THAT AS WAS RECOGNIZED BY THE OMB STUDY GROUP, SAFETY DEMANDS THAT PILOTS BE INDEPENDENT AND FREE OF THE SHIP OWNERS' AND AGENTS' INTERESTS AND CONTROL.

MR. MURPHY, IN CLOSING, ADVISED MEMBERS THAT THE SOUTHWEST ALASKA PILOTS ASSOCIATION FELT HB 194 WAS LONG OVERDUE AND THEY WERE IN STRONG SUPPORT OF ITS PASSAGE.

REPRESENTATIVE MARTIN ASKED MR. MURPHY IF A NATIONAL MODEL OR STANDARD WAS IN PLACE TO ASSIST PROVIDING TRAINING AND EDUCATION FOR YOUNG PEOPLE WISHING TO GET INTO THE PROFESSION OF MARINE PILOTING. MR. MURPHY ADVISED MEMBERS THERE WAS NO MODEL, HOWEVER, TWO BASIC TRADITIONS EXISTED IN THE COUNTRY BY WHICH AN INDIVIDUAL COULD ENTER THE PROFESSION. HE STATED THAT ON THE EAST COAST, YOUNG PERSONS COME IN AS DECK HANDS AND WORK THEIR WAY UP TO QUALIFYING FOR A DEPUTY PILOT'S LICENSE AND EVENTUALLY A FULL PILOT'S LICENSE, NOTING THAT THE PROCESS TOOK QUITE A NUMBER OF YEARS.

MR. MURPHY ADVISED MEMBERS THAT THE TRADITION ON THE WEST COAST WAS DIFFERENT. HE EXPLAINED THAT MOST PILOTS HAD SPENT A LOT OF TIME AT SEA ON LARGE TONNAGE VESSELS. MR. MURPHY STATED THAT THESE INDIVIDUALS GET THE REQUIRED TRANSITS OVER A PARTICULAR PILOTAGE ROUTE IN ORDER TO SATISFY THE COAST GUARD REQUIREMENT FOR FEDERAL LICENSING. MR. MURPHY STATED THAT AFTER THAT POINT, THE INDIVIDUAL ENTERS AN ASSOCIATION'S TRAINING PROGRAM, WHICH VARY DEPENDING ON THE AREA. HE EXPLAINED THAT THERE WERE STRINGENT REQUIREMENTS IN CALIFORNIA AND IN PUGET SOUND, HOWEVER, IN ALASKA THE TRAINING REQUIREMENTS WERE QUITE MINIMAL AND IN HIS OPINION WAS ONE OF THE PROBLEMS WITH ALASKA STATE LAW. MR. MURPHY STATED WITH RESPECT TO THE AVAILABILITY OF PILOTING SCHOOLS, THAT THE PROFESSION WAS MORE OF A "HANDS ON" LEARNING SKILL AND INVOLVED A LENGTHY APPRENTICESHIP PROGRAM.

MR. MURPHY STATED THAT THE SYSTEM HE WOULD LIKE TO SEE TO SATISFY CONCERNS ABOUT DISCRIMINATION AND WRONGFUL DEALING, WAS THAT QUALIFIED APPLICANTS WOULD APPLY TO THE STATE AND TAKE A COMPETITIVE EXAMINATION. HE ADVISED MEMBERS THAT AFTER THAT POINT, WHATEVER THERE WAS AN OPENING, THOSE INDIVIDUALS RECEIVING THE HIGHEST SCORES WOULD BE DIRECTED TO A PARTICULAR PILOT ASSOCIATION FOR THE PURPOSE OF TRAINING. MR. MURPHY EXPRESSED HIS OPINION THAT BY USING THIS TYPE OF METHOD, NO ONE COULD ACCUSE ASSOCIATIONS OR PILOTS OF EXCLUDING AN INDIVIDUAL.

PAUL KIRCHNER, GENERAL COUNSEL TO THE AMERICAN PILOTS' ASSOCIATION (APA), INFORMED MEMBERS THAT THE APA WAS A NATIONAL TRADE ASSOCIATION COMPOSED OF STATE PILOT ASSOCIATIONS LOCATED IN EACH OF THE COASTAL STATES AND THREE GROUPS OF PILOTS OPERATING ON THE GREAT LAKES. HE POINTED OUT THAT THERE WERE 57 STATE PILOT ASSOCIATIONS IN THE APA AND APPROXIMATELY 1,050 LICENSED, ACTIVE PILOTS.

MR. KIRCHNER ADVISED MEMBERS THAT AMONG THE OBJECTIVES OF THE APA WAS THE PROMOTION OF PUBLIC SAFETY AND THE PROTECTION OF LIFE, PROPERTY, AND THE ENVIRONMENT. HE STATED THAT THE FOUNDATION OF THAT SYSTEM, AND THE PRIMARY REASON FOR THE TRADITIONALLY HIGH STANDARDS OF THE STATE PILOT PROFESSION, HAD BEEN EFFECTIVE STATE REGULATION. MR. KIRCHNER ADVISED MEMBERS THAT THE APA FULLY SUPPORTED ALASKA, OR ANY OTHER STATE, ASSESSING ITS PILOTING STATUTES AND REGULATIONS AND MAKING IMPROVEMENTS WHERE NECESSARY AND APPROPRIATE.

MR. KIRCHNER ADVISED MEMBERS THAT APA FELT HB 194 PROVIDED A SIGNIFICANT IMPROVEMENT TO THE STATE'S PRESENT PILOTAGE REGULATORY SYSTEM. HE EXPRESSED HIS OPINION THAT THE BILL PROVIDED FOR A STRONG PILOT BOARD WITH SUFFICIENT STATUTORY AUTHORITY TO REGULATE TARIFFS TO SET MEANINGFUL LICENSING AND TRAINING REQUIREMENTS, TO PROVIDE OVERSIGHT OF PILOT ORGANIZATIONS, AND TO SET EFFECTIVE PENALTIES FOR VIOLATIONS OF THE STATE'S COMPULSORY PILOTAGE REQUIREMENT.

MR. KIRCHNER ADVISED MEMBERS THAT STATE CONTROL OVER PILOTAGE WAS THE RESULT OF A JUDGMENT MADE BY THE FIRST CONGRESS IN 1789 THAT PILOTAGE WAS A MATTER BEST LEFT TO THE STATES. HE POINTED OUT THAT THAT JUDGMENT HAD BEEN REPEATEDLY REAFFIRMED IN CONGRESS AND IN THE COURTS EVER SINCE 1789. MR. KIRCHNER EXPRESSED HIS OPINION THAT STATE PILOTAGE REGULATIONS RESPOND TO LOCAL CONDITIONS AND NEEDS, WITH EACH STATE'S SYSTEM BEING SOMEWHAT UNIQUE, AND EACH STATE DOING WHAT IT FEELS BEST FOR ITS OWN SITUATION AND PROTECTION OF ITS CITIZENS.

MR. KIRCHNER STATED THAT THERE WERE SOME CONSTANT DISTINGUISHING FEATURES OF STATE PILOTAGE LAWS IN THE COUNTRY. OF THOSE, HE EXPLAINED THAT STATE PILOTAGE WAS A PUBLIC SERVICE AND NOT SIMPLY A JOB DESCRIPTION, OCCUPATION, OR EVEN A PROFESSION. MR. KIRCHNER ADVISED MEMBERS THAT THE PILOTS SERVE THE PUBLIC INTEREST. IN SOME STATES THE PILOT IS RECOGNIZED EITHER BY STATUTE OR BY LEGAL OPINIONS AS A PUBLIC OFFICIAL. MR. KIRCHNER STATED THAT COURT CASES HAD GENERALLY DESCRIBED STATE PILOTS AS QUASI-STATE OFFICIALS.

MR. KIRCHNER ADVISED MEMBERS THAT IN ORDER TO PRESERVE THE PUBLIC INTEREST AS THE PARAMOUNT CONCERN OF A STATE PILOT, THE STATE PILOT MUST BE INDEPENDENT OF THE SHIP OWNERS AND THE SHIP OPERATORS. HE STATED THAT STATE PILOTAGE WAS A TOTAL COMPREHENSIVE REGULATORY SYSTEM. MR. KIRCHNER ADVISED MEMBERS THAT THE ROLE OF THE STATE WAS TO ASSURE EVERY VESSEL THAT A TRAINED, COMPETENT PILOT WOULD BE AVAILABLE WHEN NEEDED, AND ON A NONDISCRIMINATORY BASIS.

MR. KIRCHNER STATED THAT FOR THOSE REASONS THE STATES CONCERN THEMSELVES NOT ONLY WITH THE PILOT'S QUALIFICATIONS AND SKILLS WHEN ISSUING A PILOT LICENSE, BUT ALSO REGULATE PILOTAGE RATES, ENFORCE AVAILABILITY REQUIREMENTS, AND ENSURES THAT PILOTS HAVE SUITABLE EQUIPMENT AND SUPPORT SERVICES. REPRESENTATIVE MARTIN AGAIN EXPRESSED HIS CONCERN ABOUT THE LACK OF NATIONAL STANDARDS. MR. KIRCHNER STATED THAT THERE WAS NO NATIONAL TRAINING STANDARD PRESENTLY, REITERATING THAT THERE WERE TWO BASIC MODELS AS STATED BY MR. MURPHY; THE EAST COAST AND THE WEST COAST MODELS. MR. KIRCHNER POINTED OUT THAT EACH STATE DID ITS OWN THING AND THE BOARD WOULD NOT RECOMMEND A NATIONAL MODEL BECAUSE THEY WOULD WANT TO PRESERVE THE ESSENTIAL FEATURE OF STATE PILOTAGE AS A RESPONSE TO LOCAL CONDITIONS.

JOSEPH MERRILL, ADVISED MEMBERS HE WAS REPRESENTING THE ALASKA MARINE PILOT DISPATCH SERVICE HEADQUARTERED IN DUTCH HARBOR, ALASKA, AND ALSO WAS A PROFESSOR OF ACCOUNTING AND INCOME TAX AT THE UNIVERSITY OF ALASKA, ANCHORAGE.

MR. MERRILL ADVISED MEMBERS HE HAD BEEN INVOLVED IN PILOTAGE FOR APPROXIMATELY 10 YEARS AS THE MANAGER FOR TWO STATE BODIES AND AS A CONSULTANT ON RATES AND TARIFFS TO PILOTS IN BEHALF AND WASHINGTON.

MR. MERRILL ASKED THAT WHILE CONSIDERING THE BILL, MEMBERS KEEP IN PERSPECTIVE THE POSITIVE ASPECTS OF THE LEGISLATION, AND THE IMPROVEMENTS IT MAKES OVER THE EXISTING LAW. HE STRONGLY FELT THAT A LOT OF THE DETAILS OF THE LAW SHOULD NOT BE SET OUT IN THE STATUTE BECAUSE OF THE DIFFICULTY OF CHANGING THE LAW IF IT IS WRONG.

MR. MERRILL POINTED OUT THAT HE 194 ACKNOWLEDGES THAT THE STATE IS A HUGE AREA HAVING SEVERAL DISTINCT SHIPPING NEEDS; I.E., TOUR SHIPS, TANKER AND HEAVY CARGO VESSELS AND FISHING INDUSTRY VESSELS, ALONG WITH THE FERRY VESSELS. HE STATED THAT THE BILL ALLOWS THE BOARD TO ESTABLISH REGIONS FOR VARIOUS PURPOSES. MR. MERRILL ADVISED MEMBERS THAT IT WAS NOT A MATTER OF SHALL THERE BE REGIONS OR NOT, BUT IT ALLOWS REGIONS TO BE DELINEATED FOR THE PURPOSE OF ESTABLISHING TRAINING PROGRAMS. HE EXPRESSED THAT IT WAS IMPORTANT TO HAVE REGIONAL TARIFF DIFFERENCES BECAUSE OF THE NATURE OF THE ACTIVITY OF THE VESSELS.

MR. MERRILL FELT THE BILL RECOGNIZED ALSO THAT THE STATE AND PILOTS WERE IN SOMEWHAT OF A PARTNERSHIP AGREEMENT, REALIZING THAT EVERY PROFESSION HAS TO BE EVALUATED BY ITS OWN PROFESSIONALS, AND PILOTS HAVE TO TRAIN PILOTS. HE STATED WITH RESPECT TO THE LIABILITY ASPECT OF THE BILL, THAT WHEN PILOTS' ASSOCIATIONS ARE TRAINING OR TESTING SOMEONE, AND CONCLUDE THAT A PARTICULAR INDIVIDUAL DOES NOT HAVE THE NECESSARY QUALIFICATIONS AND TRAINING IS DISCONTINUED, THE ASSOCIATION SHOULD NOT GET SUED FOR RELEASING THE INDIVIDUAL FROM FURTHER TRAINING.

MR. MERRILL STATED THAT AS A TARIFF EXPERT IN SEVERAL INDUSTRIES, HE WAS CONVINCED THAT AT THE BOARD LEVEL, A TARIFF COULD BE IMPLEMENTED THAT WOULD ACKNOWLEDGE A DISTINCTION BETWEEN PROFESSIONAL SERVICES AND WORKING CONDITIONS THAT HAD BUILT-IN INCENTIVES. HE STATED THAT PRESENTLY THE REGULATIONS ALLOW ANY PARTY WITH A MATERIAL INTEREST IN THE TARIFF TO GO TO THE BOARD AND HAVE THE TARIFF OPENED UP TO REVAMP THE WHOLE STRUCTURE. MR. MERRILL ADVISED MEMBERS THAT HE WAS CONVINCED THAT ONCE THE BOARD'S AUTHORITY OVER TARIFFS WAS CLARIFIED, THAT A TARIFF COULD BE DESIGNED THAT WOULD SATISFY MOST OF INDUSTRY'S CONCERNS ABOUT THE TARIFF.

MR. MERRILL STATED THAT AS A BUSINESS PERSON AND BUSINESS TEACHER, HE COULD NOT SEE ANYTHING IN THE PROPOSED LEGISLATION THAT WOULD CREATE MONOPOLIES OR BARRIERS TO ENTRY TO THE PROFESSION THAT WERE NOT INHERENT TO ANY PROFESSION.

JOSEPH W. HOMER, ADVISED MEMBERS HE WAS A FEDERALLY LICENSED MARINE PILOT AND A MEMBER OF THE ALASKA COASTWISE PILOTS' ASSOCIATION. HE ADVISED MEMBERS THAT THE BILL CONTAINED NOTHING THAT WOULD HAVE PREVENTED THE EXXON VALDEZ OIL SPILL IN PRINCE WILLIAM SOUND. MR. HOMER STATED THAT THE PROVISIONS OF HB 194 DID THE CONTRARY BY REQUIRING THAT A MARINE PILOT COULD ONLY OPERATE IN ONE DESIGNATED REGION.

MR. HOMER REQUESTED THAT THE COMMITTEE RECOMMEND THAT HB 194, AND SIMILAR LEGISLATION, NOT TAKE AWAY FROM THE BOARD OF MARINE PILOTS THE POWER TO LICENSE PILOTS WHERE THEY ARE QUALIFIED, FOR MORE THAN ONE REGION IN THE STATE. IT WAS ALSO SUGGESTED BY MR. HOMER THAT NO LAWS, RULES, OR REGULATIONS BE IMPLEMENTED THAT WOULD HAVE THE EFFECT OF ELIMINATING COMPETITION OR RESTRAINING TRADE ON THE PILOT GROUNDS. MR. HOMER FELT HB 194 WAS AN IMPORTANT PIECE OF LEGISLATION, HOWEVER, FELT MORE TIME WAS NEEDED TO FURTHER EVALUATE THE DETAILS OF THE BILL.

BOB ARIS, REPRESENTING ALASKA MARITIME AGENCIES AND THE ALASKA STEAMSHIP OPERATORS ASSOCIATION, (ASSOA), ADVISED MEMBERS THEY WERE IN SUPPORT OF MANY OF THE PROVISIONS INCLUDED IN HB 194. HE EXPRESSED THAT BILL SHARP WOULD BE REQUESTING THE COMMITTEE'S CONSIDERATION OF SEVERAL AMENDMENTS.

BILL SHARP, ASSOA, ADVISED MEMBERS THE ASSOCIATION DID SUPPORT HB 194 AND THE EFFORTS THAT HAD GONE INTO ITS FURNISHING. HE EXPLAINED THAT ASSOA HAD CONCERNS ABOUT THE BILL AS IT RELATED TO TARIFFS. MR. SHARP ADVISED MEMBERS THEY WOULD LIKE TO SEE A TARIFF WITH BASE RATES ESTABLISHED AND ALLOWANCES FOR DAY-TO-DAY OPERATING COSTS LEFT TO THE MARKET DEMAND.

MR. SHARP POINTED OUT THAT PRESENTLY THE STATE OPERATED WITHOUT REGIONS BEING IDENTIFIED IN REGULATION. HE ADVISED MEMBERS WITH RESPECT TO REGIONALIZING A PILOT'S AREA OF OPERATION, THAT ASSOA WOULD LIKE PILOTS GIVEN THE ABILITY TO OPERATE IN OVERLAPPING REGIONS OR DISTINCT PORTS OR WATERWAYS IN A SECONDARY REGION IF THE PILOT QUALIFIES.

MR. SHARP STATED THAT ASSUA WAS ALSO CONCERNED ABOUT THE ANTITRUST PROVISIONS OF THE BILL. HE POINTED OUT THAT NO OTHER STATES INCLUDED ANTITRUST PROVISIONS IN THEIR PILOTAGE LAWS AND ASKED WHY THOSE PROVISIONS WERE INCLUDED IN '82 194.

DAN GRAUSZ, GENERAL COUNSEL FOR HOLLAND-AMERICA, A MEMBER OF THE NORTHWEST CRUISE SHIP ASSOCIATION, ADVISED MEMBERS THEY FULLY SUPPORTED THE POSITION OF THE ALASKA STEAMSHIP OPERATORS ASSOCIATION. HE STATED THAT HOLLAND-AMERICA DID NOT WANT TO SEE THE BILL KILLED, THAT THE LEGISLATION WAS A GOOD OVERVIEW, AND THAT THERE WAS A NEED TO UPGRADE THE QUALITY OF PILOTS IN THE STATE OF ALASKA AND INCREASE THE ENTRY LEVEL REQUIREMENTS OF THE PROFESSION.

MR. GRAUSZ ADVISED MEMBERS THAT HOLLAND-AMERICA WAS ALSO CONCERNED ABOUT THE ANTITRUST PROVISIONS OF THE BILL. HE STATED THAT AS HE READ THE BILL, IT WAS STATING THAT PILOTING ORGANIZATIONS COULD ENGAGE IN EXCLUSIVE DEALING AND PRICE FIXING, AS WELL AS ANTICOMPETITIVE AGREEMENTS WITHOUT BEING ANSWERABLE TO THE STATE OF ALASKA. MR. GRAUSZ FELT THAT MEANT THAT A PILOT ORGANIZATION COULD GO TO A SHIPPER AND SAY THE ORGANIZATION WOULD HANDLE THE SHIPPER'S SHIPS, WITH THE SHIPPER HAVING THE ABILITY TO SAY IF THE PILOT ORGANIZATION WANTED TO HANDLE THOSE SHIPS THAT THEY WOULD HAVE TO PROMISE NOT TO DEAL WITH ANYONE ELSE'S SHIPS. MR. GRAUSZ ADVISED MEMBERS THAT SHOULD BE ILLEGAL, POINTING OUT THAT IT WAS ILLEGAL UNDER CURRENT ANTITRUST LAWS AND SHOULD CONTINUE TO BE ILLEGAL.

MR. GRAUSZ STATED THAT IN THE AREA OF PRICE FIXING, THE BILL WOULD ALLOW A PILOT ORGANIZATION TO GO TO ONE SHIPPING COMPANY AND SAY THE ORGANIZATION WAS WILLING TO HANDLE SHIPS AT A CERTAIN PRICE AT A PARTICULAR PORT, AND AGREE TO CHARGE EVERYONE ELSE A HIGHER RATE. MR. GRAUSZ POINTED OUT THAT THAT WAS PRICE FIXING, WAS ILLEGAL UNDER CURRENT LAW, AND SHOULD CONTINUE TO BE ILLEGAL.

MR. GRAUSZ STATED WITH RESPECT TO RATES, HOLLAND-AMERICA FELT THAT IT WAS IMPERATIVE THAT A MAXIMUM RATE BE SET. HE STATED THAT ONCE A MAXIMUM RATE IS SET, THE PUBLIC INTEREST IS SERVED AND THE PILOTS AND SHIPPERS SHOULD BE ALLOWED TO NEGOTIATE RATES BELOW THE MAXIMUM RATE. MR. GRAUSZ STATED THAT THAT WOULD ALLOW THE MARKET TO DETERMINE THE AMOUNT OF THE RATES.

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MR. GRAUSZ STATED THAT ONE CONCERN THAT HAD BEEN EXPRESSED ABOUT RATES WAS THAT THE SHIPPING INDUSTRY WOULD FORCE PILOTS TO CUT THEIR RATES SO LOW THAT THEY WOULD PROVIDE INFERIOR SERVICE AND ALLOW UNTRAINED PEOPLE TO PROVIDE PILOTAGE. HE POINTED OUT THAT UNDER THE THEORY BEING ADVANCED IN '82 194, EVERY TIME A PRICE IS NEGOTIATED, SAFETY IS COMPROMISED.

MR. CRADOCK STATED THAT HOLLAND-AMERICA WANTED TO MAKE SURE THAT PILOT ORGANIZATIONS COULD NOT ESCAPE LIABILITY FOR SIMPLE NEGLIGENCE OR BREACH OF CONTRACT. HE STATED THAT HOLLAND-AMERICA WANTED A SYSTEM TO BE IMPLEMENTED THAT WOULD BE ECONOMICALLY VIABLE AND FAIR FOR ALL PARTIES CONCERNED.

JARICE ADAMS, REPRESENTATIVE OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC), ADVISED MEMBERS THAT DEC BELIEVED THAT THE MANDATORY USE OF LOCAL MARINE PILOTS WITH A KNOWLEDGE OF THE AREA IN WHICH THEY OPERATE WAS AN INTEGRAL PART OF OIL SPILL PREVENTION. SHE STATED THAT THE DEPARTMENT WAS IN SUPPORT OF STRENGTHENING AND CLARIFYING THE DUTIES OF THE MARINE PILOTS' BOARD, IMPROVING ENTRY REQUIREMENTS, AND PROVIDING TRAINING AND EXPERIENCE STANDARDS.

MS. ADAMS STATED THAT THERE WERE LEGAL QUESTIONS ABOUT HB 194 THAT THE DEPARTMENT WAS NOT PREPARED TO TAKE A POSITION ON, HOWEVER, ADVISED MEMBERS THAT THEY WERE IN SUPPORT OF OTHER ASPECTS OF HB 194.

TERRY BENNETT, PRESIDENT, ALASKA COASTWISE PILOTS (ACP), ADVISED MEMBERS HE HAD BEEN PILOTING IN ALASKA SINCE 1981. HE STATED THAT HB 194 WAS BASED ON THE PILOTAGE STUDY COMPLETED BY OMB. MR. BENNETT FELT THAT THE STUDY ITSELF WAS FLAWED IN A NUMBER OF AREAS, AND BELIEVED THAT FURTHER STUDY WAS NECESSARY PRIOR TO ENACTING LEGISLATION SUCH AS HB 194.

MR. BENNETT POINTED OUT THAT THE STUDY CONTRADICTED ITSELF IN SEVERAL AREAS, NOTING THAT THERE WERE APPROXIMATELY 50 PAGES OF THE STUDY DEVOTED TO LETTERS FROM ATTORNEYS FOR THE TWO DOMINANT PILOT GROUPS, AS WELL AS THEIR LOBBYING, MR. KLIMBERG OF APA. HE EXPLAINED THAT THE STUDY DID NOT LIST ANY OF THE ARGUMENTS OF THE PILOTS WHO DID NOT BELONG TO THOSE TWO DOMINANT GROUPS. IT WAS MR. BENNETT'S BELIEF THAT THE CONCLUSIONS DRAWN, RECOMMENDATIONS MADE, AND ARGUMENTS PRESENTED BY THE STUDY WERE SOLELY THE OPINION OF THE TWO DOMINANT GROUPS PRESENTED AS AN OMB STUDY.

MR. BENNETT ADVISED MEMBERS THAT ACP BELIEVED THE STATE CURRENTLY REQUIRES QUALIFIED, SKILLED, INDEPENDENT PILOTS, AND THAT ACP PROVIDES WORK OF THE HIGHEST QUALITY AVAILABLE IN THE STATE. HE POINTED OUT THAT THE STUDY ALSO SUGGESTED THAT THE STATE SET HIGHER TRAINING STANDARDS IN RETURN FOR LIMITING PILOTS' LIABILITY AND GIVING PILOTS' ORGANIZATIONS ANTITRUST PROTECTION. MR. BENNETT SUBMITTED THAT THE STATE WAS NOT REQUIRED TO TRADE ANYTHING FOR HIGHER SAFETY REQUIREMENTS.

MR. BENNETT ADVISED MEMBERS THAT ACP FELT THE LANGUAGE REGARDING LICENSING AND TRAINING WAS AMBIGUOUS AND GRANTED TOO MUCH POWER TO THE BOARD OF MARINE PILOTS, AND THAT THE POWER WAS SUBJECT TO ABUSE BY THE BOARD. HE STATED THAT THE BOARD HAD A HISTORY OF OVEREMPHASIZING PROTECTION OF PILOTS FROM CIVIL LIABILITY TO THE EXCLUSION OF THEIR RESPONSIBILITY TO MONITOR SAFETY INFRACTIONS AND MISCONDUCT BY PILOTS. MR. BENNETT POINTED OUT THAT ACP DID NOT FEEL THE BILL WAS DIRECTED AT IMPROVING SAFETY OF NAVIGATION, BUT WAS SOLELY AN ATTEMPT TO PUT ACP OUT OF BUSINESS.

MR. BENNETT POINTED OUT THAT THE BILL SUGGESTS THERE IS A NEED TO IMPROVE SAFETY OF NAVIGATION AND TO UPGRADE TRAINING AND ENTRY STANDARDS, HOWEVER, THE BILL REALLY ONLY PROVIDES AN ECONOMIC ANSWER, THEREBY EXPOSING ITS REAL PURPOSE: THE EVENTUAL, IF NOT IMMEDIATE, ELIMINATION OF COMPETITION.

MR. BENNETT STATED THAT ACP HAD NO PROBLEMS WITH THE SAFETY AND TRAINING REQUIREMENTS IN THE BILL, HOWEVER, ACP WAS CONCERNED ABOUT HOW THOSE REQUIREMENTS WOULD BE IMPLEMENTED, AND FELT THE REMAINING PROVISIONS OF THE BILL SHOULD BE DISCARDED. HE STATED THAT ACP HAD PROVIDED WRITTEN AMENDMENTS FOR THE COMMITTEE'S CONSIDERATION THAT IF ADOPTED WOULD ALLOW ACP AND OTHER NEW PILOT GROUPS TO COMPETE SUCCESSFULLY WITH THE TWO DOMINANT GROUPS IN THE STATE.

REPRESENTATIVE CHERI DAVIS STATED THAT SHE HAD RECEIVED A COPY OF MR. BENNETT'S WRITTEN TESTIMONY EARLIER THAT MORNING AND WAS SHOCKED TO SEE THAT HE WOULD LIKE THE COMMITTEE TO DISCARD HB 194. REPRESENTATIVE DAVIS ALSO POINTED OUT THAT BILL SHARP HAD STATED HIS ABILITY TO LIVE LIVE WITH THE PROPOSED LANGUAGE OF HB 194 DURING A PREVIOUS COMMITTEE HEARING. IF THE PORTION OF THE BILL REGARDING REGIONAL WAS REMOVED, SHE STATED THAT MR. SHARP SUGGESTED HER OFFICE WITH SUGGESTED DRAFT LANGUAGE THE PREVIOUS DAY, LATE IN THE AFTERNOON, TO MAKE NUMEROUS CHANGES TO THE BILL.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT THE ATTORNEY GENERAL'S OFFICE SUPPORTED THE PROPOSED LEGISLATION, THE PILOT BOARD FELT IT WAS A GOOD PIECE OF LEGISLATION, AS DID THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE THREE FUNCTIONING PILOTS' ASSOCIATIONS.

REPRESENTATIVE NORTON QUESTIONED WHETHER OR NOT THERE WERE STANDARDS AVAILABLE TO ADDRESS THE ISSUE OF PRICE CUTTING AND THE PROBLEM OF CREATING MONOPOLIES. JOSEPH MERRILL ADVISED MEMBERS THAT THE PRESENT TARIFF HAD BEEN SET BY AN ADMINISTRATIVE HEARING OFFICER IN APPROXIMATELY 1969. HE EXPLAINED THAT THE TARIFF HAD BEEN SET BY TAKING THE OPERATING COSTS AND ADDING THE PILOT'S INCOME. HE STATED THAT IN THAT PROCESS, THE ONLY VARIABLE IS DECIDING THE AMOUNT OF THE PILOT'S INCOME.

MR. MERRILL STATED THAT THE BOARD, THROUGH ITS REGULATORY PROCESS, SETS CRITERIA FOR THE COST OF OPERATING, BASED ON DATA PROVIDED BY THE SHIPPING COMPANIES (WHAT IT COSTS THEM TO OPERATE). HE EXPLAINED THAT THE TARIFF ALSO TAKES INTO CONSIDERATION THE REGIONAL COST DIFFERENCES IN ALASKA.

MR. MERRILL STATED THAT HB 194 ATTEMPTS TO RESOLVE A CONFLICT CREATED BY AN ATTORNEY GENERAL'S OPINION THAT CONCLUDED THE BOARD DID NOT PRESENTLY HAVE THE AUTHORITY TO SET RATES, EVEN THOUGH THE BOARD WAS SETTING RATES. HE EXPLAINED THAT BECAUSE IT WAS NOT CLEAR THAT THE BOARD COULD SET RATES, IT WAS NOT CLEAR WHETHER ONE HAD TO COMPLY WITH THE RATES SET BY THE BOARD. MR. MERRILL ADVISED MEMBERS THAT WHAT HE WOULD LIKE TO SEE IN THE TARIFF WAS A RATE BASED ON THE PROFESSIONAL FEE CHARGED BY A WORKING PILOT AS HIGH ENOUGH TO MAINTAIN THE HIGH QUALITY OF PILOTS GETTING INTO THE BUSINESS.

REPRESENTATIVE MIKE MILLER POINTED OUT THAT THE BILL ADDRESSED LICENSING PILOTS BY REGION AND ASKED HOW PILOTS WERE CURRENTLY LICENCED. MR. MERRILL ADVISED MEMBERS THAT CURRENTLY LICENSING OF MARINE PILOTS WAS TIED TO THE COAST GUARD LICENSING PROCESS. HE STATED THAT IN ORDER TO RECEIVE A COAST GUARD LICENSE, AN INDIVIDUAL WOULD HAVE TO HAVE FAMILY JURISDICTION TRIPS IN THE MAJOR WATERWAYS OF EACH AREA OF THE STATE. MR. MERRILL ADVISED MEMBERS THAT PRESENTLY THERE WERE TWO REGIONS FOR LICENSING, THAT OF SOUTHERN ALASKA AND WESTERN ALASKA, BASED IN PART ON COAST GUARD JURISDICTION. REPRESENTATIVE MILLER ASKED IF A PILOT COULD BE LICENCED IN BOTH REGIONS. MR. MERRILL ADVISED MEMBERS THAT PRESENTLY SOME PILOTS WERE LICENCED IN BOTH THE SOUTHERN AND WESTERN REGIONS OF THE STATE.

REPRESENTATIVE MARTIN POINTED OUT THAT THERE WERE CURRENTLY THREE REGIONS, AND ASKED IF THERE WOULD BE ANY REASON TO BRING THOSE REGIONS DOWN FURTHER. REPRESENTATIVE DAVIS ADVISED MEMBERS THAT POSSIBILITY HAS BEEN CONSIDERED BUT THE FAMILIARITY TO THE BILL HAD BEEN LEFT AN UNLITLED AN POSSIBILITY IN ORDER TO ALLOW THE BOARD TO MAKE THOSE DETERMINATIONS. SHE POINTED OUT THAT THE BOARD COULD DECIDE TO LET THE REGIONS OVERLAP, AND THAT THE BOARD COULD DECIDE THAT THREE REGIONS WAS NOT NECESSARY.

REPRESENTATIVE MARTIN REITERATED HIS CONCERN FOR THE LACK OF STANDARDS. MR. MURPHY STATED THAT IN THE AREA OF STATE STANDARDS SET BY LAW, PILOT ASSOCIATIONS WERE EXPERIENCING AN INCREASINGLY DIFFICULT TIME MAINTAINING THEIR OWN INTERNAL STANDARDS. HE ADVISED MEMBERS THAT AS STATE STANDARDS WERE SET BY STATE LAWS, LAWSUITS WERE LESS LIKELY TO BE FILED AGAINST ORGANIZATIONS WITH RESPECT TO TRAINING PILOTS.

MR. MURPHY EXPLAINED THAT WHEN ASSOCIATIONS MAINTAIN TRAINING PROGRAMS, THEY ARE SUBJECT TO LAWSUITS IF AN ACCIDENT OCCURS. HE STATED THAT IF THE ASSOCIATIONS DROP THEIR TRAINING PROGRAMS IT WOULD BE IMPOSSIBLE FOR THE ASSOCIATIONS TO MAINTAIN ANY TYPE OF INTEGRITY, AND WOULD ALSO SUBJECT THEM TO LAWSUITS. MR. MURPHY STATED BUT THAT PILOTS THEMSELVES AND PILOT ASSOCIATES TRAVEL ORGANIZATIONS, WHICH ARE REQUESTING LIABILITY PROTECTION FOR THEIR TRAVELING FUNCTIONS. HE ADVISED MEMBERS THAT MOST PILOTS ONLY TAKE THE COURSE OF CERTAIN COURSE AND DEFEND COAST INSURANCE. MR. MERRILL STATED THAT IN THE A COUPLE OF MONTHS EARLY PILOTS HAD NOT BEEN ABLE TO OBTAIN INSURANCE FOR THE PURPOSE OF TRAVELING UP A MARINE AREA.

CHAIRMAN DAVIS STATED THAT THE COMMITTEE WOULD CONSIDER THE PROPOSED AMENDMENTS AND ASKED IF REPRESENTATIVE DAVIS WISHED TO MAKE A CLOSING STATEMENT.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT SHE ALSO HAD PREPARED SOME ADDITIONAL AMENDMENTS FOR THE COMMITTEE TO CONSIDER THAT WOULD PRESENT LAWS SET BY THE BOARD AS INCLUDING VESSEL MOVEMENT TESTS, TRANSPORTATION CHARGES FOR DISPATCH POINT TO PILOT STATION, PILOT MOAT CHARGES, AND DAILY PER DIEM. ANOTHER PROPOSED AMENDMENT WOULD MAKE THE LAW CONSISTENT WITH THE FEDERAL AIRCRAFT TRAINING PROGRAM AS SUGGESTED BY THE COAST GUARD, AND AN ADDITIONAL AMENDMENT WOULD DELETE ORLANDO AND COASTAL WATERSE AND ADD THREE MORE TERRITORIAL SEA LINES. AS HAS ALSO SUBMITTED BY THE COAST GUARD. REPRESENTATIVE DAVIS WOULD THAT SHE ALSO HAD AN AMENDMENT TO PROPOSE AT THE REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

NUMBER 731

ADDENDUM I

TABLE OF CONTENTS GO TO PAGE NUMBER (continued)
CHAIRMAN DAVIS REBORNED THE RECORD AT 10:01 P.M.

CHAIRMAN DAVE DORLEY CALLED THE MEETING TO ORDER AT 10:00 AM. PLM. NOTING MEMBERS IN ATTENDANCE. THE FIRST ITEM ON THE AGENDA WAS CONSIDERATION OF HB 194 WHICH DEALT WITH THE REGULATION OF MARINE PILOTS.

WD
4/91
REPRESENTATIVE CRYST DAVIS, PRIME SPONSOR OF HB 194 INFORMED MEMBERS THAT MARINE PILOTING INVOLVED THE SKILL AND DISCIPLINE OF NAVIGATING LARGE SHIPS IN CLOSE PROXIMITY TO SHORE PORTS AND OTHER VESSELS. SHE NOTED THAT NO MATTER HOW COMPETENT THE MASTER OF A SHIP WAS IN OPEN SEA, HE/SHE COULD NOT BE EXPECTED TO BE FAMILIAR WITH THE LOCAL NAVIGATION HAZARDS AT EACH HARBOR ENCOUNTERED AS HE/SHE CONDUCTS A SHIP IN THE COURSE OF MARITIME TRADE.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT IT HAD LONG BEEN THE PRACTICE TO EMPLOY A LOCAL PILOT AT EACH PORT THE SHIP ENTERS AND LEAVES WHO HAS INTIMATE FAMILIARITY OF THE WATERS OF THE PORT TO GUIDE THE VESSEL TO AND FROM THE OPEN SEA.

REPRESENTATIVE DAVIS STATED THAT CONSUMERS OF PILOT SERVICES WERE OFTEN FOREIGN FLAGGED VESSELS ENTERING PORTS IN THE STATE WHOSE OWNERS WERE CONCERNED WITH PROFITS. SHE NOTED THAT THERE WAS A SIGNIFICANT CONFLICT OF INTEREST BETWEEN A VESSEL OWNER'S ECONOMIC NEEDS AND THE PUBLIC INTEREST IN SAFE PASSAGE. REPRESENTATIVE DAVIS EXPLAINED THAT IT WAS IN THE PUBLIC INTEREST FOR THE PILOT'S JUDGMENT TO BE ABSOLUTELY FREE OF THE ECONOMIC CONSIDERATIONS OF THE SHIP OWNER.

REPRESENTATIVE DAVIS FURTHER STATED THAT IT WAS FUNDAMENTAL TO AN EFFECTIVE, COMPULSORY PILOTAGE SYSTEM THAT THE SELECTION, CONTROL, AND COMPENSATION OF THE PILOT BE FIXED AND BEYOND THE INFLUENCE OF A SHIP OWNER.

REPRESENTATIVE DAVIS ADVISED MEMBERS THAT HB 194 (1 & 2) ESTABLISHES NEW TRAINING STANDARDS AND NEW GUIDELINES FOR PILOTS IN ALASKA. SHE NOTED THAT THE LABOR AND COMMERCE VERSION OF HB 194 WAS THE RESULT OF A COMPROMISE BETWEEN INDUSTRY AND PILOTS.

EDWARD MURPHY, MEMBER, SOUTHWEST ALASKA PILOTS ASSOCIATION, (SWAPA) ADVISED MEMBERS THAT HE PILOTED SHIPS THROUGHOUT SOUTHWEST ALASKA INCLUDING LARGE CRUDE CARRIERS AND OTHER TANKERS, CRUISE SHIPS, CONTAINER SHIPS, AND BULK CARRIERS. HE ADVISED MEMBERS THAT HE HAD SERVED ON THE ALASKA BOARD OF MARINE PILOTS FOR FOUR YEARS, AND WAS CHAIRMAN OF THAT BOARD FOR THREE YEARS.

MR. MURPHY ADVISED MEMBERS THAT IN JANUARY OF 1990 HE HAD WRITTEN GOVERNOR COMPER A LETTER CONCERNING GRAVE SAFETY PROBLEMS HE SAW EMERGING IN THE ALASKA STATE PILOTING SYSTEM. HE NOTED THAT ALASKA HAD ONE OF THE LOWEST ENTRY STANDARDS FOR LICENSING IN THE COUNTRY WITH NO STATE MANDATED STANDARDS OR REQUIREMENTS FOR PILOT TRAINING INORDINATE DELAYS IN PILOT DISCIPLINE CASES, AND PILOT ASSOCIATIONS HAD LEGAL PROBLEMS IN TRAINING PILOTS AND MAINTAINING HIGH STANDARDS.

MR. MURPHY EXPLAINED THAT GOVERNOR COMPER RESPONDED TO THE CONCERNS EXPRESSED IN HIS LETTER BY ORDERING THE OFFICE OF MANAGEMENT AND BUDGET TO CONDUCT AN INDEPENDENT STUDY OF ALASKA'S STATE PILOTING SYSTEM AND TO MAKE RECOMMENDATIONS FOR IMPROVEMENTS BASED ON THE FINDINGS. HE ADVISED MEMBERS THAT THE RESULT OF THAT STUDY WAS A REPORT ENTITLED IMPROVING ALASKA'S MARINE PILOTAGE SYSTEM.

MR. MURPHY STATED THAT THE PILOTS WHO LIVE AND WORK IN ALASKA BELIEVE THAT HB 194, BASED UPON THE FINDINGS OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB), WAS LEGISLATION THAT ONE COULD BE PROUD OF BECAUSE IT WAS ULTIMATELY A SAFETY BILL. HE POINTED OUT THAT THE FINDINGS SECTION MAKE CLEAR FOR THE FIRST TIME THE PUBLIC SERVICE NATURE OF A PILOT'S WORK BY STATING THAT "THE FIRST AND PARAMOUNT DUTY OF MARINE PILOTS IS TO PROVIDE FOR THE PUBLIC SAFETY AND THE PROTECTION OF THE MARINE ENVIRONMENT". IT ALSO STATES THAT "MARINE PILOTS OPERATING INDEPENDENTLY IN THE SHIPPING INDUSTRY HAVE PROVIDED AND WILL CONTINUE TO PROVIDE ESSENTIAL SERVICE TO THE STATE". MR. MURPHY STATED THAT THE INDEPENDENCE OF THE PILOTS IS A CRUCIAL ELEMENT OF SAFETY, LONG RECOGNIZED BY STATE PILOTS AND IDENTIFIED BY THE OMB STUDY.

MR. MURPHY POINTED OUT THAT THE FEDERAL GOVERNMENT RECOGNIZES THE ESSENTIAL ELEMENTS OF PILOTING IN THE OIL POLLUTION ACT OF 1990. HE STATED THAT THE ACT REQUIRES STATE LICENSED PILOTS, WHO ARE NOT A MEMBER OF THE SHIP'S CREW, TO PILOT TANKERS IN PRINCE WILLIAM SOUND. MR. MURPHY STATED THAT HB 194 CLEARLY ESTABLISHED THE POWERS AND DUTIES OF THE BOARD OF MARINE PILOTS, POINTING OUT THAT THE AMBIGUITIES IN EXISTING LAW HAD LONG BEEN THE CAUSE OF CONFLICTING INTERPRETATIONS BY STAFF ATTORNEYS FROM THE ATTORNEY GENERAL'S OFFICE, RESULTING IN MORE CONFUSION, FRUSTRATION, AND LAW SUITS.

MR. MURPHY CONTINUED, POINTING OUT THAT THE PROPOSED LEGISLATION RAISED THE ENTRY STANDARDS FOR PILOT LICENSE APPLICANTS. THE BILL ALSO ESTABLISHES A DEPUTY PILOT SYSTEM IN WHICH NEW PILOTS CAN BE TRAINED UNDER THE SUPERVISION OF VETERANS, AND REQUIRES THE PILOT BOARD TO ESTABLISH STANDARDS FOR TRAINING PROGRAMS, NOTING THAT PILOT TRAINING WAS NOT CURRENTLY ADDRESSED IN PRESENT STATE STATUTES.

STATE OF ALASKA THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

5/13/91	Senate Labor & Commerce		?
5/17/91	" " "		?
5/18/91	" " "		9:15 am
4/30/91	Senate Transportation		?
5/2/91	" "		?
4/2/91	House Labor & Commerce	#482 (tape)	?
4/9/91	House " "	#150	?
5/14/91	House Finance		?

Marine

Pilots

MANTHA

Red -
most of your
while you are
time to 2 hrs
problem / project
I will give it
time and work.

11/25 3:20 w OB
12/2 spoke

AHFC

520 E 34 AVE

Rm 104

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Eliason
Senator Rick Halford
Senator Jay Kerttula



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3844

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99504
(907) 561-2018

SENATE LABOR AND COMMERCE COMMITTEE

December 13, 1991

Gene Burden, Vice President
Tesoro Alaska Petroleum Company
P.O. Box 190272
Anchorage, AK 99519

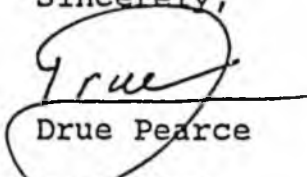
Dear Mr. Burden:

Following up on the conversation you had with Rod Mourant of my staff concerning the Board of Marine Pilots, here is a copy of the proposed regulations regarding regionalization, transition and tariffs. The schedule for adoption of these proposed regulations allows for written comments to be submitted through January 13, 1992. Limited testimony will be taken at the board meeting on January 22 - 23, 1992.

I encourage you to look over these regulations and the legislation which prompted their drafting, House Bill 194, and advise the Department of Commerce and Economic Development and the Board of Marine Pilots of any concerns that Tesoro may have. I would appreciate being copied on any written communication so that I will be aware of your specific concerns.

Gene, as we have discussed, the intent of the legislation was to minimally regulate the industry to the degree necessary to assure safe pilotage in Alaska. It was not the legislature's intent to limit free trade and open competition or to foster excessive tariffs on the industry. I am available to assist you in seeing that fair and appropriate regulations are adopted by the department. Let me know if I can help.

Sincerely,


Drue Pearce

Enclosure

DP:rrm

December 2, 1991

P

Drue -

RE: Marine Pilots/Gene Burden

I spoke with Gene today & his major area of concern is that excessively high maximum tariffs will be authorized and that a lack of competition will result in their utilization. He is especially concerned about Nikiski, of course.

I told him that I would attempt to get a copy of the proposed max tariffs for South Central and provide him with a copy. A close friend of his is Bill Lorch(sp?). Laech

He seems satisfied that continued monitoring to assure open competition will yield desired result.

T. Lorch

W. Gene Burden
Vice President
Administration & Government Relations

November 11, 1991

Capt. William C. Lorch
Alaska Maritime Agencies, Inc. Sent via fax: 272-8795
1600 A Street Suite 220
Anchorage, Alaska 99501

Subject: Comments to the Alaska Board of Marine Pilots

Dear Mr. Lorch:

I am submitting the following comments to you as a member of the Alaska Board of Marine Pilots and request that you convey them to the Board for consideration.

Tesoro Alaska Petroleum Company charters the Overseas Washington which provides our feedstock deliveries of Alaska North Slope crude oil (ANS) from Valdez to Nikiski. In so doing, we regularly utilize the services of marine pilots and, as a result, incur substantial annual expenses for these services.

The Alaska Board of Marine Pilots is presently considering a number of issues with considerable implication, and interest, to Tesoro Alaska. Our general concerns are based on our understanding that the enabling legislation (H.B. 194) was not intended to do any of the following:

1. Interfere with a user's ability to employ any pilot it may prefer to select;
2. Create an anti-competitive situation;
3. Limit the number or size of pilot associations;
4. Interfere with a pilot's ability to become certified to work in more than one region; or
5. Create a situation where the "maximum reasonable tariff" becomes the prevailing tariff.

We are also concerned that the Board, in adopting a "maximum tariff", have access to sufficient information and conduct the necessary inquiries to assure that the requirements of AS 08.62.045 are met. For example, under AS 08.62.045 (a)(1) the Board must consider "what is reasonable compensation based on actual time piloting and time spent preparing to provide services..."

Capt. William C. Lorch

November 11, 1991

2

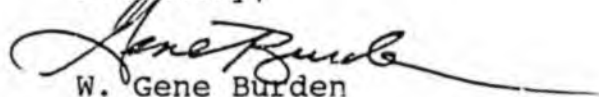
"Reasonable compensation" can be determined for a particular job after selection of other jobs which require generally equal skill, effort, and responsibility performed under similar working conditions and establishing a range of compensation that is comparable to the rates of the other positions. Salary survey information is commercially available for comparisons with current marine pilot earnings. Salary comparisons are common in industry to assure that compensation practices for differing jobs within an organization are consistent with the parameters required under the Equal Pay Act amendments to the Fair Labor Standards Act. The Board should 1) develop a wage comparison procedure that will be able to demonstrate how it arrives at the statutorily required "reasonable compensation"; and 2) determine the current compensation of the marine pilots to enable accurate evaluation and comparisons as anticipated by the statute.

The Board must also examine each of the other 4 items contained in AS 08.62.045 (a) and must conclude the information collection and evaluations before any conclusions can be presented as to what an appropriate maximum reasonable tariff might be. An effort to present a tariff without adequately meeting the statutory obligations of this section will likely generate more disagreement and probable delay than will a systematic analysis as required by the statute.

In conclusion, it appears that the Legislature anticipated the possible expansion of pilot associations in the state. It would appear there is no limitation on the size of a pilot organization under AS 08.62.175. As a result, the Board must anticipate the effect of its actions on the free development of associations and avoid any actions which would have the effect of being anti-competitive.

Thank you for the opportunity to comment on these issues. If there are any question please do not hesitate to contact me.

Sincerely,



W. Gene Burden

cc: Sen. Drue Pearce
Phil Garrett - Tesoro
Jim Meitner - Tesoro

20 cl

Captain Michael C. Spence
12535 Auke Nu Dr.
Juneau,
Alaska 99801

Senator Drue Pearce
Senate Labor and Commerce Committee
Alaska State Legislature
3111 "C" St., Ste 150
Anchorage, Alaska 99504

November 27, 1991

Dear Senator Pearce,

It was encouraging to see that you, Representative Cheri Davis and your respective staff have attended some of the the meetings of the Board of Marine Pilots during this implementation period of the Marine Pilotage Act. This is a crucial juncture in the State's role of regulation in our profession, and one which deserves the close attention of responsible legislators to make sure that this work is done properly.

During the introductory phase of the Act in the legislature last Spring, I attended the Senate Transportation Committee hearing and followed other hearings closely. I have been very concerned from the outset that the lobby efforts of SEAPA and SWAPA were not particularly well-intended. I also read the June memos of Captain Murphy and Mr. Yoshida, referred to in your letter of October 15, 1991 to Mr. Watt, chair of the Board of Marine Pilots. The "analysis" of Mr. Yoshida is also happens to be exactly the analysis of the entire SWAPA presentation made to the Board of Marine Pilots in October and November, ie: that only one organization of pilots should be recognized in any one region, that all pilots in any region must be members of that organization, and that all members of that organization should charge the same tariff.

Interestingly, while SWAPA pilots were the first to declare that regionalization was necessary to limit pilots to the finite areas over which they could reasonably be capable of piloting, in the SWAPA presentation of October 1 their region extends from close Westward of Yakutat all the way around the Arctic coast to the Canadian border. (later amended to cede part of that territory to AMP). Equally noteworthy, while the SWAPA documents stress the exclusivity of their "core" region of Prince William Sound and Cook Inlet, they also claimed access rights for "training" and for business which they have historically served in Dutch Harbor and Kodiak, which otherwise are would belong to the Western region. In other words, exclusivity with *exceptions*. SWAPA's definition of "region" clearly includes *regional exclusivity*, and it appears that they have co-opted SEAPA and possibly AMP to this concept, by entering into turf agreements with those organizations. What is disturbing about this is that it draws the Board of Marine Pilots into

precisely the problem which the State was supposed to avoid: Regulations which prevent competition.

Such regulations already proposed and supported by pilot members on the Board include the following:

- a) Requirements that pilots must be members of two or more organizations in order to work in more than one region.
- b) Requirements that pilots must be licensed and practice in all parts of a region, even if the portion of commerce that they serve and their numbers dictate that they cannot cover the entire region.
- c) Training requirements for a region that require a pilot from one organization to serve an apprenticeship under a competitor pilot organization.
- d) Recognition requirements that require all members of pilot organizations to have a licenses (State or Federal) over the entire region in which the organization will be recognized, rather than just part(s) of a region.

The effect of these regulations is that while they may not explicitly forbid competition, they make it a practical impossibility .

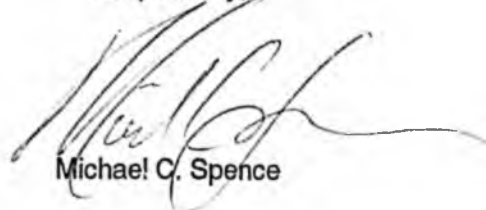
If indeed the intent of regionalization was to provide, as you describe, a fair if arbitrary limitation of territory over which marine pilots may become and remain qualified, then the new "lines" proposed by the Board in November clearly violate that premise, because they create one region which is three times the size of either of the other two regions. On October 1, the Board originally drew lines which should have provided four more or less equally-sized areas. This, it appears, would have placed SWAPA in the uncomfortable position of working in three regions of Alaska, while arguing for exclusivity to be imposed against other organizations seeking to work in the SouthCentral region. Thus, when the Board met again in November, SWAPA had worked out a deal with AMP to get the Board to revert back to three regions. The point is: while it may be impossible to prevent pilotage organizations from making such deals when the economics are favorable for themselves, the State must not allow such agreements to be perpetuated through regulation.

I am heartened that you have taken the time to set straight some of the misconceptions in Mr. Yoshida's memo. The concerns of Captain Bennett stemming from those and other communications of SWAPA are well-founded and not simply conjectural. From the moment the Alaska Coastwise Pilots' Association came into existence it has been the focus of one attack after another by SEAPA and SWAPA. For example, while still a sitting member of the Board of Marine Pilots last Summer, Captain H. K. Elsensohn of SEAPA orchestrated an action of the union of Masters, Mates and Pilots, in which his brother Robert is an official, the result of which was the threat of cancellation of health and retirement benefits to ACPA pilots. The union actually cut off pension payments temporarily to one pilot alleged by Captain Elsensohn to be working with ACPA. SEAPA pilots have refused to answer radio traffic calls by ACPA pilots, later claiming that such is another example of how competition creates an unsafe condition on our waters. More recently, ACPA members have received a steady stream of "merger" proposals and invitations to fix tariffs from SEAPA members.

The efforts of SEAPA and SWAPA to reinstate their monopolies should now be common knowledge in the maritime and legislative communities. There is still ample cause for concern for those of us working outside of SEAPA and SWAPA. We desire neither to be run out of business by denial of "recognition" nor to be forced into a merger with those organizations. The pilots who have worked for ACPA are experienced, accident-free pilots who have legitimate reasons for separating themselves from the other groups.

I hope that you will continue to observe the actions of the Board of Marine Pilots in the implementation of this Marine Pilotage Act. The Board of Marine Pilots is scheduled to meet again to discuss these issues on January 22 and 23 in Anchorage. It would help greatly if you and other legislators could perhaps clarify some of the the specific matters mentioned above, especially the intent of the legislature on regional exclusivity of pilot organizations. With some oversight from the legislature, hopefully the Marine Pilotage Act will reflect the good intentions of its sponsors.

Respectfully,



Michael C. Spence

enclosures

11/27/91

FIG. 1: SWAPA PROPOSED PILOTAGE REGIONS OCT 1, 1991

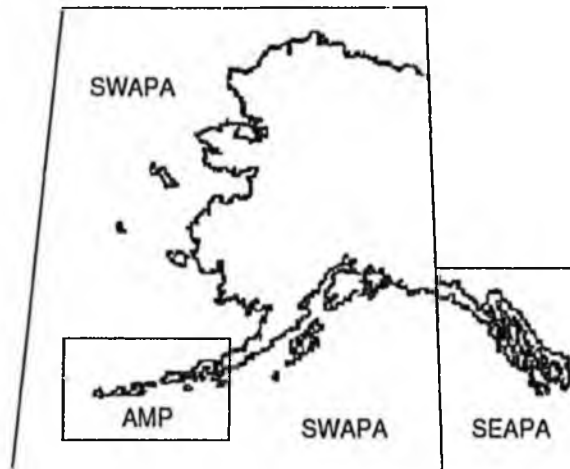


FIG. 2: BOARD OF MARINE PILOTS PROPOSED PILOTAGE REGIONS OCT. 1, 1991:

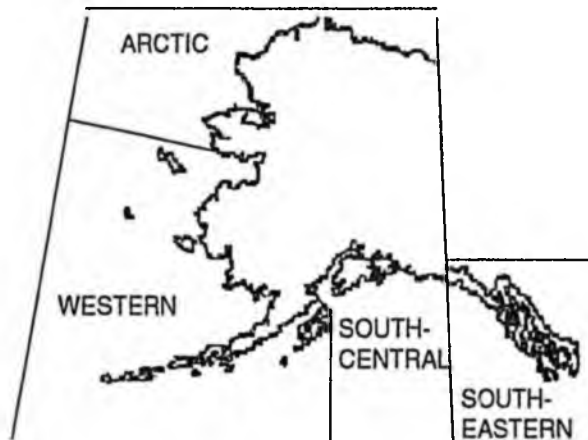
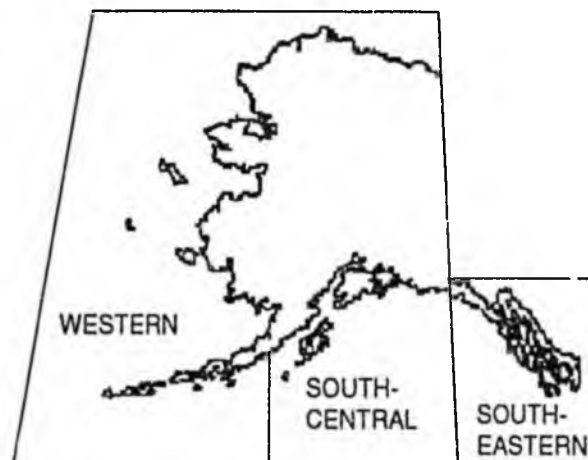


FIG. 3: BOARD OF MARINE PILOTS PROPOSED PILOTAGE REGIONS NOV. 14, 1991:



Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Eliason
Senator Rick Halford
Senator Jay Kerttula



SENATE LABOR AND COMMERCE COMMITTEE

WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3844

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99504
(907) 561-2018

October 15, 1991

Honorable Glenn A. Olds, Commissioner
State of Alaska
Department of Commerce and Economic Development
P.O. Box D
Juneau, AK 99811-0900

Dear Commissioner Olds:

During the legislative committee hearing process on House Bill 194, An Act relating to the Board of Marine Pilots, the anticipated duties of a marine pilot coordinator were defined through both testimony and amendments to the legislation. The fiscal note submitted by the Department of Commerce and Economic Development, Division of Occupational Licensing, provided for a Marine Pilot Coordinator at a range 22 with funding provided through program receipts. The pilots are quite willing to pay fees in order to have an experienced person in the position.

When the Governor took action on House Bill 75, the operating budget appropriation bill, which included fiscal note appropriations, he reduced the fiscal note appropriation for HB 194 from \$103,000 to \$70,300, apparently with the approval of your department.

Section 7 of the adopted legislation calls on the board to hire a coordinator "who is qualified to assist the board in administering and enforcing the provisions of this chapter." Additionally, Sec. 31 of the act calls on the coordinator to develop an accident investigation procedure and recommend any necessary legislative changes and to participate, through cooperation, with the appropriate agencies in actual marine accident investigations. These responsibilities would appear to require expertise and capabilities beyond those typical of a position classified at a salary level range 12.

In adopting the fiscal note that your agency submitted, it was clearly the intent of the Legislature to provide the Board of Marine Pilots with an administrator whose professional expertise

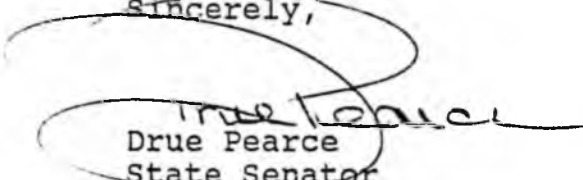
and capabilities were sufficient to handle the complex workings of the position and to assist the board in the performance of its tasks. We wanted a person with marine experience.


We suggest that the agency take immediate steps to have the position reclassified based upon the responsibilities detailed in the legislation and other responsibilities that the board and the department determine are appropriate. In this manner the agency can get a clearer idea of the level of funding required by the position and could commence recruitment. The classification and recruitment processes are time consuming and should be started as soon as possible. There is an immediate need to have the marine coordinator on the job. Regulations are currently being written and the coordinator would be of great assistance and should be actively involved in this process.

Any reoccurrence similar to the two accidents which occurred this past summer would be handled much more expeditiously with the marine coordinator involved. In one of this summer's accidents, an individual lost his life. Despite the seriousness of the incident, the board still has not been provided an investigative report. In our opinion, this is not only improper, but calls into question the exact safety issues the Oil Spill Commission was pointing out with their original report on the state system. The state must act before more lives are lost or property destroyed.

Commissioner, the legislation is a positive step forward in providing protection to the passengers and cargo of marine vessels. We now want to work with your department to insure that legislative intent is carried out in a timely manner so that we have good regulations and the best system possible. Only then will we have met the challenge of the Oil Spill Commission report.

sincerely,


Drue Pearce
State Senator


Cheri Davis
State Representative

cc: Josef Holbert, Deputy Chief of Staff
Bruce Geraghty, Legislative Liaison

DP:rrm

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Eliason
Senator Rick Halford
Senator Jay Kerttula



SENATE LABOR AND COMMERCE COMMITTEE

WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3844

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99504
(907) 561-2018

October 15, 1991

Bob Watt, Chair
Alaska Board of Marine Pilots
6227 S. Tongass
Ketchikan, AK 99901

Dear Mr. Watt:

Let me first take a moment to congratulate you on your recent appointment to the board and also on your election to serve as chair of the board.

Bob, hundreds of hours of work and deliberation went into House Bill 194 before it was adopted by the legislature. The legislation completely revamps the state's marine pilotage act. There were various points of view expressed and varying agendas came into play during the refinement of the act. The Senate Labor & Commerce Committee, which I chair, devoted more time to this legislation than to any other this past session.

It was with great concern that I recently read copies of letters interpreting the Marine Pilotage Act. The first was a letter from Steve K. Yoshida to Captain Jeff Pierce dated June 10, 1991. Mr. Yoshida could not have read the legislation closely and certainly could not have reviewed transcripts of the various committees that held hearings on this legislation or he would not have arrived at the conclusions in regard to pilot organizations that he states in his letter to Captain Pierce.

Marine pilot organizations are free to operate in all of the regions in which they meet the qualifications. It was the intent of this legislation to foster a competitive business environment for marine pilotage as stated in AS 08.62.040(d) "the board may not adopt a regulation or take other action resulting in anti-competitive activities...".

The legislation goes so far as to allow a single individual to become an association. Mr. Yoshida's statement that a marine pilot organization is "in many ways" an agency of the state is simply without merit. In terms of the logic applied to reach

simply without merit. In terms of the logic applied to reach that conclusion, Mr. Yoshida would have to conclude that all utilities and licensed professions are also agencies of the state. Further, his comments regarding tariffs in which he states "no price cutting can take place after that date (1 January 1993) unless more than one pilot organization is recognized for the entire region" amounts to crystal ball gazing. The board has yet to define which expenses should be taken into account when establishing maximum tariffs.

And, since pilot organization criteria has yet to be defined and no organizations are yet licensed under the new act, it is impossible to predict what the marketplace will look like and what competitive elements will affect the establishment of maximum tariffs.

Another example of inaccurate information is a letter dated July 24, 1991 from Captain Terry K. Bennett, President of Alaska Coastwise Pilots Association, to Senator Jim Duncan. In that letter Captain Bennett claims that he has evidence "of how the political process completely circumvented the House Judiciary Committee's concerns regarding the Bill." No concerns were circumvented; rather the Judiciary Committee decided to have someone else do the work. The hearing process in the legislature is, by its nature, a political one. This includes the actions and intents of the House Judiciary Committee as well as those of any other committee in the legislature. Politics, however, is never the only concern and, in most cases, not the overriding one.

The actions of one committee are more important or appropriate than the actions of any other committee. Captain Bennett's premature accusations of biased investigations which would find fault based on allegiance rather than merit demonstrate bad faith on his part, in my estimation. At the close of the last legislative session, the Alaska Coastwise Pilots Association expressed their appreciation for the legislature's hard work. They also stated that it was the Association's desire to make the new Marine Pilots Act what it was intended to be, a fair law that allows open competition and promotes safety for vessels, crew and cargo. That attitude is not apparent in Captain Bennett's correspondence.

As the Chair of the Senate Labor & Commerce Committee, let me take this opportunity to comment on the purposes and intent of the specific provisions in the Act which address pilotage regions, pilot organizations and maximum tariffs. It was clearly the intent of the legislature to encourage regional pilotage districts. These provisions were not intended to restrict competition or to protect the "turf" or economics of existing organizations. To the contrary, provisions of this act state just the opposite. Regionalization was adopted solely from a marine safety perspective. The legislature was convinced and remains convinced that a single pilot cannot possess sufficient

knowledge of Alaska's entire coastline to pilot a vessel for unlimited distances in the state.

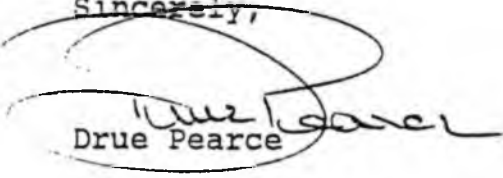
In order to promote fair and open competition in the industry, accommodations were made through out the act to eliminate any language that would mandate a minimum size of an organization. For instance, AS 08.62.175(d)(3)(B) states, in part, "...to the extent that is reasonably possible given the size of the membership of the pilot organization."

Provisions for maximum tariffs were adopted to prevent an Alaskan occurrence like the Chesapeake Bay Christmas Eve story related so many times during hearings on this legislation. Maximum tariff provisions are intended to protect shippers and shipping companies from price gouging on the part of marine pilots and their organizations.

In all three cases, the legislation provides clear direction to the board. AS 08.62.040(a)(4)(A) provides that the board shall adopt regulations establishing pilotage regions in the state. Likewise, AS 08.62.045 provides extensive direction to the board in discharging its responsibility in adopting maximum tariffs. And, AS 08.62.175 makes provision for pilot organizations that have as few as a single member.

I hope that this information will be helpful to the board and, should you have further questions, I encourage you to contact me at 561-2038.

Sincerely,



Drue Pearce

DP:rrm

ALASKA

DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING

Division of Occupational Licensing
 Division of Insurance
P.O. Box D (9th Floor State Office Building)
Juneau, AK 99811

Xerox Telecopier 7017

Fax#:(907) 465-2974

TELECOPIER TRANSMITTAL SHEET

DELIVER TO: Pod
561-4194

FROM: JoAnne
Marine Pilot Board

Number of pages INCLUDING transmittal sheet: ~~1~~ 2

DATE: 10/14/91

TIME: _____

OPERATOR: JC

IF TELECOPY DOES NOT TRANSMIT PROPERLY, PLEASE CALL (907) 465-2535 IMMEDIATELY.

Here's the agenda. It will likely be revised at the start of the meeting to include a discussion of proposed relations for piloting regions and criteria for recognizing pilot organizations.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

WALTER J. HICKEL, GOVERNOR

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

BOARD OF MARINE PILOTS
WEDNESDAY, OCTOBER 16, 1991
AHFC BUILDING
ANCHORAGE, ALASKA

Tentative Agenda

<u>TIME</u>	<u>TOPIC</u>
✓ 1. 8:00 a.m.	Call to Order/Roll Call
✓ 2. 8:10 a.m.	Review/Revise Agenda
✓ 3. 8:20 a.m.	Approve Minutes October 1-2, 1991 Meeting
✓ 4. 8:30 a.m.	<u>Public Comment</u>
✓ 5. 8:45 a.m.	Draft Regulations - Maximum Tariffs Southwest Region - <i>NO COMMENTS</i>
✓ 6. 10:45 a.m.	<u>Public Comment</u>
✓ 7. 11:00 a.m.	Draft Regulations - Maximum Tariffs Western Region
✓ 8. 1:00 p.m.	Lunch Break
9. 2:00 p.m.	<u>Public Comment</u>
10. 2:15 p.m.	Draft Regulations - Maximum Tariffs Southeast Region
11. 4:00 p.m.	Break
12. 4:30 p.m.	<u>Public Comment</u>
13. 4:45 p.m.	Draft Regulations - Maximum Tariffs Arctic Region
14. 6:30 p.m.	Adjourn

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

WALTER J. HICKEL, GOVERNOR

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

PUBLIC NOTICE BOARD OF MARINE PILOTS NOTICE OF FORTHCOMING MEETING

The Division of Occupational Licensing, Department of Commerce and Economic Development announces a meeting of the Alaska Board of Marine Pilots. The meeting is scheduled for Wednesday, October 16, 1991 at the Alaska Housing Finance Corporation Building, 520 East 34th, Suite 104, Anchorage, Alaska. The meeting will begin at 8:00 a.m.

The purpose of this meeting is to draft regulations required by the new Marine Pilotage Act, including the establishment of maximum tariffs, and to conduct the regular business of the Board.

For more information please contact the Division of Occupational Licensing at P.O. Box 110806, Juneau, AK 99811 or call (907) 465-3035.

Ann Boudreaux
Ann Boudreaux, Director
Division of Occupational Licensing

Alaska Coastwise Pilots Association



**Recommendations to the
Alaska Board of Marine Pilots
October 16, 1991:**

Maximum Tariffs

Southwest Region:

The Board must take into consideration:

(1) what is reasonable compensation based on actual time piloting and time spent preparing to provide services;

A) Reasonable compensation should reflect known increases in costs of living in Alaska since the last tariff adjustment. The Board should study the Consumer Price Indices for the region and determine an appropriate increase.

B) Time spent preparing to provide services has increased in the form of additional administration of training programs and increased time requirements for license renewals.

The Board must also take into consideration:

(2) whether additional compensation is justified under certain conditions, e.g., extreme weather or piloting in the winter;

There is little doubt among most practicing pilots that this is the area where the "old tariff" was sorely lacking. There is indeed justification for additional compensation during the period October 1 to April 30. Our recommendation is a flat across-the-board percentage surcharge over the rate that is applicable in Summer.

The Board must also take into consideration:

(3) dispatch and transportation expenses and other direct costs of providing services;

This section seems pretty self-explanatory. The Board may want to adopt the U.S. government per diem allowance as used under the "old tariff", which provides for automatic adjustment to changes in the Consumer Price Index. Transportation costs allowance should reflect actual costs.

Alaska Coastwise Pilots Association



**Recommendations to the
Alaska Board of Marine Pilots
October 16, 1991:**

Maximum Tariffs

**Recommendations
of the
Alaska Coastwise Pilots Association
to the
Alaska Board of Marine Pilots
October 16, 1991**

Maximum Tariffs

Under AS 08.62.045, the Board of Marine Pilots is required to adopt maximum tariffs for the provision of specific pilotage services. Sec. 7, ch. 89 SLA 1991. The Board must identify those items of expense to be included in the tariff and must otherwise take into consideration certain factors specified in the Marine Pilotage Act.

Generally, the Alaska Coastwise Pilots' Association is in favor of incremental changes to the "old tariff" structure, rather than major alterations to that structure. The reason behind this is to facilitate the establishment of the new maximum tariff with as few major economic adjustments or misunderstandings as possible, to either pilots or vessel operators. In keeping with this section of the Pilotage Act:

"The Board may not adopt a regulation or take other action resulting in anticompetitive activities..."

The Board should be mindful of and avoid any structural changes to the tariff that might be intended to give a competitive advantage to any particular pilot organization. In this context, an across-the-board percentage increase on current tariff structure would be more appropriate than adjustments to any particular class of ships or specialty of a particular organization. The Alaska Coastwise Pilots' Association respectfully makes the following recommendations to the Board in the establishment of the Maximum Tariffs.

Southwest Region:

The Board must take into consideration:

(1) what is reasonable compensation based on actual time piloting and time spent preparing to provide services;

A) Reasonable compensation should reflect known increases in costs of living in Alaska since the last tariff adjustment. The Board should study the Consumer Price Indices for the region and determine an appropriate increase.

B) Time spent preparing to provide services has increased in the form of additional administration of training programs and increased time requirements for license renewals.

The Board must also take into consideration:

(2) whether additional compensation is justified under certain conditions, e.g., extreme weather or piloting in the winter;

There is little doubt among most practicing pilots that this is the area where the "old tariff" was sorely lacking. There is indeed justification for additional compensation during the period October 1 to April 30. Our recommendation is a flat across-the-board percentage surcharge over the rate that is applicable in Summer.

The Board must also take into consideration:

(3) dispatch and transportation expenses and other direct costs of providing services;

This section seems pretty self-explanatory. The Board may want to adopt the U.S. government per diem allowance as used under the "old tariff", which provides for automatic adjustment to changes in the Consumer Price Index. Transportation costs allowance should reflect actual costs.

The Board must also take into consideration:

(4) reasonable overhead expenses;

The Board should consider the following:

- A) office expenses of pilot organizations, including staff costs.
- B) individual pilot insurance, including liability, errors and omissions, and disability.

The Board must also take into consideration:

(5) other identified expenses.

The following expenses are either new or are markedly increased since 1980:

A) Training program costs, including:

- 1) Simulator school costs (for initial license and every three years thereafter)
- 2) Observation trip costs
- 3) Administrative cost of such programs.

B) License renewal costs, including:

- 1) license fees to State of Alaska and, the U.S. Coast Guard.
- 2) tuition and travel to radar, CPR, and firefighting schools for the U.S. Coast Guard.

C) Funding of the Marine Pilot Coordinator position provided in the Act will be an expense item. The Board should consider a *percentage surcharge* on gross receipts of pilot organizations, for funding of the Marine Pilot Coordinator position, as opposed to a flat fee on individual pilots. The alternative flat fee poses an inequitable expense to individual pilots who may earn only a fraction of what other pilots earn. Alternatively, if a flat licensing fee is imposed, the tariff should be adjusted to reflect that additional cost to pilots.

Southeast Region

The Board must consider:

(1) what is reasonable compensation based on actual time piloting and time spent preparing to provide services;

Reasonable compensation should reflect:

A) Known increases in costs of living in Alaska since the last tariff adjustment. The Board should study the Consumer Price Indices for the region and determine an appropriate increase.

B) A mileage surcharge should be added to the "old tariff" formula for vessels other than passenger vessels, to reflect actual pilotage time required.

C) "Restricted Passage Pilotage" from the "old tariff" for Wrangell Narrows, Sergius Narrows, and Whitestone Narrows should be revised to reflect actual time and risk. These should be brought up to a level reasonably on par with a Port Entry charge.

D) Some port fees not previously listed in the tariff booklet should be added. They include:

Dora Bay

Hobart Bay

Hawk Inlet

Kake

Kelly Cove, Noyes Island sites

Long Island

E) Time spent preparing to provide services has increased in the form of additional administration of training programs and increased time requirements for license renewals.

The Board must also take into consideration:

(2) whether additional compensation is justified under certain conditions, e.g., extreme weather or piloting in the winter;

Comment and Recommendations of ACPA: There is indeed justification for additional compensation during the period October 1 to April 30. Our recommendation is a flat across-the-board percentage *Winter surcharge* over the rate that is applicable in Summer.

The Board must also take into consideration:

(3) dispatch and transportation expenses and other direct costs of providing services;

This section seems pretty self-explanatory. The Board may want to adopt the U.S. government per diem allowance as used under the "old tariff", which provides for automatic adjustment to changes in the Consumer Price Index. Transportation costs allowance should reflect actual costs.

The Board must also take into consideration:

(4) reasonable overhead expenses;

The Board should consider the following:

A) office expenses of pilot organizations, including staff costs.

B) individual pilot insurance, including liability, errors and omissions, and disability.

All of these costs have risen considerably over the prevalent inflation rate in recent years.

The Board must also take into consideration:

(5) other identified expenses.

The following expenses are either new or are markedly increased since 1980:

A) Training program costs, including:

- 1) Simulator school costs (for initial license and every three years thereafter)
- 2) Observation trip costs
- 3) Administrative cost of such programs.

B) License renewal costs include:

- 1) license fee to State, Coast Guard.
- 2) tuition and travel to radar, CPR, and firefighting schools for the U.S. Coast Guard.

C) Funding of the Marine Pilot Coordinator position provided in the Act will be an expense item. The Board should consider a *percentage surcharge* on gross receipts of pilot organizations, for funding of the Marine Pilot Coordinator position, as opposed to a flat fee on individual pilots. The alternative flat fee poses an inequitable expense to individual pilots who may earn only a fraction of what other pilots earn. Alternatively, if a flat licensing fee is imposed, the tariff should be adjusted to reflect that additional cost to pilots.

Western Region:

(1) what is reasonable compensation based on actual time piloting and time spent preparing to provide services;

A) Reasonable compensation should reflect known increases in costs of living in Alaska since the last tariff adjustment. The Board should study the Consumer Price Indices for the region and determine an appropriate increase.

B) Time spent preparing to provide services has increased in the form of additional administration of training programs and increased requirements for license renewals.

The Board must also take into consideration:

(2) whether additional compensation is justified under certain conditions, e.g., extreme weather or piloting in the winter;

There is indeed justification for additional compensation during the period October 1 to April 30. Our recommendation is a flat across-the-board percentage surcharge over the rate that is applicable in Summer.

The Board must also take into consideration:

(3) dispatch and transportation expenses and other direct costs of providing services;

This section seems pretty self-explanatory. The Board may want to adopt the U.S. government per diem allowance as used under the "old tariff", which provides for automatic adjustment to changes in the Consumer Price Index. Transportation costs allowance should reflect actual costs.

The Board must also take into consideration:

- (4) reasonable overhead expenses;

The Board should consider the following:

- A) office expenses of pilot organizations, including staff costs.
- B) individual pilot insurance, including liability, errors and omissions, and disability.

The Board must also take into consideration:

- (5) other identified expenses.

The following expenses are either new or are markedly increased since 1980:

A) Training program costs, including:

- 1) Simulator school costs (for initial license and every three years thereafter)
- 2) Observation trip costs
- 3) Administrative cost of such programs.

B) License renewal costs include:

- 1) license fees to State of Alaska, U.S. Coast Guard.
- 2) tuition and travel to radar, CPR, and firefighting schools for the U.S. Coast Guard.

C) Funding of the Marine Pilot Coordinator position provided in the Act will be an expense item. The Board should consider a *percentage surcharge* on gross receipts of pilot organizations, for funding of the Marine Pilot Coordinator position, as opposed to a flat fee on individual pilots. The alternative flat fee poses an inequitable expense to individual pilots who may earn only a fraction of what other pilots earn. Alternatively, if a flat licensing fee is imposed, the tariff should be adjusted to reflect that additional cost to pilots.

Arctic Region:

The Board must consider:

(1) what is reasonable compensation based on actual time piloting and time spent preparing to provide services;

A) Reasonable compensation should reflect known increases in costs of living in Alaska since the last tariff adjustment. The Board should study the Consumer Price Indices for the region and determine an appropriate increase.

B) Time spent preparing to provide services has increased in the form of additional administration of training programs and increased requirements for license renewals.

The Board must also take into consideration:

(2) whether additional compensation is justified under certain conditions, e.g., extreme weather or piloting in the winter;

Recognizing that in this region there is limited Winter activity, there is justification for additional compensation during the period October 1 to June 15. Our recommendation is a flat across-the-board percentage surcharge over the rate that is applicable in Summer.

The Board must also take into consideration:

(3) dispatch and transportation expenses
and other direct costs of providing
services;

This section seems pretty self-explanatory. The Board may want to adopt the U.S. government per diem allowance as used under the "old tariff", which provides for automatic adjustment to changes in the Consumer Price Index. Transportation costs allowance should reflect actual costs.

The Board must also take into consideration:

(4) reasonable overhead expenses;

The Board should consider the following:

- A) office expenses of pilot organizations, including staff costs.
- B) individual pilot insurance, including liability, errors and omissions, and disability.

The Board must also take into consideration:

(5) other identified expenses.

The following expenses are either new or are markedly increased since 1980:

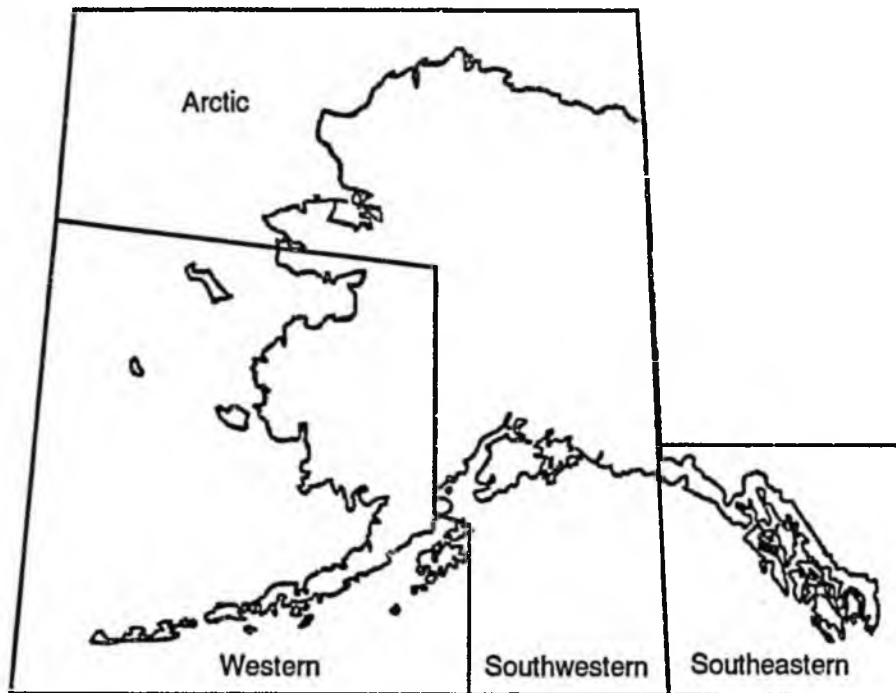
A) Training program costs, including:

- 1) Simulator school costs (for initial license and every three years thereafter)
- 2) Observation trip costs
- 3) Administrative cost of such programs.

B) License renewal costs include:

- 1) license fee to State of Alaska, U.S. Coast Guard.
- 2) tuition and travel to radar, CPR, and firefighting schools for the U.S. Coast Guard.

C) Funding of the Marine Pilot Coordinator position provided in the Act will be an expense item. The Board should consider a *percentage surcharge* on gross receipts of pilot organizations, for funding of the Marine Pilot Coordinator position, as opposed to a flat fee on individual pilots. The alternative flat fee poses an inequitable expense to individual pilots who may earn only a fraction of what other pilots earn. Alternatively, if a flat licensing fee is imposed, the tariff should be adjusted to reflect that additional cost to pilots.



Marine Pilotage Regions of Alaska



ALASKA MARINE PILOTS & DISPATCHING SERVICE

P O BOX 730 • DUTCH HARBOR ALASKA 99692 • 907/581-1240

October 14, 1991

VIA EXPRESS MAIL

Alaska Board of Marine Pilots
PO Box D
Juneau, Alaska 99811-0800

Re: Boundary Line Between Regions 2 and 3

To the Members of the Board of Marine Pilots:

Alaska Marine Pilots (AMP) affirms the importance and correctness of the action taken by the Board in its vote of October 2, 1991, establishing the dividing line between Region 2 and Region 3 on the east side of Kodiak Island. The two primary interests of concern to the Board and the people of Alaska -- increasing vessel safety and promoting an efficient pilotage service -- will be most completely served by maintaining the line in that location.

First, safety is enhanced because vessel traffic entering Kodiak waters is composed primarily of Asian freezer ships that have previously transitted the westward areas of Region 3. This means that not only are the pilots familiar with the various ships and their crews and how they work together, but the vessel masters are equally familiar with the pilots and are thus able to work together better as a team. This situation is in direct contrast to the present situation, in which a pilot flies into Kodiak from tanker duty in Prince William Sound and undertakes to maneuver a radically different kind of vessel with a crew he has never seen before.

Second, because Kodiak is geographically situated in close proximity to the rest of Region 3, it will be possible to have a resident pilot in Kodiak. This means that, because the pilot will be living and working in the area, he will not be flying in from a distinctly different part of the state, trying to re-familiarize himself with current conditions in Kodiak.

The interests of the industry and the people of Alaska are best served by placing Kodiak in Region 3. By the nature of the trade, Kodiak naturally belongs in Region 3. Kodiak is a commercial fishing center, and its primary cargo is fish, as is most of the cargo in the rest of Region 3. The U.S. Customs and

Alaska Board of Marine Pilots
October 14, 1991
Page Two

Immigration Service recognizes the geographical affinity between Kodiak and westward Alaska by requiring vessels bound for Kodiak to enter and clear through Dutch Harbor.

The weather and logistics in the westward region often make pilot availability a problem. Under AMP's practices, riding pilots are common in Region 3; industry has often requested pilots to stay with a ship throughout its transit. Ships often proceed from westward Region 3 ports to Kodiak and back; it will be very inefficient if Region 3 pilots are forced to disembark a ship before it reaches Kodiak, then re-board after the ship leaves Kodiak en route to another westward port.

It has been suggested that by drawing the boundary line east of Kodiak, training opportunities for training pilots in Region 2 will be forfeited. The statutes provide for this, allowing a pilot to train in any region once he has met all the requirements.

AMP strongly recommends that, as the Board continues to consider the issue of placing the boundary between Region 2 and Region 3, it will follow its preliminary decision to place the boundary east of Kodiak.

Respectfully submitted,

ALASKA MARINE PILOTS

By _____
Stuart Mork



ALASKA MARINE PILOTS
& DISPATCHING SERVICE

P O BOX 730 • DUTCH HARBOR ALASKA 99692 • 907/581-1240

October 14, 1991

DELIVERED BY EXPRESS MAIL

Alaska Board of Marine Pilots
PO Box D
Juneau, Alaska 99811-0800

Re: Tariff Proposal of Alaska Marine Pilots

To the Members of the Board:

Enclosed with this letter is the proposal of Alaska Marine Pilots (AMP) for maximum tariffs for the Western Alaska Region, which the Board has proposed to designate Region 3. This region would include Kodiak and Western Alaska ports.

The first section of AMP's proposal sets forth AMP's comments respecting the statutory criteria to be considered by the Board under AS 08.62.045 in structuring a tariff and setting maximum tariffs. This commentary provides AMP's rationale for the maximum tariff schedule it proposes to the Board.

The second section of this proposal sets forth AMP's suggested structure and maximum tariff amounts for the Western Alaska Region (Region 3). It is important for the Board to note that this is AMP's proposal for the tariff schedule to be adopted by the Board by regulation. AMP is preparing a separate presentation to the Board outlining its proposed regional marine pilot organization for Region 3. AMP understands that this marine pilot organization and any other marine pilot organization that might be recognized by the Board in Region 3) will prepare its own tariff that will be subject to the maximum amounts established by the Board by regulation.

AMP's proposed maximum tariff reflects and anticipates developments over the next four years until this statute is subject to sunset review. This proposal also takes into consideration the possibility that AMP will be sharing Region 3 revenues with other marine pilot organizations, and that AMP itself is still in the process of expanding its service to the shipping industry in an effort to provide more efficient pilotage service.

Alaska Board of Marine Pilots
October 14, 1991
Page Two

AMP believes that, under the former tariff schedule, too much of the revenue in the region was generated in the port of Dutch Harbor and not enough in the other ports of the region. As a full-time, year-round pilot group, AMP can service all the traffic in Dutch Harbor, Captains Bay, and Akutan with three pilots on dispatch. However, four additional pilots are required to service the rest of the region. Under the current tariff, the region outside Dutch Harbor is not able to generate the amount of revenue justified by the cost of the pilot effort required. In point of fact, Dutch Harbor subsidizes the other ports in the region. In AMP's opinion, a tariff increase is justified in the outports to more accurately reflect the current level of service required by the industry.

Finally, AMP believes it is imperative the Board establish by regulation a requirement that pilots belong to an association in the region in which they work as required by statute, and that the pilots only share in the revenue generated by that association in that region. In other words, a pilot association should not be able to subsidize pilots working in other regions, except when issued licenses on a very limited basis as authorized by AS 08.62.080(b) "in the best interests of the state."

Respectfully submitted,

ALASKA MARINE PILOTS

By _____
Stuart Mork

COMMENTS OF ALASKA MARINE PILOTS REGARDING INTERPRETATION AND APPLICATION OF A.S. 08.62.045

Under the Alaska Marine Pilotage Act as amended during the last legislature, the Board is charged with the responsibility for establishing maximum tariffs for marine pilot services in the various marine pilotage regions (as established by the Board pursuant to the Act). Although the Act speaks in terms of maximum amounts, there is also implicit in the Act a requirement that the Board establish the structure of the maximum tariffs.

The Act lists several criteria to be considered by the Board in establishing the structure and maximum amount of pilotage tariffs in the various regions. In this section of its presentation, AMP comments on those criteria.

(1) reasonable compensation for actual time aboard a vessel as a pilot and for time engaged in preparing to provide pilotage services

COMMENT: This criterion should be broadly interpreted to include reasonable compensation for the cost of obtaining state-required pilot licenses, in addition to compensation for the time spent, experience and skills required, and responsibilities assumed by pilots in the course of rendering pilotage services. In determining what constitutes reasonable compensation, the Board should also consider compensation packages of other professionals in the maritime industry with comparable experience, skills, and responsibilities.

On average, most pilots have a minimum of ten years of sea-going experience before becoming pilots, some of which is service as master at sea. Many pilots have at least some post-secondary education specifically related to the maritime industry, including study at maritime academies and technical schools. Formal education can easily amount to four additional years of preparation for a career as a marine pilot.

In addition to actual sea experience and formal education, all pilot candidates undergo a period of observation aboard unlimited tonnage vessels upon the waters to be worked, in order to obtain local knowledge above and beyond their general seagoing knowledge. This observation period is required by the Coast Guard before the pilot candidate can take the Coast Guard examinations for each port and route for which the candidate wishes to qualify.

In Region 3, this amounts to 21 areas for which the candidate must prepare. During this observation period, the pilot candidate must actually be present on the bridge of the vessel and observing a licensed pilot navigate and maneuver the vessel. Currently, the Coast Guard requires 14 round trips for each route. In Region 3, the time required to complete this aspect of a pilot candidate's training can be anywhere from six months to one year, depending on seasonal fluctuations in the volume of marine traffic.

After making these observation trips, the pilot candidate is ready to begin a series of Coast Guard examinations for the various ports. For 21 examinations, it is not unusual for a pilot candidate to spend another three months studying and testing. Upon successfully completing the Coast Guard examination cycle, the candidate will hold a federal license endorsed for pilotage in the region upon vessels of any gross tons.

At this point, the pilot candidate is ready to take the examinations required by the State of Alaska. There is an examination for each area and route, corresponding to the areas for which the Coast Guard tests. Preparing for these examinations can easily require another month of study.

Upon successfully completing the route examinations and the core examination -- which covers a variety of topics such as seamanship, rules of the road, master-pilot relationship, shiphandling, and related topics -- the candidate is allowed to begin training as a deputy pilot under the auspices of one of the marine pilot organizations in the region. AMP anticipates that a deputy pilot trainee will normally be able to complete the required deputy pilot training in six to twelve months.

To summarize, by the time a pilot has finished deputy pilot training, he has ten to fourteen years of seagoing experience and formal schooling, followed by two years of observing, training, and testing in shiphandling and local knowledge. During the final two years, the candidate forgoes any income from his profession in order to complete his training.

In addition to the considerable investment of time necessary to become a marine pilot, the candidate incurs substantial out-of-pocket expenses. These include air fare to reach the dispatch point, air fare to reach the ports and routes away from the primary AMP office, food and lodging expenses, and all of the miscellaneous costs normally associated with traveling. Often, a candidate must travel away from home to take the Coast Guard and State of Alaska examinations, resulting in additional costs.

As the Board is aware, travel in Alaska is not inexpensive. Round trip air fare between Anchorage and Dutch Harbor, for instance, exceeds \$1,000, and a night's lodging in Dutch Harbor can easily average \$80.

Another significant expense for each pilot may be the cost of attending a manned ship model course such as may be required under new regulations currently being considered by the Board for either the deputy or unlimited pilot's license, or both. The program at Port Ravel in France now costs about \$12,000, depending on the exchange rate. Air fare is additional.

A safe estimate for the a pilot trainee's out-of-pocket expenses would be \$15,000 for the entire training period. A manned model course at Port Ravel would add \$12,000 plus air fare.

In order to arrive at reasonable compensation for pilots in Region 3, the Board must also consider some of the factors that make pilotage in the region unique. Most marine pilots in the United States are able to live at their homes during their dispatch period, or if they must travel to a job, it is at most for a period of one night.

However, in the westward region of Alaska, because of the great distances involved and the time and expense of traveling, AMP pilots work on a two-month-on, two-month-off rotation. At times, a pilot in this region can go for weeks moving from ship to ship without going ashore. Not only are AMP pilots away from home for two months at a time; they are also subject to physical and psychological stresses induced by constant travel, broken sleep patterns, change of diet while living on foreign-flag vessels, and the isolation of living on vessels where English is not spoken.

An important factor to consider in arriving at reasonable compensation for Region 3 pilots is the salary and compensation package typically enjoyed by ship masters on vessels operating in the region. For example, a master on a container ship calling at Dutch Harbor or Kodiak typically earns about \$155,000 annually, plus benefits such as a retirement plan and a medical/dental insurance package, for a six-month work year (or about \$861 per day for a

180-day period). A tanker captain can expect to earn about \$120,000 annually, plus similar benefits, again for a six-month work year. A fishmaster/captain on a factory trawler working out of Dutch Harbor can expect to earn from \$160,000 to \$200,000, without benefits, for six months' work.

By virtue of his experience, training, and local knowledge, a marine pilot is a highly-qualified professional entrusted with responsibilities commensurate with those of vessel masters. By law, he is held to a very high standard comparable to that of vessel masters. Accordingly, the pilot's compensation should also be commensurate with that of vessel masters.

AMP respectfully requests the Board to take these considerations into account when promulgating the maximum tariff regulations under the Act.

(2) differential compensation for seasonal and weather conditions, risks involved in providing pilotage services, and overtime

COMMENT: Seasonal and weather considerations in Region 3 are particularly important in determining a maximum pilotage tariff for the region. Even in summer, when weather in the region is at its best, the westward region is subject to a variety of weather problems. These include low pressure systems and their high winds passing through the Aleutian Islands and into Bristol Bay or the Gulf of Alaska, and poor visibility due to fog throughout the region. In the early summer, in Norton Sound, ice is a problem for those trampers servicing the herring fishing fleet.

In winter, as noted by the Coast Pilot, "The weather of the Aleutians is characterized by persistently overcast skies, strong winds, and violent storms. It is often variable and quite local." These conditions make any ship maneuver much more difficult in this region than the same maneuver undertaken in the more moderate conditions experienced in other regions of Alaska or elsewhere in the U.S.

Compounding the problems of weather is the problem of limited daylight during winter. Daylight hours during the winter are short, and during that season of the year many vessel movements must inevitably be made in darkness. Docks are not lighted with the requirements of pilots in mind, but for the benefit of dock workers. Much of the work during winter involves bringing vessels alongside anchored vessels in outports where there is no artificial lighting. Anyone who has observed a vessel being brought alongside a ship horsing on its anchor in high

winds at night can appreciate the difficulties that winter brings, and the high level of skill and training demanded of the pilot. Making the maneuver more risky is the fact that linehandlers on processors are often factory workers, not seamen.

Although it is not a major problem, ice is often a factor in maneuvering vessels in Iliuliuk Harbor. Ice forms at the south end of Captains Bay and drifts north into the main channel and through South Channel into Iliuliuk Harbor.

There are other factors unique to Region 3 that make piloting there more risky than in other regions. Most of the docks are at the heads of bays at the terminus of the channel, orienting the dock so as to be perpendicular to the axis of the channel. This means that, as a vessel approaches the dock, there is shallow water on both sides of the vessel and a dock in front.

The only ports in the region that have tugs available for assist work are Dutch Harbor and St. Paul Harbor in Kodiak. All the other ports require pilots to maneuver ships alongside without the aid of assist tugs.

Other risks in the region include the nature of the waters themselves. Throughout Bristol Bay, large rivers create strong currents that pilots must negotiate during the approach to the anchorages and during maneuvering alongside anchored vessels. To compound this problem, these areas are often very shoal, having underkeel clearances that are less than ideal. Naknek, for example, has water depths in the anchorage area that vary from 25 to 40 feet; tramper vessels, when loaded, draw up to 19 feet.

The narrowness of channels in this region also make piloting difficult. Port Moller and Herendeen Bay, as well as Clarks Point (Nushagak Bay) are two examples of narrow channels amid hidden sandbars and mud flats.

Charts of the region are sometimes less than perfect. The National Oceanic and Atmospheric Administration has been surveying the Togiak area for the past several summers, but has yet to publish a final chart depicting current conditions that conforms to modern standards for accuracy and completeness.

Even charted areas must be investigated by the pilot. Areas such as Ugashik Bay and the anchorage at Clarks Point must be surveyed by the pilot at the beginning of each season. Notes on the charts of some Bristol Bay ports state that channels may change due to strong

currents. The pilot must be aware of any changes that may not be shown on the chart. Chart surveys in this region are infrequent. Charts in some areas have not been resurveyed for more than ten years, making it imperative that pilots have the local knowledge to work safely in the area.

Congestion is a significant risk factor in the region. Fishing boats in Bristol Bay number in the hundreds and pass constantly through the anchorage areas. A ship going to anchor must also navigate through the interlocking network of drift nets set out to catch salmon.

Dutch Harbor has particular problems with congestion. Anchored trampers, anchored factory trawlers, and fishing boats passing from dock to dock all must share a limited space, and still provide maneuvering room for the container ships that call at the port.

Compounding the congestion problem is the variety of vessels in the region. Trampers, fishing vessels of a variety of types, tugs with tows, container ships, and the occasional tanker all operate in the region under different levels of regulation.

On a personal level, pilots in the region are exposed to high levels of risk due to the number of different pilot boats of various types (tugboats, fishing boats, tenders, skiffs) and their crews. There is often no consistently trained crew upon which a pilot can rely to help if things go wrong. Almost by definition, the pilot stations are in open water where boarding the ship is the most dangerous, especially during the rough conditions of winter.

Overtime is a consideration in the region. Many times, there is only one pilot in an area, particularly the outports. Consequently, one pilot is responsible for all ship movements in that area. Because of the need for travel within the area, a day can easily extend over 18 hours even though there may have been only two vessel movements that together totalled less than 12 hours.

Typically, in the tramper trade in the westward region, a fishing season opens on a certain date. Prior to that time, tramper vessels arrive en masse to position themselves for the opening. This requires the pilot to work long hours for a period of time, then stand by to move ships within the anchorage as needed. These periods of intense activity followed by sporadic activity is very stressful on the pilot, allowing only short periods of rest.

(3) dispatch expenses, transportation expenses, and other associated costs directly related to the provision of pilotage services

COMMENT: In the westward region, in response to the needs of industry, AMP has instituted a resident pilot program. Under this program, pilots are stationed in various ports in the region strategically chosen to service the traffic in that port as well as nearby ports as necessary. This system results in overlapping areas around each resident port, in which pilots from one area can help relieve pressure in adjacent areas without sacrificing pilot availability in the original area. Resident ports include Dutch Harbor (where AMP has its primary office and dispatch center), Cold Bay, Sand Point, Anchorage, and Kodiak. According to seasonal needs, Chignik also has a resident pilot. For particular fishing seasons, pilots are also stationed at the fishing grounds at Togiak, Naknek, Clarks Point, and Norton Sound on board the pilot boat.

While AMP's resident pilot program has been very successful in filling the needs of the industry, providing a high level of service and pilot availability, it is expensive for AMP to maintain, both in terms of dollar cost and the number of pilots required to fulfill its commitments.

The high manpower requirement needed to maintain this level of service can be illustrated by the situation at Chignik. There are two primary seasons when this situation occurs: the summer salmon season (two to three months) and the winter cod season (two months). The storage capacity at the shoreside processing plant is limited; as the cold storage facility fills, the plant manager requests a tramper upon which to offload cargo. The pilot brings the vessel alongside the dock and loading proceeds for about 12 hours, after which the vessel goes back to anchor. This process is repeated every day and a half to two days. Because of Chignik's remote location and the vagaries of weather, it is impractical for the pilot to leave the area and return in time for the next vessel movement. Therefore, serving this one port requires one pilot to work full time for five months.

The revenue generated by the pilot during this four-day cycle is \$1,350 under the old tariff, or \$333 per day (\$250 harbor shift, \$250 harbor shift, \$600 standby day, \$250 harbor shift).

This is not an atypical situation. King Cove and Sand Point can have similar traffic patterns.

AMP's riding pilot program is another example of the increased level of service AMP has provided to industry in the region. This program is particularly important when weather conditions make it difficult or impossible for a pilot to fly to meet a ship. Under the program, the pilot rides the ship to its destination. This service not only makes it possible for a ship to maintain its schedule, but also saves the ship a considerable amount of money.

For instance, suppose a vessel wants to leave Dutch Harbor to pick up cargo in Sand Point on short notice. Assuming there has been no shipping in the area, there will not be a pilot stationed in Sand Point. Rather than have a pilot fly to Sand Point and risk being stranded on the way due to weather (thereby collecting a standby/travel day), the pilot rides the ship from Dutch Harbor to Sand Point, saving the shipowner the cost of flying the pilot to Sand Point. Upon the vessel's arrival in Sand Point, there is no pilot boat fee, because the pilot is already on board. If the ship returns to Dutch Harbor, the pilot rides the ship back to Dutch Harbor (again, no pilot boat fee) and upon entry to Dutch Harbor, pilots the ship in, saving another air fare. Throughout the process, the presence of the pilot on the ship ensures that the vessel will not incur the costs of delay because weather has prevented a pilot from flying to join the vessel.

Under the present tariff, the pilot was not able to collect a standby or travel day for providing this service. AMP's tariff proposal changes that.

AMP's pilots pay their own transportation expenses from Anchorage to Dutch Harbor. This amounts to \$1,020 per round trip from Anchorage. If a pilot works a two-month-on, two-month-off rotation, that is more than \$6,000 annually if he is dispatched out of Dutch Harbor each time.

A major tariff consideration, in AMP's view, is the fact that Dutch Harbor is evolving into a container port, displacing some of the tramper traffic that has been the primary source of revenue for AMP pilots. One result of this evolution is that there will be increasingly fewer vessel movements involving increasingly larger vessels. For this reason, the maximum tariff adopted by this Board must include a tonnage factor and length-overall factor that will enable AMP to continue to provide a high level of service. Even with container ships taking more cargo volume, thereby reducing the number of ship calls, the manpower requirement for AMP will not decrease due to the number of ports spread throughout Region 3.

(4) reasonable overhead expenses that are necessary to provide year-round pilotage services for the region

COMMENT: The following are the operating costs for AMP during the year 1990:

Reimbursable expenses	\$43,310
Office space and rentals for Resident Pilot ports	44,007
Telephone	20,330
Office equipment/supplies	24,731
Repairs	1,846
Automobiles	4,192
Office wages, taxes	25,343
Legal and accounting	41,640
Computer services	57,938
Depreciation	25,577
Administrative travel and training expense	39,721
Promotion	9,503
Interest	9,363
Other	1,363
Taxes and insurance	<u>6,203</u>
TOTAL	\$335,067

Expenses to date for 1991 are up 146% from 1990 due to expansion of AMP's pilotage service resulting in projected expense for the year to be \$519,785. This does NOT include liability insurance AMP members expect to procure to cover potential liability imposed by the Act, subject to the limitation of AS 08.62.165.

(5) other expenses identified by the Board

COMMENT: AMP candidly states that it is not certain what the legislature intended to include in this criterion. It may refer to other expenses incurred by pilots or pilot organizations that are not included in the foregoing category. It may also refer to expenses experienced by other segments of the industry, particularly the vessel owners.

In the first category, AMP anticipates the legislature may have intended such expenses as the fees that are to be imposed by the Board under the new Act, such as licensing fees, examination fees, audit fees, and so on. This category might also include the costs of drug and alcohol testing mandated by the Act, and perhaps the costs of the marine pilot coordinator contemplated by the Act.

In addition, individual pilots have expenses that are not included in the operation costs of their pilot organization. These include insurance premiums, union dues, business licenses, and so on. Some of these items are covered in item 4(a) of AMP's proposed maximum regional tariff.

As to the second category, AMP notes that pilot fees are not the largest portion of the total cost incurred by vessel operators for pilot services. To use Dutch Harbor for an example, a ship entering the port for the first time and proceeding to a dock under the existing tariff will incur the following costs:

Pilot boat and tug assist	\$1,080 (59.8%)
Pilot fee	625 (34.6%)
Customs and Immigration	<u>100</u> (5.6%)
TOTAL	\$1,805 (100%)

This does not include agency fees, as to which information is not available to AMP. As this illustrates, the pilot fee itself is about one-third of the total expense under the existing tariff. If pilot fees are raised in accordance to AMP's proposed tariff, the new total would be \$2,597, making the pilot fee portion 54.6% rather than 34.6%. The total pilotage cost (excluding agency fees) would be increased only 44%. AMP believes this is more than reasonable in light of the other factors discussed in these comments.

**AMP'S PROPOSED PILOTAGE TARIFF AND CHARGES
FOR WESTERN ALASKA (U.S. FUNDS)**

The following rates are one-way only:

Kodiak -- City Harbor	\$1,400.00
Kodiak -- Women's Bay	1,400.00
Cold Bay	1,765.00
King Cove	1,565.00
Dutch Harbor, Unalaska Bay, Iliuliuk Harbor, Captains Bay	1,400.00
Adak	1,765.00
Charges for unlisted ports	1,090.00

6. If one pilot exceeds eight hours continuous running time without a six-hour rest period or presence of a relief pilot (i.e., a second pilot) while transitting compulsory pilotage waters, overtime shall be charged for at the rate of \$112.00 per hour or portion thereof.

7. Shifting of ship from dock to harbor or harbor anchorage, from harbor or harbor anchorage to dock, from anchorage within a harbor to another anchorage within the same harbor, will be charged at \$565.00 per each movement. A dock to dock shift comprises two movements and will be charged for accordingly. Anchorage or laying to for loading cargo or discharging cargo shall be considered as a regular port charge and all fees and tariffs shall be assessed the same as if the vessel moored.

8. On each occasion of hauling ship alongside a dock or mooring to position tanks, cargo holds, manifolds, loading arms, towers, or hoses comprises a single movement and will be charged for accordingly at \$565.00 per movement.

9. Movement of a ship in the absence of availability of the ship's own propulsion system even though assisted by tugboats will be charged for at twice the prevailing rate for each evolution engaged.

10. Docking/undocking vessels over 2,000 gross tons without the use of a tugboat if a tugboat is available at the ports of Dutch Harbor, Captains Bay, Kodiak, or Womens Bay will be charged for at the rate of \$680.00 per movement. It will remain the pilot's option whether or not to proceed without use of a tug.

11. Carried to sea detention on board; off-duty detention on board, intentional or otherwise; or off-duty standing by on board at the request of the master will be charged for at the rate of \$75.00 per hour, up to a maximum of \$900.00 per day. If disembarked at a position other than the base station from which dispatched, first class return passage and subsistence will be charged.

12. Bridge watch time rendered while ship is anchored or moored will be charged for at the rate of \$75.00 per hour or portion thereof. In cases where one pilot has exceeded eight (8) hours' continuous working time without a six (6) hour rest period or presence of a relief pilot (i.e., a second pilot), \$112.00 per hour will be charged.

Charges additional to Port Tariff:

1. A tonnage surcharge of \$0.036 per gross ton is made for all tonnage in excess of 14,000 gross tons. In all the preceding cases, any gross tonnage in excess of 50,000 gross tons will be charged for at \$0.018 per gross ton.

2. All rates remain the same whether piloting is (a) to or from sea or (b) to or from a pilot boarding or disembarking point.

3. Standby/travel fee: When standing by to pilot, or traveling to or from distant pilot ports and not actually piloting, such time shall be charged for at a rate of \$75.00 per hour. Travel time shall commence when the pilot leaves for dispatch, or after piloting, when the pilot begins travel to return to the dispatch point. Standby/travel time accumulates up to a maximum of 12 hours per day.

4. Transportation and subsistence:

(a) Vessels, owners, agents, and charterers shall pay pilotage fees, pilots' travel expenses such as plane and ferry fares, per diem allowances, cab fares, telegrams, telephone calls, and all other expenses pertaining to ship's business.

(b) Per diem rates for pilots shall correspond to those published by the Internal Revenue Service of the U.S. Treasury Department. These rates shall be adjusted on April 1 of each year. Total rates shall be distributed 60% to hotel, 20% to dinner, 10% to lunch, and 10% to breakfast, rounded to the nearest dollar, but in no instance will the distribution exceed the total daily allowance.

(c) When adequate meals and lodging are not furnished to the pilot when on ship, a charge will be made in accordance with the above rates. Accommodations for the pilot must be at least comparable to the accommodations of the vessel's officer personnel.

5. In the event that charges under this tariff per day for ship movements total less than \$900.00 while a pilot is on dispatch outside the primary dispatch point of Dutch Harbor/Captains Bay, the pilot may charge standby time at the rate of \$75.00 per hour or portion thereof. In no case will combined charges for ship movements and standby time be less than \$900.00 per day.

13. Bridge watch time rendered underway at the master's request not otherwise provided for under this tariff shall be charged for at the rate of \$75.00 per hour or portion thereof. In cases where one pilot has exceeded eight (8) hours' continuous working time without a six (6) hour rest period or presence of a relief pilot (i.e., a second pilot), \$112.00 per hour will be charged.

14. The pilotage fee for a second pilot, when used, will be charged for at the rate of fifty percent (50%) of the fee for the first pilot. All applicable charges will apply, and the expenses of the second pilot shall be paid in full to the same extent as the expenses of the first pilot.

15. Mooringmaster: Services and rates are negotiable upon application.

16. Agents, owners, or masters shall inform pilots of vessel movements at least 24 hours prior to such movements in order to provide sufficient time for the pilot to arrive at the vessel via available means of transportation. A pilot will be considered unavailable for services only if the 24-hour notice required by this paragraph is given and a pilot does not show up at the vessel to render services. If an agent, owner, or master fails to provide at least 24 hours' notice of the need for pilot services and the pilot under such circumstances is unable to reach the vessel to render pilot services, the vessel and the owner thereof shall be liable for the transportation costs incurred by the pilot in attempting to reach the vessel and for the pilotage fee and other costs that would have been incurred by the vessel under this tariff had the pilot been able to reach the vessel to render such services.

17. When the time of movement is set by the agent, owner, or master of a vessel, any delay over two hours shall be charged for at the rate of \$75 per hour or portion thereof, not to exceed \$900.00 per day. If the pilot is detained for two hours or less, no detention shall be charged. If the pilot is detained for more than two hours, the detention charge will include charges for the initial two hours.

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18. In addition to any other fee or expense provided for in this tariff for a vessel movement, a surcharge shall be added on the basis of vessel length according to the following schedule:

<u>Length Overall</u>	<u>Surcharge over base tariff</u>
450 — Up to 500 feet UNDER 450'	Ø 5.0 %
501-550 feet	15.0 %
551-600 feet	25.0 %
Over 600 feet	40.0 %

19. "Movement" is defined as an evolution by a vessel that requires the employment of a licensed pilot as required by AS 08.62.160.

Respectfully submitted,

ALASKA MARINE PILOTS

OCT 1 1991

Oct. 10, 1991

Senator Drue Pearce
Suite 535
3111 'C' Street
Anchorage, Alaska 99503

Dear Senator Pearce;

Thank you for your efforts in cosponsoring the new Pilotage Act with Representative Cheri Davis. The new law was needed to enable the Board of Marine Pilots function. Last spring I completed four years as a member of the board. Because of the way the old law and regulations were written, those were four very frustrating years. In the new law the board's authority is clearly defined, this will be a great help to the board in the future.

Last spring, while the Legislature was in session, I had the opportunity to call on a good many of the legislators, including yourself. I am 67 years old, and have never known what you people had to go through in the Capital. Everyone in the state should go there and see what kind of pressure you work under. Because there are so many people after the legislators' time every day, we were usually only able to spend about fifteen minutes with each one. We were apparently able to explain to some the need to change for the pilot board, but we were unable to explain the history of state piloting and the fact that competition among pilots is not good for the state.

You will find enclosed copies of three letters I wrote to the Governor this summer. As you can see from those letters, I believe in state pilotage, and that a state pilot is obligated to protect the state by seeing that a foreign ship does no damage to the people, property, or the ecology of the state. The pilot cannot have two masters, it must be either the state or the foreign ship operator. The new law, by clearly encouraging competition between pilot groups basically tells the ship owner that he must hire a pilot, but if the pilot does not do his bidding he can find one that will. This is not what piloting is all about. There is no reason to have state pilots if they are not there as representatives of the state aboard the ships.

One pilot group must be responsible to the state for a pilotage district. History has proven that to be the only way to have efficient state pilotage. There is no place in the United States, or foreign country, that I know of that has competitive pilotage on purpose. Occasionally a pilot group will split in two, but they have always gone back together in time. San Francisco Bay pilots used to be independent of one another, and bid for jobs. When I was sailing into San Francisco I was often busy writing damage

reports covering hull damage or dock damage. The company didn't care because they had insurance, and the pilot's rate was low. The pilot was servicing the steamship company, not the state. The pilot was always in a hurry to get to another job. In 1985 California put a stop to that. Now all of the San Francisco pilots belong to one association, and rotate the work between themselves.

If one association is responsible for each pilotage district it can then promote safer pilot stations because it would consider the pilot boats it's responsibility. At the present time, because we have to ride in boats that are commercially available, pilot stations in Southeastern Alaska are economic rather than geographically safe.

With the competitive situation that prevails here in Southeastern we will not be able to attract the highly qualified applicants we need in the future. During the year of 1991 we have lost two young, highly qualified pilots to San Francisco Pilots, and one to Puget Sound Pilots. The good young men are going to go where there is a brighter future.

Thank you for your time and consideration.

Respectfully,



Capt. H.K. Elsensohn
Alaska Pilot Lic. #050
119 Austin, Apt. 506
Ketchikan, Alaska 99901

Oct. 9, 1991

Senator Curt Menard, Chairman
Senate Transportation Committee
The Capitol, Room 9
P.O. Box V
Juneau, Alaska 99811

First I would like to say that the new Pilotage Act has clearly given the Board of Marine Pilots the authority that was missing in the old law. I spent four years on the board, and it was a very frustrating experience. When the board would try to make regulations about requirements, the Attorney General's office would usually say they did not have authority to do so. Their authority is clearly spelled out now.

One very important aspect of piloting we were not able to convince the legislators of is the fact that State Pilotage cannot function long where there is competition among pilot groups. One group has to assume the responsibility of servicing an area. I know of no place in the United States, or other nation, where there is competition encouraged between State Pilot groups. In southeastern Alaska we are already losing some of our younger pilots to Puget Sound and San Francisco because the future is better there. I am sure we will not be able to compete with other states for well qualified applicants in the future.

Enclosed is a copy of the letter of August 2, 1991 that I sent to Governor Hickel on this subject. I have learned that in order to get a bill passed there must be a lot of compromise. In this case I think our opposition was much more convincing than we were, and the legislators probably did not have enough time to study all of the documentation presented on piloting. It is very difficult for anyone in the United States to think that a monopoly could be better than a competitive situation, however in State Pilotage it is the only way that pilots can truly function as agents of the state aboard foreign ships.

One reason there was not more accomplished at the Pilot Board meeting here in Ketchikan last week is that the foreign ship operators, and agents, and competing pilot groups were all trying to make their points. As long as competition is encouraged, this is the way it will be. The main function of State Pilots as described in the Act is to prevent the loss of lives and property, and to protect the marine environment of the state. Would not the best way to accomplish this be to make pilotage in each district a quasi-utility? Then it would be clear to all that pilots are completely under the control of the state. State pilots must

be able to serve only one master, the state, and they can not do that in a competitive atmosphere.

Thank you for your consideration,

Respectfully,

Capt. H.K. Elsensohn
Alaska Pilot Lic. #050
119 Austin, Apt. 506
Ketchikan, Alaska 99901

June 26, 1991

Walter J. Hickel, Governor
State of Alaska
P.O. Box A
Juneau, Alaska 99811-0101

Dear Governor Hickel:

During the last session of the Alaska State Legislature the Senate and House of Representatives passed a bill entitled "AN ACT RELATING TO THE BOARD OF MARINE PILOTS, MARINE PILOTS, INVESTIGATIONS OF MARINE ACCIDENTS, AND TRAINING FEES; EXTENDING THE TERMINATION DATE OF THE BOARD OF MARINE PILOTS; AND PROVIDING AN EFFECTIVE DATE". I have just completed my four year appointment as a member of the Board of Marine Pilots, and can state that the Board needed some new legislation. Because of legal loopholes and exceptions written into the old regulations and Pilotage Act, the Pilot Board has, in the last few years, lost its ability to enforce the intent of the regulations. Some pilots are being licensed for levels of work for which they have not demonstrated proficiency. The Attorney Generals office has even decided that the Board had no legal right to set tariffs for pilotage. That means that the state has told all foreign ships that they must take a pilot, and the pilot can charge anything he wishes. I believe the legislators who passed the original Pilotage Act over twenty years ago were smarter than that.

The reason for having state pilots is for the protection of life, property, and the ecology of the state. The state pilot must be a representative, or an officer of the state while aboard a foreign ship in order to have the authority to carry out his responsibility to the state. No one can serve two masters. The state pilot must be always responsible to, and under the control of the state. Pilots must only be concerned about the safety aspects of the job they are doing at the time, they must not spend their time worrying about whether or not some one of authority aboard the ship or ashore will like the decisions he must make. The state must have complete control over pilots, not some foreign steamship company, or ship's agent. If pilots have to compete with each other for jobs, they cannot function properly.

There are two locations in which there is a need to establish new pilot stations - lower Chatham Strait, and Cape Spencer. Both of these stations will require sturdy boats, and neither will be economically profitable for the operator. This is the type of thing that a single pilot association in an area could do, if the state requested it.

Several of the Legislators felt there should be more than one group of pilots in each region in order to be sure that everyone who is a licensed pilot has an

opportunity to work. In reality the best way to guaranty this is to have one association per district, and have the state require that all licensed pilots in that district are members of that group. If anyone has a complaint about a pilot, or a pilot organization, he or she should be able to take the complaint to the Board of Marine Pilots where the problem would be resolved. This would give industry their avenue to solving any problems that might arise. This would allow the state to have state pilotage system that it, and it alone controls.

You will find enclosed a copy of "STATE PILOTAGE IN AMERICA". It gives a short history of piloting that I hope you will find interesting.

I have been piloting in southeastern Alaska since 1973, will be 67 years old this summer, and have been connected with ships most of my adult life. At this stage of life I am not worrying about feathering my own nest, or turf protection, as some people will contend. There is so much about pilotage that I would like to discuss with you, but I am afraid the letter would be too long. I would be honored to have an audience with you, at your convenience, to discuss the pilotage needs of the State of Alaska and how they may be attained.

Respectfully,

Captain H.K. Elsensohn
119 Austin, Apt. 506
Ketchikan, Alaska 99901

Walter J. Hickel, Governor
State of Alaska
P.O. Box A
Juneau, Alaska 99811-0101

July 5, 1991

Dear Sir:

The bill that you recently signed into law pertaining to the Board of Marine Pilots was very much needed in order for the Board to be able to function once again. Thank you for your efforts in this matter.

While the bill will be a great assistance to the Board of Marine Pilots, it will have quite the opposite effect on marine pilots. I can only speak directly of what is happening in Southeastern Alaska because that is where I work.

Until the summer of 1990 all the pilotage needs of Southeastern Alaska were fulfilled by the Southeastern Alaska Pilots' Association. The association felt it had the responsibility to see to it that there were always enough qualified state licensed pilots available to cover any request for pilots that may arise. Almost everyone with a Southeastern Alaska license that wanted to work did so through our office. I must admit that there have been in the past a few licensed people that were not welcome in our office, for one reason or another.

During the summer of 1990, after the Southeastern Alaska Pilots had spent many months helping a new cruise ship plan an itinerary for Southeastern, the cruise ship company decided to employ two independent pilots as company pilots. The cruise company told us that this was done because those pilots were going to save them twenty five percent over the state tariff. We have abided by the published tariff since the original Pilotage Act was passed. Both the pilots and industry have always believed the tariff was law. Early in 1991 the attorney general decided that the tariff was not enforceable, after vacillating on the subject for months.

Now, in the summer of 1991 these same two pilots have a contract with Holland American Company to pilot all of their ships. Again the company told us that it was just business, they were saving money. Those four ships represent some of the largest tariff ships that come to the area. They were only able to fill the manpower need by having some pilots from the Alaska Marine Highway come to work with them. They are probably making more money there, for the time worked, than we are here because we are servicing all ships, not just the high tariff ones. We also have an obligation to the new and part-time pilots that have worked with us.

While the Legislature was in session almost every one of the members we spoke to was so busy that we could not

really take their time explaining to them the history, past legal decision, and customs of pilotage. It is important that these things be understood. In order to promote your understanding of the profession of piloting I am including copies twenty pages from "THE LAW OF TUG, TOW, and PILOTAGE" by Alex L. Parks; copywrite 1989 by Cornell Maritime Press, Inc. that I sent in the past to the Board of Marine Pilots members. You will also find enclosed is a copy of information given to us by our attorney about the Olsen case, and the Kotch case. I hope that you will have time to study these enclosures, as they will give you an insight into the field of piloting. I also hope that you have had an opportunity to read the copy of "STATE PILOTAGE IN AMERICA" that I sent to you last week.

In order for State Pilots to fulfill their responsibility to the state, they must be independent of the shipping companies. History has proven this. That is the main reason that California gave up trying to have company pilots in San Francisco Bay. Pilots cannot do proper work if they must worry that a decision they make may loose their job. The only way to have dependable pilotage is to have one association in each pilotage district that will be responsible for maintaining pilots and an office to serve all ships in that district that requiring a pilot. In order for such a system to work, the association would have to accept any licensed pilot the state sent to them. This approach would eliminate any kind of discrimination by associations.

The future of state pilotage in Alaska may be in the balance.

Thank you for your consideration.

Respectfully,

Captain H.F. Elsensohn
Alaska Pilot Lic. #050
119 Austin, Apt. 506
Ketchikan, Alaska
99901

Aug. 2, 1991

Walter J. Hickel, Governor
State of Alaska
P.O. Box A
Juneau, alaska 99811-0101

Dear Governor Hickel:

My letters to you dated June 26 and July 5, 1991, have not been answered, so I must assume that they were not understood. I will write this letter as directly and clearly as I can.

State Pilotage in the state of Alaska is heading for the rocks. The state, and only the state, is supposed to control state pilots. The state pilot is theoretically on the ship to protect the state. During testimony before the various committees of the legislature some operators of foreign ships convinced the legislators that they needed protection from the pilots. They used half truths and innuendos to accomplish this goal. They made the legislators believe that they were afraid of the pilots.

Because of the above, the legislature wrote a bill including clauses that the shipping industry wanted. They completely side-stepped their responsibility when they gave in to the shipping interests and wrote the bill to create a competitive situation in piloting. No state in the union, or nation in the world that I know of, has competition in state piloting. The reason for this is very simple - IT DOES NOT WORK. State pilots are supposed to only be concerned about safety of the ship and it's surroundings. If they have to worry about pleasing the steamship company they are no longer representatives of the state, but company employees. It does not seem reasonable to me that the state would pass a Compulsory Pilotage Act just so the foreign ships would have to give me a job. I believe the intent was as stated in the act, to prevent the loss of lives and property, and to protect the marine environment of the state.

Another thing that the ship operators convinced the legislature to do, was to write the bill so the competing pilots would have to get business by the method of low bid. It is turning into a situation where some cruise ship companies don't care about a pilots experience and safety record, just how cheap he will work. The state must have the authority to set the tariff, just as other maritime states do. If the state sets the tariff it accomplishes two things, it protects the shipping companies from price gouging, and allows the pilots to have a comparable income to pilots of other areas. If the state wishes to have good prospects of qualified pilots in the future, it must consider the income that pilots make in other states.

If piloting is to be a purely financial venture, why should any of us service the small ships that do not pay very much? Maybe we should just work the large ships the way our competition is doing. We would make a lot more money that way. Because our competition only services large ships, they make much more money each day than we do. They are offering pilots of our group more money than they make with us, in order to have the manpower to get other large ships from us. It will all end with the cruise ship operators laughing all the way to the bank, as state pilotage goes down the drain.

In order to recap, there are three things the state must do to avoid disaster on the water -

- 1 - Take control of state pilots.
- 2 - Allow only one association per district.
- 3 - Set tariffs that must be adhered to.

If the state does these things it will tell everyone that state pilots are for the advantage of the state, as they are supposed to be. It will also allow the State Board of Marine Pilots and the pilot associations the ability to work together in order to promote safer pilotage, and better service to the ships.

One item that should be mentioned, piloting has historically been the culmination of a shipmaster's career, and is therefore a high paying profession. A very important thing to remember about a state pilot's income is that every cent of it is new money to the state and the community because it is paid by the foreign shipping company, not the local people. Another thing to remember is that Southeastern Alaska Pilot's Association has been in existence since the original pilotage act was passed, and has given both the state and industry good service all that time. The only thing we ever did that upset some people was to try to be sure the pilots we sent out were qualified.

There is much more to be said on the above subjects but I hope that what I have stated will enhance the items covered in my previous two letters.

Respectfully,

Captain H.K. Elsensohn
Alaska Pilot Lic. #050
119 Austin, Apt. 5067
Ketchikan, Alaska 99901

Capt. W.E. Murphy, Inc.

P.O. BOX 597
HOMER, ALASKA 99603

(907) 335-1271

4 October 1991

Alaska Board of Marine Pilots
Pouch D-LIC
Juneau, Alaska 99800

Dear Board Members,

I have just learned that at its recent work session the Board of Marine Pilots voted to include Kodiak Island in the "Western Alaska" region. I believe the Board must have taken this action only because it did not have sufficient factual information with which to make a determination based on the tests of safety, historic trade patterns, trained pilots, and service to industry. Placing Kodiak Island in the "Western Alaska" region makes no sense, may well lead to serious safety problems, and cannot be justified. Kodiak Island should be a part of the "Southcentral" region for the following reasons:

-Kodiak has always been served by pilots of Southwest Alaska Pilots Association (SWAPA) based in Homer. It has not been traditionally served by the Alaska Marine Pilots (AMP). Indeed, SWAPA pilots have probably done several hundred jobs on Kodiak Island within the past few years. I doubt that AMP pilots have done more than 20. This could easily be confirmed by checking the pilots' quarterly reports or requiring the respective pilot groups to produce this information.

-21 SWAPA pilots are licensed by both the U. S. Coast Guard and the State of Alaska for the ports of Kodiak Island; as a matter of fact it is a condition of membership in SWAPA that one be licensed for the entire Kodiak Island Group. AMP has very few members, 3 or 4 at most, licensed by either of the above agencies for the ports of Kodiak Island. Again this can be confirmed by reference to state licensing records or by the pilot groups in question.

-Loaded tankers are regular callers to Womens Bay on Kodiak Island. SWAPA pilots are arguably the most experienced tanker pilots in the United States. On the other hand very few AMP pilots have ever handled a tanker. The one or two AMP members who have handled tankers probably do not possess pilotage for Womens Bay.

-As the pilots who have provided 99% or more of the state pilotage on Kodiak Island for years, SWAPA members are of necessity well qualified in that area by virtue of their long experience there, their training in the area, and their vast experience handling large tonnage ships both on Kodiak and other areas. AMP pilots, on the other hand, do not share this experience either in terms of local knowledge or experience handling large ships.

Alaska Board of Marine Pilots
page 2
4 October 1991

-SWAPA has had a base in the town of Kodiak for a number of years. This is an office/residence equipped with telephone, vhf radio and an automobile.

-SWAPA's headquarters and dispatch base at Homer is close to Kodiak, 115 air miles away. The headquarters and dispatch base of AMP is located in Dutch Harbor, some 847 air miles distant.

-SWAPA members have long depended upon the revenue from piloting jobs on Kodiak Island for part of their income. AMP members do not. Again please refer to the number of vessels piloted on Kodiak by the respective pilot organizations to judge the truth of this statement.

-Finally, if the regional boundary putting Kodiak Island into the Western Alaska region were enforced today, Kodiak Island would be without pilots. That is the simple truth. The organization you have said will pilot on Kodiak cannot provide the service. It is difficult to see how such a situation contributes to safety.

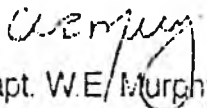
I have been informed that the vote putting Kodiak in the Western Alaska district was irregular in that a sitting Board member gave up his chair to a member of the audience, a pilot, who then made the motion and voted in favor of it. I question how a person not appointed by the governor or confirmed by the legislature can take a Board member's seat, make motions and vote on them. In addition to the other reasons I have listed, I request you reconsider your vote for this reason.

To conclude, I submit the Board of Marine Pilots, though well intended, has acted inappropriately and counter to the interests of safety by voting to place Kodiak Island in the Western Alaska region where its ports cannot be served by a geographically distant pilot organization whose members are neither licensed nor experienced in the area. It has, with the stroke of a pen, eliminated from Kodiak the pilot group which has served the area for many years, has a base there, and provides a large pool of experienced and appropriately licensed pilots to serve the Island. It has removed from Kodiak the only group of pilots who can provide the Island with pilot service. I therefore respectfully request that the Board obtain factual data concerning the piloting situation on Kodiak Island and then reconsider its action. I believe if the Board looks at the facts its only choice will be to rescind its earlier decision and vote to place Kodiak Island where it belongs- in the SouthCentral region.

Alaska Board of Marine Pilots
4 October 1991
page 3

As a former member and chairman of the Board I understand and sympathize with the pressures you are experiencing from industry members and pilots alike who are trying to influence you in your task of translating the new state piloting act into regulation. I believe your job will be much easier and less open to criticism if you decide issues before you with two things in mind: insist on facts and not opinions or emotional arguments from those making their case to you and, always decide on the basis of which course will best promote safety.

Respectfully yours,


Capt. W.E. Murphy

OCT 07 1991

MEMORANDUM

State of Alaska

TO: All Interested Parties

DATE: October 4, 1991

FILE NO:

TELEPHONE NO: 465-3035

FROM: JoAnne Cummings
Licensing Examiner

SUBJECT: Upcoming Meeting of the
Board of Marine Pilots

Enclosed is a tentative agenda for the October 16, 1991 meeting of the Alaska Board of Marine Pilots. If you have any material to submit for Board review prior to the meeting, please send it to me for distribution as soon as possible.

Also, I've been advised that parking will not be allowed at the AHFC Building where the meeting will be held, but meeting participants may park in the Department of Labor parking lot across the street.

Please call the above number if you have any questions.

~~Are their~~

MEMORANDUM (Brief Communications)

State of Alaska

TO:	Name All Interested Parties	Dept./Div./Sect.	Mail Stop
FROM:	Name JoAnne Cummings <i>JAC</i>	Dept./Div./Sect. Alaska Board of Marine Pilots	Phone 465-3035 Mail Stop
SUBJ:	Agenda for the October meeting of the Marine Pilot Board		Date 9/23/91

Attached is a revised copy of the agenda which was sent to you earlier this month. No new topics have been added; only the order of discussion has been changed. This is still a tentative agenda and may be revised again by the board at the beginning of the meeting.

MEMORANDUM (Brief Communications)

State of Alaska

TO:	Name Interested Parties	Dept./Div./Sect.	Mail Stop
FROM:	Name JoAnne Cummings <i>J</i>	Dept./Div./Sect. Occupational Licensing	Phone 465-3035
SUBJ:	Marine Pilot Board Meeting - Tentative Agenda		Date 9/5/91

Attached is a tentative agenda for the meeting of the Board of Marine Pilots to be held October 1-2, 1991 in Ketchikan.

Please be aware that the agenda is subject to change. If you have any questions you may contact me at the number listed above.

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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

WALTER J. HICKEL, GOVERNOR

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

BOARD OF MARINE PILOTS
OCTOBER 1-2, 1991
KETCHIKAN, ALASKA

TENTATIVE AGENDA

TUESDAY, OCTOBER 1, 1991

<u>TIME</u>	<u>TOPIC</u>	<u>LEAD PERSON</u>
1. 9:00 a.m.	Call to Order/Roll Call	Division Staff
2. 9:05 a.m.	Election of Chairperson	Division Staff
3. 9:15 a.m.	Review Agenda	Chair
4. 9:25 a.m.	Approve Minutes	Chair
	a. April 3-4, 1991 Meeting	
	b. June 27, 1991 Teleconference	
	c. July 9, 1991 Teleconference	
	d. July 30, 1991 Teleconference	
5. 9:40 a.m.	Kurt Petrich Application	
	a. Proposed Decision on Appeal	Division Staff
	b. Score Oral Exam	Captain Collins
6. 10:15 a.m.	Investigative Report (Executive Session)	Division Staff
7. 10:45 a.m.	Enforcement Authority-Mandatory Employment of Pilots	Ann Boudreaux
8. 11:45 a.m.	Public Comment	Chair
9. 12:00 noon	Lunch	
10. 1:00	Marine Pilot Coordinator Position	Ann Boudreaux

Bob WATTS

11. 2:00 p.m. Work Session - Drafting Regulations Chair
Regarding:

Bob White

- a. Maximum Tariffs
- b. Criteria for Recognizing Pilot Organizations
- c. Deputy Pilot Application Requirements
- d. Restrictions on Deputy Pilot Licenses
- e. Standards for Deputy Pilot Training Programs
- f. Procedure for Upgrading Existing Channel/Limited Licenses

FIRST PUBLICATION WILL BE SAME DAY.

12. 4:30 p.m. Recess

WEDNESDAY, OCTOBER 2, 1991

<u>TIME</u>	<u>TOPIC</u>	<u>LEAD PERSON</u>
13. 9:00 a.m.	Roll Call	Chair
14. 9:05 a.m.	Public Comment	Chair
15. 9:35 a.m.	Continuation of Work Session Drafting Regulations	Chair
16. 12:00 Noon	Lunch	
17. 1:00 p.m.	Continuation of Work Session Drafting Regulations	Chair
18. 4:30 p.m.	Adjourn	Chair

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AUG 23 1991

MEMORANDUM

State of Alaska

TO: All Interested Parties

DATE: August 20, 1991

FILE NO:

2534

TELEPHONE NO: 465-3035

FROM: JoAnne Cummings
Division of Occupational
Licensing

SUBJECT: Notice of Meeting
Board of Marine Pilots

The Alaska Board of Marine Pilots will hold a meeting October 1-2, 1991 in Ketchikan, Alaska. The purpose of the meeting is to draft regulations in accordance with the new Marine Pilotage Act. The meeting will be held at the University of Alaska campus, Paul Building, Forum Room A, 7th and Madison Streets, Ketchikan. The meeting is scheduled to begin at 9:00 a.m. on Tuesday, October 1.

An agenda will be mailed to you when available. Please call the above number if you have any questions.

Rod
teleconf

9/10 x/0 TEL CONF PLANNED. WCB.

9/11 SAID NO FACILITIES + WHO PAYS. NO
TELECONF.

CALLED SHELLY
465-2500 -