

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7944 HOUSE LABOR & COMMERCE

3/19/92	Glory Fuji	Bennett
3/26/92	Glory Fuji	Bennett
3/26/92	Glory Fuji	Bennett
3/27/92	Jufu	Spence
3/28/92	Jufu	Spence/McPherson/Bennett
3/31/92	Glory Fuji	Bennett
3/31/92	Ace Accord*	Bennett
4/4/92	Manila Felix	Bennett
4/4/92	Ace Accord	Bennett
4/10/92	Miyabi-Marū	Nielsen
4/11/92	Golden Venture	Nielsen
4/11/92	Miyabi-Marū	Nielsen
4/14/92	Miyabi-Marū	Nielsen
4/21/92	Ocean Lily*	Nielsen
4/21/92	Ocean Lily*	Nielsen
4/21/92	Virginia	Nielsen
4/23/92	Hilda*	Nielsen
4/24/92	Ocean Lily*	Nielsen
4/24/92	Ocean Lily*	Nielsen
4/25/92	Virginia	Nielsen
4/30/92	Golden Rose*	Nielsen
4/30/92	Golden Rose*	Nielsen

ALASKA MARINE PILOT QUARTERLY REPORT

DATE	SHIP NAME	PILOT NAME	PILOT NAME
10/01/91	TRINITY STAR -	SWAN, W. R.	
10/01/91	STAR MARLIN -	SMITH, R. W.	
10/02/91	ASEAN VICTORY -	CHADWICK, A. C.	
10/04/91	CALATAGAN -	PORTER, G. R.	
10/02/91	GLORY EXPRESS -	DIMENT, A. G.	
10/06/91	GLORY EXPRESS -	COLLINS, D. O.	
10/03/91	WESTERN FAITH -	GURRY, R. H.	
10/03/91	WESTERN FAITH -	GURRY, R. H.	
10/05/91	WESTERN FAITH -	GURRY, R. H.	
10/02/91	GRACE ISLAND †	GURRY, R. H.	
10/03/91	OCEAN EMPRESS -	COLLINS, D. O.	
10/09/91	OCEAN EMPRESS -	SWAN, W. R.	
10/03/91	APOLLO ACE †	DUNN, R. S.	
10/06/91	APOLLO ACE †	DUNN, R. S.	
10/06/91	STAR EVANGER -	COLLINS, D. O.	
10/09/91	STAR EVANGER -	COLLINS, D. O.	
10/08/91	FORTUNE HUNTER -	SMITH, R. W.	
10/12/91	FORTUNE HUNTER -	SMITH, R. W.	
10/06/91	BUFFALO -	COLLINS, D. O.	
10/11/91	BUFFALO -	SWAN, W. R.	
10/08/91	BLUE TAURUS -	DUNN, R. S.	
10/09/91	BLUE TAURUS -	DUNN, R. S.	
10/10/91	OSPREY ARROW -	GURRY, R. H.	
10/15/91	OSPEFY ARROW -	SMITH, R. W.	
10/13/91	MARINE TRADER †	CHADWICK, A. C.	
10/16/91	MARINE TRADER †	SWAN, W. R.	
10/17/91	AUR ARROW -	SWAN, W. R.	
10/13/91	AUK ARROW -	COLLINS, D. O.	
10/14/91	DILIGENCE TRADE †	SWAN, W. R.	
10/13/91	DILIGENCE TRADE †	SWAN, W. R.	
10/15/91	MAERSK POPLAR †	GURRY, R. H.	
10/21/91	MAERSK POPLAR †	SMITH, R. W.	
10/18/91	USS CORONADO †	GURRY, R. H.	
10/21/91	USS CORONADO †	GURRY, R. H.	
10/17/91	SOUTHERN ACCORD †	SMITH, R. W.	
10/24/91	SOUTHERN ACCORD †	SWAN, W. R.	
10/24/91	SOUTHERN ACCORD †	SWAN, W. R.	
10/29/91	SOUTHERN ACCORD †	PORTER, G. R.	
10/23/91	COAST RANGE †	ANTONSEN, H. H.	
10/23/91	COAST RANGE †	ANTONSEN, H. H.	
10/25/91	GREEN SASEBO -	ANTONSEN, H. H.	
10/31/91	GREEN SASEBO -	JONES, C. B.	
10/30/91	SALINAS -	JONES, C. B.	
11/02/91	SALINAS -	GURRY, R. H.	
11/02/91	WOODY DUKE -	GURRY, R. H.	
11/04/91	WOODY DUKE -	JONES, C. B.	
10/31/91	BRIGHT OCEAN -	CHADWICK, A. C.	
11/06/91	BRIGHT OCEAN -	JONES, C. B.	
11/06/91	CITRUS ISLAND †	COLLINS, D. O.	
11/10/91	CITRUS ISLAND †	JONES, C. B.	
11/01/91	LOUISIANA MANA -	SMITH, R. W.	

ALASKA MARINE PILOT QUARTERLY REPORT

DATE	SHIP NAME	PILOT NAME	PILOT NAME
11/02/91	LOUISIANA MAHA -	SMITH, R. W.	
11/08/91	VENTURE STAR +	SMITH, R. W.	
11/09/91	VENTURE STAR +	SMITH, R. W.	
11/11/91	GROUSE ARROW -	SMITH, R. W.	
11/12/91	GROUSE ARROW -	SMITH, R. W.	
11/03/91	PINE BEAUTY +	SMITH, R. W.	
11/06/91	PINE BEAUTY +	SMITH, R. W.	
10/25/91	OCEANID -	GURRY, R. H.	
10/31/91	OCEANID -	SMITH, R. W.	
10/25/91	VIRTUE -	ANTONSEN, H. H.	
10/30/91	VIRTUE -	SMITH, R. W.	
11/13/91	SOUTHERN VIRGO -	ANTONSEN, H. H.	
11/18/91	SOUTHERN VIRGO -	CREASBY, B. H.	
11/13/91	HANDU ARROW -	SMITH, R. W.	
11/15/91	HANDU ARROW -	SMITH, R. W.	
11/17/91	WESTERN JADE -	ANTONSEN, H. H.	
11/21/91	WESTERN JADE -	JONES, C. E.	
11/24/91		ANTONSON, H. H.	
11/26/91	STAR NEW YORK +	SMITH, R. W.	
11/10/91	OCEAN MASTER -	COLLINS, D. O.	
11/17/91	OCEAN MASTER -	PORTER, G. R.	
11/22/91	OCEAN MASTER -	ANTONSEN, H. H.	
11/22/91	OCEAN MASTER -	ANTONSEN, H. H.	
11/26/91	OCEAN MASTER -	SMITH, R. W.	
11/30/91	SIERRA MADRE +	PORTER, G. R.	
12/01/91	SIERRA MADRE +	PORTER, G. R.	
11/24/91	TANAGRA -	CREASBY, B. H.	
11/26/91	TANAGRA -	JONES, C. E.	
11/27/91	TANAGRA -	JONES, C. E.	
12/02/91	TANAGRA -	JONES, C. E.	
11/29/91	FRENO SCORPIUS +	CREASBY, B. H.	
11/28/91	FRENO SCORPIUS +	SMITH, R. W.	
11/26/91	MOLDA -	CREASBY, B. H.	
12/01/91	MOLDA -	SMITH, R. W.	
11/26/91	JUPU -	PORTER, G. R.	
12/03/91	JUPU -	ANTONSEN, H. H.	
11/30/91	GRAND HONEST -	ANTONSEN, A. I.	
12/02/91	GRAND HONEST -	ANTONSEN, A. I.	
12/09/91	ORANIEBURG +	SMITH, R. W.	
12/10/91	ORANIEBURG +	SMITH, R. W.	
12/08/91	TERN ARROW -	DIMENT, A. G.	
12/10/91	TERN ARROW -	DIMENT, A. G.	
12/11/91	TERN ARROW -	JONES, C. B.	
12/12/91	TERN ARROW -	PORTER, G. R.	
12/13/91	GROUSE ARROW -	SMITH, R. W.	
12/16/91	GROUSE ARROW -	SMITH, R. W.	
12/12/91	ANANGEL NIGHT -	SMITH, R. W.	
12/23/91	ANANGEL NIGHT -	ANTONSEN, H. H.	
12/13/91	GLORY EXPRESS -	DIMENT, A. G.	
12/18/91	GLORY EXPRESS -	DUNN, R. S.	
12/15/91	OCEAN COSMOS +	JONES, C. B.	

ALASKA MARINE PILOT QUARTERLY REPORT

DATE	SHIP NAME	PILOT NAME	PILOT NAME
12/22/91	OCEAN COSMOS +	JONES, C. B.	
12/22/91	OCEAN COSMOS +	JONES, C. B.	
12/26/91	OCEAN COSMOS +	JONES, C. B.	
12/26/91	GLOVER TRUST +	DUNN, R. S.	
12/30/91	GLOVER TRUST +	SMITH, R. W.	
12/29/91	MORNING ORCHID +	ANTONSEN, H. H.	
12/31/91	PEONIA +	DUNN, R. S.	

ALASKA MARINE PILOT QUARTERLY REPORT

DATE	SHIP NAME	PILOT NAME	PILOT NAME
01/06/92	SIERRA MADRE †	ANTONSEN, H. H.	
01/06/92	MORNING ORCHID †	SMITH, R. W.	
01/03/92	SPIRIT †	ANTONSEN, H. H.	
01/05/92	PEONIA -	PORTER, G. R.	
01/06/92	PEONIA -	SMITH, R. W.	
01/10/92	PEONIA -	DUNN, R. S.	
01/02/92	HYUNDAI #16 -	PORTER, G. R.	
01/06/92	HYUNDAI #16 -	DUNN, R. S.	
01/07/92	HYUNDAI #16 -	DUNN, R. S.	
01/09/92	HYUNDAI #16 -	ANTONSEN, H. H.	
01/08/92	NEPTUNE OLIVINE -	SWAN, W. R.	
01/10/92	NEPTUNE OLIVINE -	SWAN, W. R.	
01/07/92	CORMORANT ARROW -	COLLINS, D. O.	
01/11/92	CORMORANT ARROW -	COLLINS, D. O.	
01/04/92	CITRUS ISLAND †	DUNN, R. S.	
01/11/92	CITRUS ISLAND †	DUNN, R. S.	
01/11/92	IBIS ARROW -	ANTONSEN, H. H.	
01/12/92	IBIS ARROW -	SWAN, W. R.	
01/15/92	HAREFIELD -	DUNN, R. S.	
01/17/92	HAREFIELD -	DUNN, R. S.	
01/09/92	ALASKA -	COLLINS, D. O.	
01/12/92	ALASKA -	COLLINS, D. O.	
01/13/92	ALASKA -	COLLINS, D. O.	
01/19/92	ALASKA -	ANTONSEN, A. I.	
01/20/92	ESPERANCE -	SWAN, W. R.	
01/21/92	ESPERANCE -	SWAN, W. R.	
01/25/92	MARINA †	DUNN, R. S.	
01/29/92	MARINA †	ANTONSEN, H. H.	
01/30/92	HAERSK POPLAR	DIBENT, A. G.	
01/31/92	HAERSK POPLAR	DIBENT, A. G.	
02/03/92	HOBGH MARLIN -	SWAN, W. R.	
02/05/92	HOBGH MARLIN -	SWAN, W. R.	
01/30/92	PAC BARON †	SWAN, W. R.	
02/01/92	PAC BARON †	COLLINS, D. O.	
02/07/92	ROVER †	COLLINS, D. O.	
02/07/92	ROVER †	COLLINS, D. O.	
02/13/92	SIERRA MADRE †	PORTER, G. R.	
02/14/92	SIERRA MADRE †	PORTER, G. R.	
02/04/92	RELIANCE TRADER †	ANTONSEN, A. I.	
02/06/92	RELIANCE TRADER †	ANTONSEN, A. I.	
02/15/92	HANDY ACCORD -	CREASEY, E. H.	
02/15/92	HANDY ACCORD -	CREASEY, E. H.	
02/20/92	HANDY ACCORD -	CREASEY, E. H.	
02/17/92	ATLANTIC -	ANTONSEN, A. I.	
02/20/92	ATLANTIC -	ANTONSEN, A. I.	
02/14/92	SWAN ARROW -	ANTONSEN, H. H.	
02/15/92	SWAN ARROW -	PORTER, G. R.	
02/11/92	GROUSE ARROW -	SWAN, W. R.	
02/13/92	GROUSE ARROW -	DIBENT, A. G.	
02/10/92	GEORGIA †	ANTONSEN, A. I.	
02/14/92	GEORGIA †	DIBENT, A. G.	

ALASKA MARINE PILOT QUARTERLY REPORT

DATE	SHIP NAME	PILOT NAME	PILOT NAME	CODE	DESCRIPTION
02/17/92	HAKUFU	PORTER, G. R.			
02/19/92	HAKUFU -	SWAN, W. R.			
02/23/92	AKRITAS -	SWAN, W. R.			
02/26/92	AKRITAS -	DIMENT, A. G.			
02/11/92	VIRTUE -	PORTER, G. R.			
02/14/92	VIRTUE -	CREASEY, E. H.			
03/02/92		DIMENT, A. G.			
03/03/92		COLLINS, D. O.			
02/27/92	TANAGRA -	COLLINS, D. O.			
03/03/92	TANAGRA -	CREASEY, E. H.			
02/23/92	TROPICAL BEAUTY -	ANTONSEN, A. I.			
02/25/92	TROPICAL BEAUTY -	ANTONSEN, A. I.			
02/26/92	TROPICAL BEAUTY -	ANTONSEN, A. I.			
03/01/92	TROPICAL BEAUTY -	ANTONSEN, A. I.			
03/11/92	OSPREY ARROW -	PORTER, G. R.			
03/12/92	OSPREY ARROW -	COLLINS, D. O.			
03/12/92	KEY SPLENDOR +	GURRY, R. M.			
03/15/92	KEY SPLENDOR +	PORTER, G. R.			
03/13/92	PHLOX +	CREASEY, E. H.			
03/16/92	PHLOX +	CREASEY, E. H.			
03/20/92	HAREFIELD -	CREASEY, E. H.			
03/22/92	HAREFIELD -	ANTONSEN, A. I.			
03/23/92	HAREFIELD -	PORTER, G. R.			
03/24/92	HAREFIELD -	DIMENT, A. G.			
03/21/92	RANGER +	DIMENT, A. G.			
03/23/92	RANGER +	PORTER, G. R.			
03/14/92	MARIN TRADER -	GURRY, R. M.			
03/22/92					
03/14/92	SEA WEALTH -	COLLINS, D. O.			
03/23/92	SEA WEALTH -	ANTONSEN, A. I.			
03/25/92	FINNWOOD +	GURRY, R. M.			
03/27/92	FINNWOOD +	ANTONSEN, A. I.			
03/28/92	SAGA WAVE -	ANTONSEN, A. I.			
03/28/92	SAGA WAVE -	ANTONSEN, A. I.			
03/27/92	HANSA ROFSTOCK -	DIMENT, A. G.			
04/06/92	HANSA ROFSTOCK -	DUNN, R. S.			
04/08/92	COAST RANGE T	DUNN, R. S.			
04/09/92	COAST RANGE +	DUNN, R. S.			
04/05/92	GEORGIA +	ANTONSEN, A. I.			
04/07/92	GEORGIA +	ANTONSEN, A. I.			
03/30/92	USS GERMANTOWN +	PORTER, G. R.			
04/03/92	USS GERMANTOWN +	ANTONSEN, A. I.			
04/11/92	MOZU ARROW -	CREASEY, E. H.			
04/12/92	MOZU ARROW -	CREASEY, E. H.			
04/13/92	HAKUFU -	ANTONSEN, H. H.			
04/15/92	HAKUFU -	DUNN, R. S.			
04/15/92	HAKUFU -	DUNN, R. S.			
04/20/92	HAKUFU -	GURRY, R. M.			
04/13/92	PETREL ARROW -	DIMENT, A. G.			
04/20/92	PETREL ARROW -	JONES, C. B.			
04/12/92	PACASIA -	JONES, C. B.			

ALASKA MARINE PILOT QUARTERLY REPORT

DATE	SHIP NAME	PILOT NAME	PILOT NAME
04/16/92	PACASIA -	JONES, C. E.	
04/20/92	EVPO AGSA -	CREASEY, B. H.	
04/21/92	EVPO AGSA -	CREASEY, B. H.	
04/13/92	STAR EUROPA -	ANTONSEN, A. I.	
04/22/92	STAR EUROPA -	DUNN, R. S.	
04/21/92	PELICAN ARROW -	GURRY, R. H.	
04/23/92	PELICAN ARROW -	CREASEY, B. H.	
04/20/92	CHIVALRY -	DUNN, R. S.	
04/23/92	CHIVALRY -	GURRY, R. H.	
04/20/92	TROPICAL BEAUTY -	DUNN, R. S.	
04/22/92	TROPICAL BEAUTY -	GURRY, R. H.	
04/22/92	WREN ARROW -	DUNN, R. S.	
04/23/92	WREN ARROW -	DUNN, R. S.	
04/25/92	RUBIN DOGA -	ANTONSEN, H. H.	
04/28/92	RUBIN DOGA -	DUNN, R. S.	
04/20/92	ISHIKARI MARU +	ANTONSEN, A. I.	DIXENT, A. G.
04/21/92	ISHIKARI MARU +	ANTONSEN, A. I.	ANTONSEN, H. H.
04/22/92	ISHIKARI MARU +	ANTONSEN, A. I.	ANTONSEN, H. H.
04/23/92	ISHIKARI MARU +	ANTONSEN, A. I.	
04/24/92	ISHIKARI MARU +	DUNN, R. S.	
04/27/92	ISHIKARI MARU +	DUNN, R. S.	
04/28/92	SOUTHERN VIRGO •	ANTONSEN, H. H.	
04/29/92	SOUTHERN VIRGO •	PORTER, G. R.	
04/30/92	SOUTHERN VIRGO •	PORTER, G. R.	
04/30/92	RET SPLENDOR +	ANTONSEN, H. H.	

CARGO MOVEMENTS IN SOUTHEASTERN ALASKA

1991-1992

Winter Months of October through April, inclusive

SEAPA		ACPA	
Pilots	Movements	Pilots	Movements
9	175	5	62
(64% of pilots)	(73.5% of work)	(35% of pilots)	(26% of work)

TOTAL MOVEMENTS = 234

TOTAL PILOTS = 14

(Source: Quarterly reports of marine pilots, Alaska Department of Commerce and Economic Development, Division of Occupational Licensing)

Testimony of Captain Terry Bennett  
to the House Labor and Commerce Committee  
of the Alaska Legislature  
on HB 237  
April 1, 1993

Mr. Chairman, members of the committee, thank you for allowing me the opportunity to speak today. My name is Terry Bennett, and I hold unlimited licenses as master and pilot. I have piloted in southeast Alaska since 1981 and I am co-founder of Alaska Coastwise Pilots Association.

This bill was not asked for by us, the smaller, weaker competitor pilot group, and as far as I know it was not requested by industry. This then raises a question or two as to why is it now being proposed and who asked for it? The bill says, on page 4 line 16, "a tariff...is valid for three years..." It also says it can be amended annually.

The sponsor statement says that setting a fixed tariff will allow "industry...a longer view of the tariff situation, tariffs will be uniform where they are now often dissimilar between pilot organizations,..." In southeast, called by the board, region one, both pilots' organizations have multi-year contracts allowing industry a "longer view" of the tariff. In my group's contracts there is also a clause referring to annual adjustment, patterned after those we have seen in Union collective bargaining agreements.

With respect to "uniformity of tariffs" I would direct your attention to the state's requirement that pilot groups publish

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April 1, 1993  
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their tariffs and maintain them for at least a year. You will notice that the result of last year's contract negotiations by industry with the pilot organizations in southeast is about a ten percent differential, total, in the tariff collected by one group of pilots versus the tariff collected by the other group.

Mister Chairman, members of the committee, ACPA is doing nothing unfair in its bargaining with industry and they have not complained to us or about us. From what I have been able to gather it appears that SEAPA made bad business decisions last year and they want you to make it up for them. Last year to stay competitive with us they had to lower their fee for services resulting in reduced revenue. They also hired a large number of part-time pilots they say they did not need with a view toward keeping those people from working with ACPA. This further reduced their revenue. Add to this costs they incurred in other overhead and you can see how their bottom line suffered.

If you put in play a mechanism for a fixed tariff you will destabilize a bargaining procedure that all participants have haggled over for almost two years; what we have in place now was acceptable to both groups in southeast until SEAPA thought they saw an opportunity to gain another whopping pay increase.

Captain Luck, understandably, would like to see the tariff issue away from the Board and I think now that we have a year's experience with the procedure the Board should not have to deal with this issue as much.

There is no need for a limitation on the number of licensed pilots. State licensure is already self-limiting due to the great difficulty in gaining entry into the profession brought about by the 1991 legislation. There is an element of unpredictability in the attrition rate of pilots due to age, illness or death. As you know, fog in Sitka or Juneau can result in air traffic delays in the summer when as many as half of southeast's marine pilots may be in transit. This is unavoidable due to our work. I have been on planes with as many as eight or nine other pilots. A crash would make it difficult to sustain compulsory pilotage with today's number of pilots, to say nothing of what it would be like if a regulatory board further limited the number.

In addition, a limit only benefits the larger pilot group and unfairly stifles the smaller group. The sponsor says "...limiting licenses is a common practice in other states and Alaska...has been unique..." I can cite for you a number of examples where other states and local pilotage commissions have changed their minds on this issue. That Alaska has heretofore allowed more open access is very much to Alaska's credit. Limited entry is by definition

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discriminatory, unfair and unAmerican. Alaska sets a high standard for marine pilots while allowing for aspirants a fair chance to gain access to a proud, unique profession. Please do not close that door.

Finally, cross regional licensing is a complex issue involving myth, monopoly and money. It needs a full, fair and public airing. Limited cross regional licensing would greatly benefit safety of pilotage in Alaska, particularly in Prince William Sound from sea to Valdez.

I urge you to take another more critical look at this legislation, and make some changes. I ask you to reject the attempt by any pilot group or bureaucracy to re-establish pilotage monopolies, which ultimately reward incompetence, give poor service to the consumer, and might incur great cost and damage to the state.

I would be happy to answer any questions you may have. Again, thank you for this opportunity to be heard.

Sincerely,

ALASKA COASTWISE PILOTS ASSOCIATION

Captain Terry Bennett



## Alaska Coastwise Pilots' Association

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Testimony of Captain Mike Spence  
to the House Labor and Commerce Committee  
of the Alaska Legislature  
on HB 237  
March 30, 1993

Testimony of Captain Mike Spence  
to the House Labor and Commerce Committee  
of the Alaska Legislature  
on HB 237  
March 30, 1993

Good Afternoon, Mr. Chairman and members of the committee.  
Thank you for the opportunity to testify today.

My name is Michael Spence. As president of the Alaska Coastwise Pilots Association, I represent approximately one-third of the marine pilots in Southeastern Alaska. I have been piloting in Alaska for seventeen years. The average pilotage experience of the members of my organization is thirteen years. Without exception, the members of our organization are career accident-free pilots.

We are particularly concerned about three elements of the proposed HB 237, those relating to fixing tariffs, fixing the number of pilots in a region, and the measure forbidding cross-regional pilotage. Our concern is that these measures are intended to prevent or stifle competitive pilotage. We have some experience with what effects these measures have on our profession, because they have been tried before by pilot organizations in the State. A brief history of our experience may assist some members of this committee to accurately assess what impact this anti-competition legislation may have on the pilotage profession in Alaska.

From the early seventies to 1990, a monopoly in the pilotage profession existed in Southeast Alaska. This monopoly gained

strength through the deliberate application of strategies not uncommon to other cartels:

- a. internal covenants of noncompetition
- b. agreements to fix the number of pilots allowed to work to assure a high income
- c. restricting entry to the profession to men who were sympathetic to the arrangement.

Once these strategies were implemented, the odds of the organization's success were high because of the tandem effects of monopoly power. One was the inherent power to extract maximum income from shipowners because they as consumers had no alternative supply of pilots. The second was the power over dissenting pilots who risked expulsion from their profession if they attempted to reform the organization.

During this period of monopoly on pilotage rewarded itself with a bounty of treasures. We were assured high incomes. We had a buy-in scheme which allowed us to pyramid the value of entry to the profession to whatever price we would choose. We assigned voting privileges so a few pilots controlled the organization over the fractional votes of many others. We had internal shifting of pilot incomes that enabled certain pilots to make 50% more than

others with the same license who worked the same amount of time. We had pension plans designed to benefit men who started piloting in their late fifties, and who could retire soon thereafter without paying a nickel into the plan. We had internal agreements to protect the reputation of our members by not revealing complaints of ship captains, near-miss incidents, or incidents of intoxication of pilots.

Near the end of this period of monopoly, there were pilots who objected to this system. To them, it was a system which cared less about competent pilotage than it cared about covering up for its errant brothers. To counter the threat of those dissenting pilots, rules were written up by the organization which forbid those pilots from testifying to the Board of Marine Pilots or to members of the Alaska Legislature, on penalty of expulsion from the organization.

But some of those dissenting pilots still risked their careers to testify to authorities, and reveal the truths which the organization had so zealously guarded. For these pilots the only alternatives were to seek other careers or to form a new organization. In Southeast Alaska, we chose to form a new organization: The Alaska Coastwise Pilots' Association.

Our organization has been in competition with the dominant group in Southeast Alaska for about three years. Our professional standards are as high now or higher than before the advent of this competition. Our relationship with ship owners as independent State pilots bound to obey the laws of Alaska is unchanged.

Through ~~more efficient dispatching~~ we have optimized on our manpower and reduced overhead costs. By eliminating pyramid scheme buy-in fees and disallowing unfunded pension plans we have prevented substantial liabilities. These efficiencies enable us to provide a better service to our clients, and improved working conditions for our pilots. We have prevented financial inequities within our group by minimizing the internal shifting of pilot incomes. Our dominant competitor imitated some of these same improvements to discourage its pilots from breaking ranks to join our organization. In this manner pilots from both organizations have actually benefited from competition.

Despite the foregoing, the group which holds the dominant share of the market in Southeast Alaska, joined by the dominant groups in other regions, now seeks State legislation to prevent or limit competition.

The measure in HB 237 seeking to fix the number of pilots in a region is designed to restrict the number of competitors in a region. This measure could create a shortage of pilots in any region if the Board of Marine Pilots simply failed to accurately predict attrition.

Similarly, the measure in HB 237 which prohibit cross-regional pilotage except in case of emergency or a change of boundaries needlessly restricts a supply of pilots which historically has been put to good use.

The measure giving authority to the APUC to set fixed tariffs may indeed move the tariff-setting process to a more organized venue for rate setting, but it may do so at increased costs to already burdensome license fees, however. The measure to fix the tariff is anti-competitive because it disables a new organization of pilots from offering a better deal to shippers. If the APUC is to be involved with rate setting, it should be a maximum tariff, not a fixed one.

As written, HB 237 is not legislation which promotes safety of shipping or environment. It is a bill which promotes the economic safety of already dominant pilot organizations.

If the legislature seeks to improve the Marine Pilotage Statute there are more meaningful changes which could be made. These changes include:

- A section providing for rotational selection of the two pilot members of the Board of Marine Pilots from all pilot groups in Alaska.
- A section preventing the Board of Marine Pilots from fixing the number of pilots or pilot groups that may be licensed or authorized to operate in any region of the State.
- A section providing for independent impartial and unbiased license examiners to administer pilot examinations.
- A section which provides that the APUC may set a maximum tariff.
- A section which revises and cleans up the threshold requirements for Deputy Marine Pilot licenses in the statute.

Spence Testimony/HB 237  
March 30, 1993  
Page 8

Thank you again for the opportunity to testify today. I would be happy to answer any questions from the committee.

Sincerely,

ALASKA COASTWISE PILOTS ASSOCIATION

Captain Mike Spence

Captain Victor O. Engstrom  
436 W. North Camano Drive  
Camano Island, WA 98292

State House of Representatives  
State Capitol  
Juneau, AK 99801-1182

March 26, 1993

Dear Honorable Representative,

Enclosed is a copy of the letter I sent on June 20, 1992 to each of the State Representatives.

I have been informed that House Bill 194 has again been opened and that some new amendments will be attached.

I would like to see included in these amendments, Ship-Assist Masters on tugs over 1200 horse power be considered candidates for Pilot positions.

This is certainly not a case of "lowering the standards" for a Pilot position, it is a case of "including very qualified people" as Pilot Candidates.

Ship-Assist Masters have an excellent history as Pilots on the West Coast. Alaska will definitely benefit by including them as candidates for Pilot positions.

Thank you.

Respectfully,



Captain Victor O. Engstrom

Captain Victor O. Engstrom  
P.O. Box 156  
Valdez, Ak 99686  
Ship-Assist Tug "Guardian"

State House Of Representatives  
State Capitol  
Juneau, Ak 99801-1182

June 20, 1992

Dear Honorable Representative,

In April of 1991 I was accepted to ride and train with the "Alaska Marine Pilot" Organization. The reason my application was chosen over many others is because of my many years experience on ship-assist tugs.

At this point in time I was fully qualified to pursue a pilot position. After \$7,000.00, of expenses, and a considerable amount of time, I was able to submit, by the September 11, 1991 deadline, an application, to examine, for a Alaska Marine Pilot Licence.

My application was denied because of a new law that had gone into effect, " House Bill 194 (HB 194)." This law requires tug boat masters to show towing experience of two years with combined tonnage (tug and tow) of at least 1600 tons.

I resubmitted my application in January of 1992. I explained to the Board of Marine Pilots, that the tug I work on is a 7000 HP ship-assist tug, and that the ships I assist, in Valdez, range from 40,000 to 260,000 gross tons.

Again my application was denied, because the new law (HB 194) has no provisions for ship-assist masters. Ship-assist masters cannot get credit for the tonnage of the ships they assist.

At this time I requested a hearing with the Department of Commerce and Economic Development. On April 14, 1992 I attended a hearing, in Anchorage, with Hearing Officer Ms. Elizabeth Johnson. Also attending, via telephone, was Mr. Gary Amendola, Assistant Attorney General, representing the Marine Pilot Board.

I explained to the Hearing Officer (Ms. Johnson) that the Board of Marine Pilots were interpreting the new law (HB 194) different than the State Representatives had intended. The new law (HB 194) was designed to closer resemble the other West Coast States, all of which include ship-assist masters as candidates for Pilot positions.

Washington requires ship-assist masters to work on tugs of at least 1,200 H.P., Oregon Pilots must have two years experience on the Columbia River, any horsepower. (Virtually all of the Oregon Pilots come from harbor tugs as deep-draft ship masters cannot accumulate the necessary time on the river.) California and British Columbia both accept ship-assist masters as candidates.

Mr. Amendola responded by saying that, "the law (HB 194), in Alaska, does not include ship-assist masters." He suggested that

I," should either quit my present job and start towing barges, or try to get the law (HB 194) changed."

Ms. Johnson said that," the law (HB 194) is very specific and does not include ship-assist masters. She upheld the Boards decision, on my application, and also suggested that I contact the State Representatives, on a law change.

Marine Piloting is the business of docking ships and that's what I do now. Towing barges is not going to make me a better pilot. My fifteen years experience, on ship-assist tugs, is an excellent background, and should be recognized, by the State.

I've decided to try and change the law (HB 194), or rather have an amendment attached to include ship-assist masters.

Let me show you another side of this new law (HB 194). A chief-mate on a deep-draft vessel, (such as an Exxon Tanker) that has never sailed as master, (and maybe never will) has made twelve trips into Valdez. This person is considered a candidate for a Pilot position.

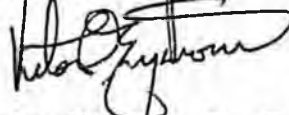
Now, let's look at myself. I've assisted over 1000 tankers into the docks of Valdez. I've escorted over 400 tankers out of Prince William Sound. I regularly shift "oil spill response" barges from buoys to different docks, and regularly participate in "oil spill drills" which include towing the barges throughout Prince William Sound. I'm sure my local knowledge far exceeds the Exxon Mate, still I am not considered a candidate for a Pilot position, something is **WRONG** !

What the proponents of this new law (HB 194) have done, is exclude one of the best sources of Marine Pilots that are available in Alaska.

Ship-assist masters have an excellent history as pilots on the West Coast, they presently make-up more than half of the Pilots in Washington, Oregon, and California. I'm asking you as State Representatives to amend the present law to include ship-assist masters in Alaska, of tugs over 1200 HP, to be included as candidates for Pilot positions.

Thank you for your time, and please write, and tell me how you feel on this subject.

Respectfully,

A handwritten signature in cursive script, appearing to read "Victor O. Engstrom".

Captain Victor O. Engstrom

March 29, 1993

The Honorable William Hudson  
Representative  
House of Representatives  
Capitol Bldg. Rm. 108  
Juneau, Alaska 99801-1182

Capt. Ervin L. Hagerup  
1676 Fritz Cove Road  
Juneau, Alaska 99801

Dear Bill,

I wanted to express some concerns with House Bill #237 that I feel need to be addressed in any rewrite. The copy of the bill you gave me dealt with tariffs and a fixed number of pilots which may be active at any one time. I have no problem with tariffs and limiting the number of Pilots. But if we do this we need to somehow recognize the seasonal nature of the business and how do we keep the best qualified Pilot's around to ensure that we don't have a shortage in the future.

One way to do this in the Statute is to change the number of require Piloting day annually from the present sixty (60) to a more realistic thirty (30). It was originally intended that the sixty days was to be completed during the biannual licensing period, but somehow it was put in as annually and it slipped through into law. Now we see that because of the way time is counted for credited Piloting days, it has become somewhat difficult for even a fulltime Pilot to obtain this number during the course of the year. This makes it nearly impossible for a part-time pilot to renew his license without unreasonable expense. If we drive out the part-time pilot, it is more than likely to be someone with many years of experience in these waters. This in turn puts those of us on the Alaska Marine Highways in a situation of having to decide on the worth of keeping an overly expensive license current for many years only to have to give it up when we leave AMHS service.

I submit that unless we change the sixty day time period to thirty days the law will serve to drive out the most experienced mariners from the profession.

Respectfully submitted,

Capt. Ervin L. Hagerup  
State Pilot Licen: #AA 0078

**BLISS RIORDAN LAWYERS**

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\*ADMITTED IN WASHINGTON  
\*\*ADMITTED IN WASHINGTON AND ALASKA  
ALL OTHERS ADMITTED IN ALASKA

May 22, 1992

Mr. Keith Greba  
504 Monastery Street  
Sitka, AK 99835

Re: Notice Re Suspension of Business Relationship  
Our File No: 2008-5

Dear Mr. Greba:

Our firm represents the North West Cruiseship Association (NWCA). As you may know, members of the NWCA place great importance on conducting their businesses in the most proper way possible. They wish to avoid any business practice which is either improper or which may have an appearance of being improper. In their business, they must maintain the best public image possible. From time to time we are asked by NWCA to review their business practices to be sure these standards are followed. Based on our advice, they have at times altered their business practices.

In keeping with past practices, NWCA has come to us for advice concerning their members' business relationship with you. We understand that some of the members of NWCA have in the past recommended that their passengers use your fish charter services. We also understand that you are a public member of the Alaska Board of Marine Pilots before whom the NWCA members bring substantial and important matters of interest. The concern that arises is the potential allegations by your fish charter competitors, as well as other members of the Alaska Board of Marine Pilots or the public, that NWCA members are recommending customers to you in an effort to influence your vote on the pilot board to their advantage. Clearly, this is not the case. However, in industries such as the cruise line industry where public image is imperative, the allegation is almost as damaging as a finding of impropriety.

Moreover, as you know, the composition of the pilot board is designed to reflect a careful balance of neutral public members,

Mr. Keith Greba  
May 22, 1992  
Page - 2 -

marine pilots, and agents or managers of vessels. We have advised NWCA that the referral to and conduct of substantial business with a public member of the Board of Marine Pilots has an appearance of impropriety and may present them and you with a conflict of interest. Pilots or other members of the public may assert that your business relationship with the members of NWCA may improperly affect the desired neutral viewpoint of public members of the Marine Pilot Board.

NWCA has authorized us to inform you that a number of its members have decided to suspend the further use of your fish charter services for the duration of your membership on the Alaska Board of Marine Pilots. The NWCA members feel they must take this step to eliminate any risk of allegations of an appearance of impropriety or conflict of interest. This is no criticism of your services and members of NWCA would be pleased to discuss a resumption of their relationship with you once your service on the board has ended.

Very truly yours,

BRADBURY, BLISS & RIORDAN

*Matt W. Keller*  
Matt W. Keller

.....  
MHW/MWK/cl/ab  
2008-5\Greba.1

cc: North West Cruiseship Association

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
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FAX: (907) 276-3697

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100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568

P.O. BOX 10300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 485-2398  
FAX: (907) 463-2417

May 29, 1992

Matt W. Keller  
Bliss & Riordan  
431 West 7th Avenue, Suite 201  
Anchorage, Alaska 99501

Re: Mr. Keith Greba

Dear Mr. Keller:

As you probably know, the responsibilities of the Office of the Attorney General include providing legal advice and assistance to the Board of Marine Pilots (the Board). For that reason, we very recently received a copy of a letter that you, on behalf of the North West Cruiseship Association (the Association), sent to Board Member Keith Greba. The thinly-veiled "threat" of the Association imposing economic sanctions against Mr. Greba poses a grave concern that we cannot ignore.

Although his confirmation to the Board has only recently occurred, Mr. Greba has been a Board member since June 1991. As far as we know, no one has suggested, much less seriously argued, that Mr. Greba had a conflict of interest or ethical problem in serving on the Board because of his charter business in Sitka. We are not aware of any basis for making such an argument. In addition, the Board members themselves never raised the issue, even though I assure you they are well aware of it. Finally, we are aware of no time during the confirmation process that anyone, including the Association, raised such an issue with the legislature.<sup>1</sup>

Mr. Keller, you must understand that in addition to being an unjustified attack against Mr. Greba, the actions proposed to be taken by the Association raise serious anticompetitive concerns.

<sup>1</sup> We understand there may have been at least one conversation between Mr. Greba and a representative of one member of the Association that preceded your letter and foreshadowed its contents.

Matt W. Keller

Page 2

Before the Association takes any action against Mr. Greba, we suggest it carefully consider the implications of those actions.

If you wish to discuss this issue, please give me a call at your convenience.

Sincerely yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: 

~~Gary I. Mendola~~  
Assistant Attorney General

GIA:jp

cc: Bob Watt, Chairman  
Board of Marine Pilots

Keith' Greba  
Public Member  
Board of Marine Pilots

bcc: Tuckerman Babcock  
Director  
Boards and Commissions  
Office of the Governor

# PA Pacific Associates

116 Gold Street

Juneau, Alaska 99801

(907) 586-3107

FAX 586-1001

---

March 30, 1993

The Honorable Bill Hudson  
Chairman, House Labor and Commerce Committee  
Alaska House of Representatives  
Juneau, Alaska 99801

Dear Mr. Chairman:

On behalf of the Alaska Steamship Association (ASA), thank you for this opportunity to submit a statement with regard to House Bill No. 237, "An Act relating to Marine Piloting and Tariffs". While we have previously submitted informational material for the committee's briefing packets, the following statement applies directly to the proposed changes House Bill 237 makes to the existing Marine Pilot Act.

1.) On page two (pertaining to lines 18 through 24), and page three (pertaining to lines 4, 5, 12, and 13), the ASA opposes any additional regulatory effort to restrict the number of licensed marine pilots in the state.

We believe sufficient encumbrances already exist to limit levels of participation. Two examples are particularly pertinent:

The training program adopted by the Alaska Board of Marine Pilots at their November, 1992 meeting, establishes rigid entry level requirements before one can apply to become a licensed marine pilot. Once an applicant has been accepted, an additional two to four year training program must be completed before licensing as a Marine Pilot can occur. This program will unquestionably dampen the ability of aspiring pilots to enter the industry. As the attorney for the Southeast Alaska Pilot Associations commented to the state<sup>1</sup> during the debate over the current pilot act in 1990: "If entry qualifications are increased, this of itself would serve as a limitation upon the number of licenses issued."

Additionally, the Alaska Board of Marine Pilots has adopted new and substantive re-qualification requirements that will also serve to limit the number of licensed pilots. These requirements are imposed upon all licensed pilots throughout Alaska, and contain substantial criteria (port calls, etc.) which will make it difficult for many current pilots to retain their licenses.

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<sup>1</sup>Letter from Mr. Paul Kircher to the Office of the Governor, dated June 25, 1990.

Table 1 shows the number of existing licenses up for renewal on a biannual basis since 1980, and Table 2 reviews the number of expiring and new, first-time licenses since 1980. These tables clearly display the numerical limitations imposed by the current Act.

In contemplating a system to limit the number of licensed pilots, it is impossible to ignore the impact of limitation upon pilot income levels. In fact, the primary purpose of a limitation system is to protect or increase the existing salary levels. In order to determine the need for such protective measures, the Committee should be aware of the current salary levels for pilots in Alaska. According to the Alaska Department of Commerce & Economic Development, the per capita income level for pilots in Alaska is in excess of \$100,000 per year; in one region, the per capita level is in excess of \$225,000 per year.<sup>2</sup> Surely these income levels are adequate.

The Alaska Steamship Association opposes any effort to place a state regulatory agency in the position of determining the number of pilots necessary to move commercial cargo and passengers to, from, and within state waters. We believe the mechanics of a free market will more efficiently determine that number. The entry level qualifications in effect as a result of the current Act surpass those required by most maritime states, and serve as a barrier to unqualified or unwanted entry into the profession.

2.) On pages three and four (pertaining to lines 15 through 31, and 3 through 12, respectively), the ASA generally supports removing the tariff setting responsibility from the Alaska Board of Marine Pilots to another rate setting entity. We are not prepared to support moving the responsibility to the Alaska Public Utilities Commission (APUC) because the additional costs that move may impose upon the industry have not been clearly identified. To reiterate, we do agree with the intent of the bill to move the tariff setting responsibility to a professional rate setting body (i.e., the APUC, or a rate setting board chaired by the American Arbitration Association).

We strenuously object, however, to the provisions which call for the rate setting entity to set a fixed, rather than a maximum, tariff. The current Act permits competition via a working tariff, which may or may not be set below the maximum tariff. The working tariff itself is established through industry and pilot association negotiations. This process has served the state well over the past two years. Safety has improved, and the level of service to our customers has also improved dramatically. Additionally, we no longer experience the intolerable situation of being told a pilot will report to move a ship

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<sup>2</sup>Alaska Department of Commerce & Economic Development statistics purport pilot incomes to range from approximately \$20,000 per month for six months work up to \$30,000 per month for eight months work.

The Honorable Bill Hudson  
March 30, 1993  
Page 3

in 36 hours, only to be told 36 hours later to go ahead and move the ship without a pilot.

We are concerned with the vague language which purports to make equipment a part of the tariff, although we could support specific language that identifies the equipment allowable under the tariff.

We do not believe providing a mechanism to inflation proof a pilot's salary is necessary. As stated above, the average pilot's income level appears to be substantially greater than all public employees, including the Governor.

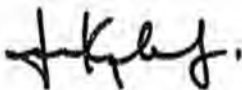
Lastly, we oppose the language which places Alaska tariff expenses in the category of those "in accordance with accepted maritime industry practices and standards". We believe the Congress left pilot regulations to the individual states because the needs of pilotage are locally specific. Pilotage is, of necessity, a local matter and best administered by the states in accordance with state needs. While some generalities may apply to pilotage, the most common thread in pilotage is that it is locally administered. In the lower 48, it has also generally evolved into a monopolistic, heavily state regulated and administered system with accompanying high costs.

We acknowledge that pilotage in Alaska is different from the Lower 48, and we believe Alaska is better off as a result. Characteristically, pilotage in Alaska is performed with a great deal of professionalism, responsiveness to industry needs, and at a reasonable cost. The public, the state, the industry, and the pilots are well served. In large part, this is due to competition. We do not need to emulate the monopolistic and costly pilotage systems prevalent in the Lower 48.

Mr. Chairman, I certainly hope that conformance to the how the Lower 48 "does things" is not the criteria by which Alaskan issues are judged.

With your indulgence, Mr. Chairman, we intend to submit an amendment to the proposed bill in the near future. We believe that while the current Act is generally a good one, and the result of compromises worked out between industry, pilot associations, and the legislature two years ago, problems nevertheless exist. We look forward to working with you, the committee, and the various pilot associations to address them.

Respectfully Submitted

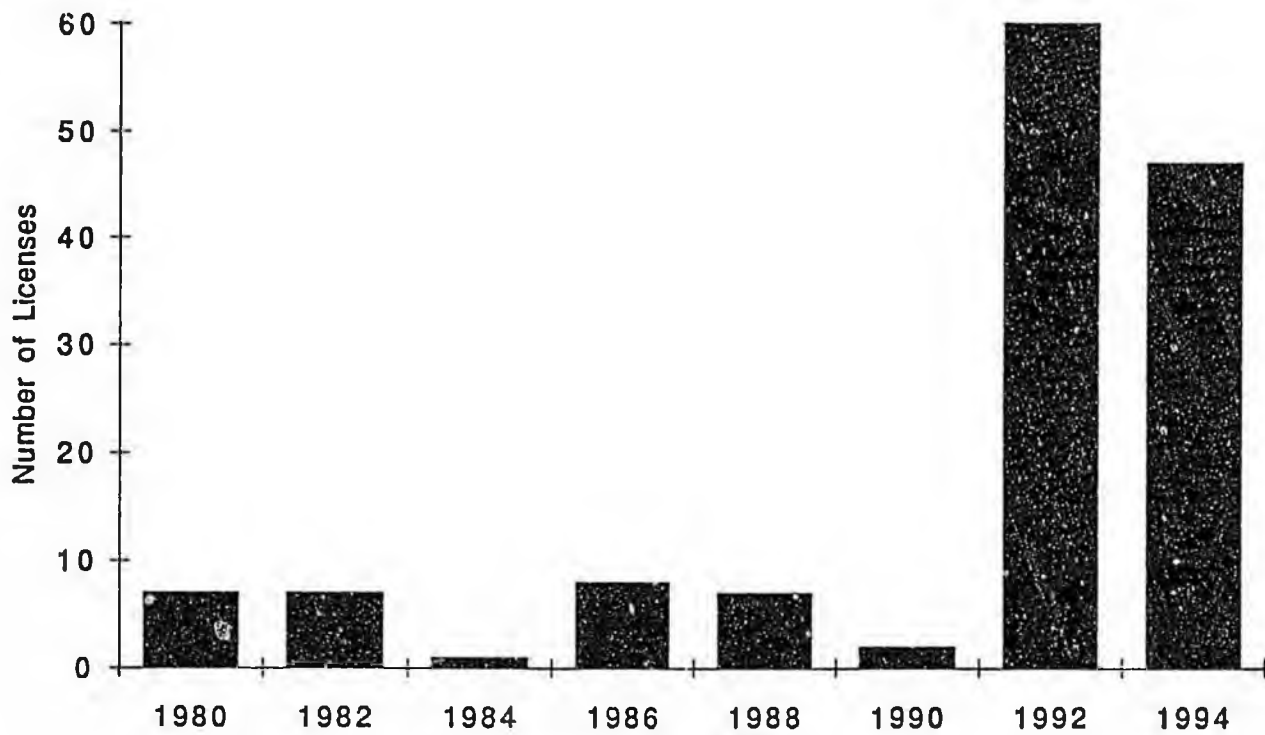


J. M. Kyle, Jr.

**TABLE 1**

**Number of Licenses Up For Renewal**

Nearly all current pilot licenses must be renewed between 1992 and 1994. Renewals are subject to the more stringent requirements specified in the 1991 Act.

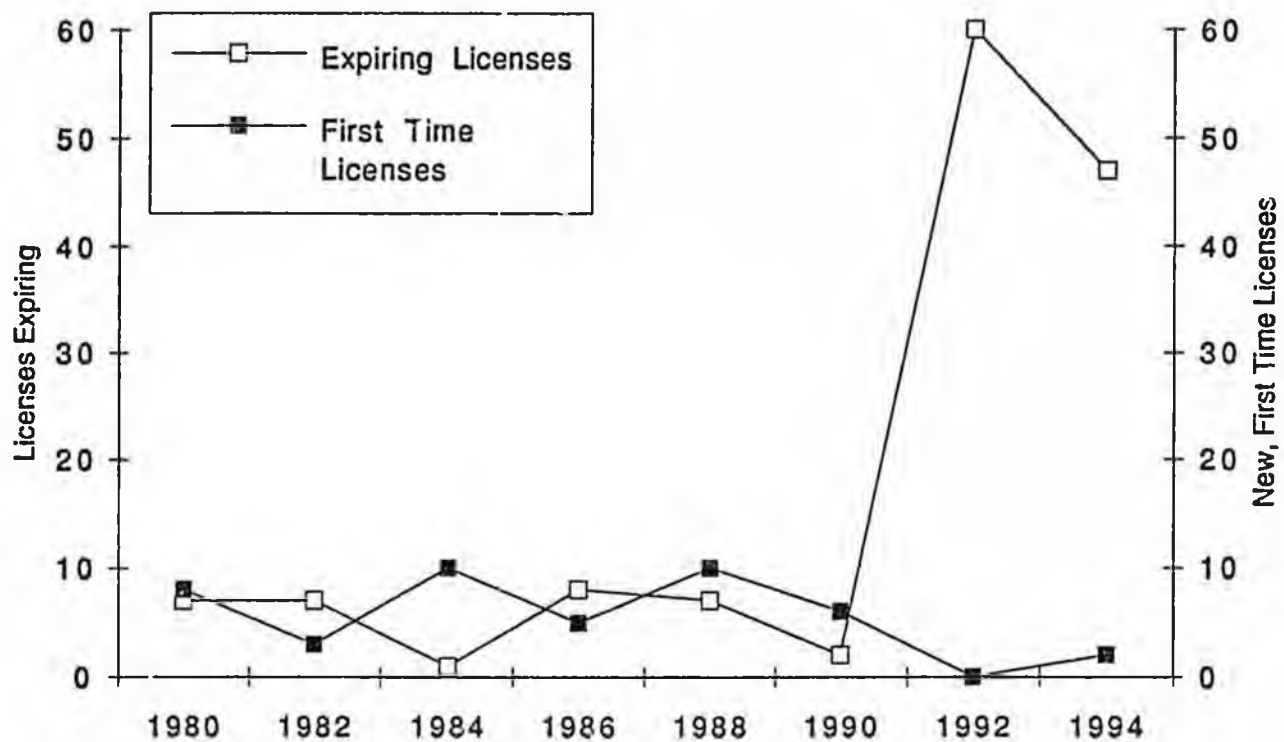


Source: Alaska Department of Commerce & Economic Development

**TABLE 2**

**Trends in the Number of Expiring and New, First-Time Licenses**

Since the passage of the 1991 Act, new licenses are substantially more difficult to obtain and more stringent standards apply for renewal of existing licenses. This is due, at least in part, to the emphasis the 1991 Act places on safety and implementation of comprehensive training programs. These factors will result in a de facto limitation in the number of pilots available to serve the industry.



Source: Alaska Department of Commerce & Economic Development

## Southeastern Alaska Pilots' Association

CABLE ADDRESS: SEAPILOTS

P. O. BOX 6100  
KETCHIKAN, ALASKA 99901

March 16, 1993

Representative Bill Hudson's Office  
Attn: Ms. Lynda Giguere  
State Capitol  
Juneau, AK. 99801-1182

Dear Ms. Giguere:

The Proposed legislation from Representative Hudson's office has been reviewed. This draft bill very adequately addresses many of the problems associated with the current Pilotage Act. I strongly support this proposed legislation.

There remains the issue of enduring that pilot's are equitably utilized in regions with competing pilot groups, where agents exercise control [ 90 percent or more ] over the region's shipping. Only the State should be in a position of control over pilots. When the industry has direct control over the livelihood of pilots, then the pilots' allegiance and commitments to the State are vulnerable to compromise. The preferred solution is to have the bill include a provision for a one pilot association in each in each region. An alternative solution is to introduce a second bill that provides for a central dispatch service.

As a matter of "housekeeping" it is recommended that the following changes be included in the proposed bill:

Section 08.62.093[3] change to read:


"[3] two years of service as a chief officer on ocean or coastwise vessels of not less than 1600 gross tons while holding a chief officer or master of vessels of not less than 1600 gross tons or greater license."

Section 08.62.093[4] change to read:

[4] two years of service as a commanding officer of United States commissioned or public vessels of not less than 1600 gross tons and have a 1600 gross ton or greater licence; or.

Thank you for your outstanding and objective efforts in formulating this legislation. I stand ready to assist, in any way, in the final preparation of this bill.

Sincerely,

  
William R. Swan  
President



# Holland America Line Westours Inc.

March 19, 1993

Rep. Bill Hudson  
State of Alaska  
House of Representatives  
Juneau, Alaska

Dear Rep. Hudson:

As you know, Alaska is critically important to Holland America Line. We play an important role in Alaska tourism and make a significant contribution to the State's economy. Over the years, and more recently, Holland America Line has taken several steps to foster this relationship to enable Alaskans to better understand our commitment to the state and its people. Among those steps is a new and positive approach to our dealings with the Alaska State Legislature. We are presently in transition to that new approach. The Alaska Marine Pilotage issue is one which spans the past, present, and future of this transition. As a result, we have worked this issue jointly and felt it appropriate to continue communicating with you in that manner.

As a member of the Alaska Steamship Association (ASA), Holland America Line has been kept advised regarding legislation you are considering introducing with respect to marine pilotage in Alaska. We fully concur with all that has previously been communicated to you by ASA. As a result, we would not normally have written this letter. We felt it necessary to do so, however, given that Holland America Line apparently is continuing to be singled out as a villain in this entire process, being representative of many of the ills allegedly existing in Alaska marine pilotage.

We think it's important to make sure the information you are receiving from SEAPA and AMP accurately reflects what has happened over the past three years:

1. It's true Holland America Line was the first shipping company to break the monopoly held by SEAPA in Southeast Alaska. Without our involvement back in 1991, it's questionable whether ACP would now exist. Having said that, however, we trust SEAPA has told you why the pilots that formed ACP elected to do so. Basically, those pilots controlling SEAPA at the time got greedy. They decided not to let other licensed and qualified pilots adequately share in the revenues then available, instead preferring to maximize their own income at the expense of the livelihood of others.

These disgruntled pilots approached Holland America. We never sought them out nor would we have ever known about their plight had they not come to us and asked for our business. When they came to us, they not only proposed more competitive

pricing but offered constructive suggestions on how we could reduce our pilotage costs through scheduling adjustments and other operational changes, none of which compromised safety. As to the more competitive pricing, it still enabled them to realize incomes far in excess of the vast majority of people working in Alaska. Furthermore, because they were able to set-up their own business in an efficient manner, they were able to realize incomes similar to those earned by SEAPA pilots even though the rates charged shippers were less.

2. It's true Holland America remains the most important customer of ACP. Clearly, however, we are not their only customer since they service at least one other cruise line and a multitude of cargo shippers. If we were to terminate our relationship with ACP tomorrow, there is no doubt in my mind some of our competitors would be more than willing to retain their services allowing them to remain a viable operation. In fact, ACP was set to pilot one of the ships for Princess last year and would have done so had SEAPA not used its superior bargaining power to force Princess into giving SEAPA an exclusive contract.

More importantly, we have gone to great length not to dictate, or even attempt to dictate, to ACP how they should run their business or conduct themselves before the Marine Pilot Board. Anyone who may suggest to you the ACP pilots are "Company pilots" for Holland America or ACP marches to our tune is misrepresenting the facts. One example we can give is the charges of ethics violations ACP has made against various members of the Board. First, the charges were lodged without our prior knowledge. Secondly, after the initial round of charges Dan Grausz personally told ACP he questioned their strategy since he felt it might be unnecessarily disrupting the Board's operations. As they have the right to do, they chose to ignore that advice and file additional charges. In other words, they did what they felt was right even though Holland America disagreed. We would expect them to do nothing less.

3. SEAPA and AMP appear to be raising the specter of impending shipping disasters due to competition among pilot groups. There is ABSOLUTELY NOTHING that has occurred over the past two years in Southeast Alaska which gives any credibility to that claim. The only serious shipping accident during this period in Southeast occurred in Skagway and involved two SEAPA pilots. If anything, competition has forced both SEAPA and ACP to upgrade the services they are providing.

4. You have undoubtedly been told by Capt. Luck and others that ACP's ethics charges and administrative appeals have disrupted the Board's operations; what is probably characterized as one of the negative impacts of competition. We hope you have also been told that in virtually every administrative appeal, the position of ACP and/or its members has been upheld. As to the ethics violations, we are less certain as to the outcomes although we understand the Attorney General's Office has ruled the Board needed to modify its past practices in order to conform with State law. NO person or organization should be faulted for exercising the rights you and other lawmakers have chosen to protect. If the rights should not have been created, that can be considered by the Legislature. Having created the right, however,

the person or organization taking advantage of it should not then become the culprit for the current problems with the Marine Pilotage Act.

5. The 1991 legislation was, to a substantial extent, safety legislation. Holland America made it clear during the hearings on the bill back in 1991 that we supported the safety aspects of the proposals even though we knew ultimately those could cost us more money in pilotage fees.

One also needs to understand, however, what the bill did on the economic side. Basically, it allowed everyone already in the system to keep what they had while at the same time erecting substantial barriers to entry for those who had not yet made it. There are provisions in the law which should serve to force existing pilots to maintain and hopefully improve their skills. The real targets, however, were those people who were not yet licensed but may aspire someday to be pilots in Alaska. As they are now learning, even if their skills are superior to those of existing pilots, the fact they did not have their foot in the door by 1991 will make it much more difficult to get there.

6. The tariff - what it really all comes down to. We would be the first to admit that the Board's deliberations during 1991 and 1992 were unfortunately dominated by tariff discussions. Please appreciate, however, this was only because certain pilot organizations sought to increase their rates even though their members were earning six figure incomes for working less than half the year. The argument given at the time was that increasing the tariff was necessary due to competition. To this date, we have never understood that argument.

The fact is that now, we have reached a peace, possibly an uneasy one but definitely peace, on the tariff issue. It did take a lot of time to get to that point, but the process eventually worked. The pilots continue to earn substantial incomes and the shippers are able to pay the fees. We are not suggesting the battles are over or that everyone is happy with the outcome. We are also not precluding our support of improvements to the process. What we do need to emphasize, however, is we did have new legislation, we all had to learn how to live with it, and maybe we have succeeded. At a minimum, it's premature to assume the tariff wars will reoccur to the same extent as in prior years. Clearly, there are steps the Board or the Legislature can take at this time which will minimize the chances of them reoccurring. Those steps, however, do not require scrapping the system at this time.

7. The question then comes down to a maximum versus a fixed tariff. Holland America has thought this through more times than we like to recall and cannot, no matter how many times we do consider it, justify in our own minds why pilots, unlike virtually any other profession in the world, are entitled to be free from price competition. We wish the State of Alaska could dictate what all cruise lines must charge so we could be assured of a strong net income. We could imagine virtually

all businesses would like the government to keep their competitors from undercutting their prices. That is not the way our system works. For better or worse, we have decided on a free market system. Certain pilots, however, seek to be the exception.

The pilots will tell you price competition jeopardizes both safety and the supply of pilots as people will move to other states where they can get higher fees. First, we find it amusing these pilots can make this argument on the one hand and then also claim legislation needs to be passed to place a cap on the overall number of pilots. If pilots are leaving the State, why do we need a cap? What the pilots are not telling you is even under price competition, new pilots are seeking licenses. They are more than happy to earn the types of incomes that continue to be earned by pilots in Alaska even with price competition.

The fact of the matter is no harm has resulted from price competition. Yes, Holland America does benefit from price competition in the same way any company benefits when their vendors or service providers must compete with each other to get business. Yet, neither Holland America or other shippers have abused the new system. The incomes of pilots have continued to increase notwithstanding price competition. The information compiled by Capt. Luck demonstrates each SEAPA pilot is earning more than \$21,000 for each month they work. There is an ample supply of pilots as evidenced by the efforts of SEAPA and AMP to place caps on the number of pilots. The maximum tariff system has worked.

We respectfully submit what is driving the efforts of SEAPA and AMP at this time is pure and simple greed. They have a lot but want more. They used to have a monopoly in their respective regions and cannot reconcile themselves to the fact they can no longer have it all. To us, the most telling fact is it's the big guy in each region who is complaining - not the smaller pilot group that gets less of the pie. Government, in the area of economic activity, has some responsibility to protect smaller businesses from larger ones who seek to use their economic power to get their way. We do not understand why Alaska would adopt legislation to permit the bigger business to beat up on their smaller competitors.

There is no **evidence** Holland America's activities have compromised safety in Alaska. **More importantly**, there is no evidence the 1991 legislation impaired marine pilotage in the State. The 1991 law was an honest compromise between competing interests. Everyone got something but gave something. The system put together in 1991 is finally beginning to work as was envisioned by Sen. Pearce and others who forged the compromise. Yes, fine tuning is required. We respectfully submit, however, the drafts of the legislation we have seen go far beyond fine tuning and threaten instead to unravel the compromises that were made in 1991.

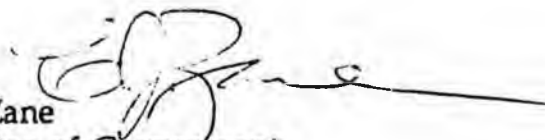
Rep. Bill Hudson  
March 19, 1993  
Page 5

We, together with ASA, stand ready and willing to meet with your office, with Paul Fuhs and with the pilot organizations in order to resolve differences. To date, only SWAPA and ACP have shown an interest in meeting. SEAPA and AMP prefer making their arguments separate from others who may be in a position to refute those arguments. We very much respect your sincere desire to address the problems that do exist in marine pilotage. You have our assurances we will make every effort to facilitate your work. We believe you will find Holland America is not the enemy or the problem in this process.

Sincerely,



Daniel S. Grausz  
Vice President and  
General Counsel



C. J. Zane  
Director of Government  
and Community Relations

tkw

cc: Cees Deelstra  
Joe Kyle  
Arie Van Noort  
Bill Sharp  
Scott Jones

Capt. E. H. Creasey  
Box 11822  
Ange Bay, AK 99821

25 March 1993

Representative Bill Hudson  
State Capitol Room 108  
Juneau, Alaska 99801-1182

Dear Representative Hudson,

It all renders down to one (1) thing, money. Even safety standards render down to money, for those honest enough to admit it.

Last year, 1992, my adjusted growth income was \$91,000. This is 34% less than what pilots make in the State of Washington. This is some 64% less than some other pilots make in other regions of our own State of Alaska. This is 35% less than my own peak income of several years ago. Legal fees have gone up 10 fold since "free competition". Cost-of-living stays the same vis-a-vis Seattle at about -42%. It is not economically viable for me to work more than the 4 1/2 month cruise ship season. No retirement benefits are accrued, no health and welfare, no liability protection, and vastly increased risks are the winter-time fare. Working winters is nothing short of stupid!

Why do I stay? I stay because I love Alaska's wilderness, I love shiphandling, and I like the independence and autonomy of this line of work. Winter time is looser time. I stay to keep my place in line; I stay to stave off neophytes and charlatans; I stay to keep a presence; I stay to keep experienced.

Meanwhile, the agents and the shippers and the lawyers post larger and larger profits.

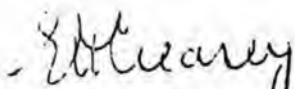
On March 14, 1993, I took a large ocean-going heavily laden ore vessel out of Hawk Inlet. The wind was a sustained 50 knots. My tug boat assistance was two small boats of 600 HP each. One tug master had never done ship assist before. This is unsatisfactory. This is sub-standard. This is dangerous. This is an issue of safety; and the movement should have commanded a minimum combined tug horsepower of 3,000 plus. Yet, if I turned this job down, the competing pilots got a guy aping through the trees waiting to be signalled. Agents can always find a "low-bid" pilot; a free competition pilot.

25 March 1993  
Page Two

The low-bid pilot saves industry tons of bucks in not having to have proper equipment available; in not having delays due to weather; in not having to slow down in fog; and in cost reductions in pilot training standards. A system of competing pilots is a money maker for foreign flag ship owners, (you don't see U.S. tanker operators chiseling on tug boats); it is windfall profits for ship agents. Competition is the engine of motivation for the legal fraternity. The word "competition" is synonymous with law suit. The free competition system insures that pilots will knowingly be pressured into doing something less than prudent 2% of the time; (where the outcome may be a 50% favorable probability factor.) Is that good enough for the State of Alaska?

I'm glad that all these business guys are making big bucks; but their business profits should not be at the expense of the public welfare. In the present circumstances, the pilot plays the role of a giant fender - he is expendable, and will collapse on impact. And all the remittance men will feast on the remains.

Sincerely,

  
CAPT. E. H. CREASEY

cc: SEAPA File



Alaska Coastwise Pilots Association  
P.O. Box 22694  
Juneau, Alaska 99802  
Telephone: (907) 586-2272  
Fax: (907) 586-2379

Marine Pilotage  
Dispatch Service  
Ketchikan Office  
(907) 225-7245  
(907) 247-4568 (Fax)

Representative Bill Hudson  
Chairman, House Labor and Commerce Committee  
Alaska Legislature  
Juneau,  
Alaska 99811

March 25, 1993

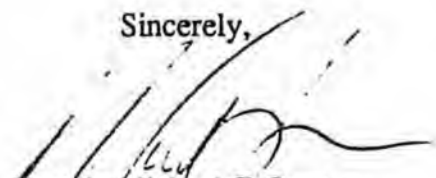
Dear Representative Hudson,

Our Association, consisting of approximately one third of all practicing pilots in Southeastern Alaska, appreciates the interest you have taken in the Marine Pilotage Statute. As you are aware, nearly all parties involved with Marine Pilotage have found problems in the implementation of the Marine Pilotage Act of 1991. The problems are not simply two-sided, with industry pitted against pilots. Pilots are divided on several issues also. The state must not take sides in the economic matters of pilot groups.

Monopoly is not and never has been a prerequisite of safe pilotage in this state or in any other. Pilot groups which have held a *defacto* monopoly must make an economic adjustment when a competitor enters the market. This is a natural process that applies to all professions and businesses in the United States. It serves little purpose for the state to intervene providing turf, tariff, or other economic protection for one of these competitors. Threats of boycotts must not be allowed to intimidate the state into market-fixing legislation.

Meaningful improvements could be made to the Marine Pilotage statute to make competent pilotage the central theme of the Board of Marine Pilots, rather than economic protectionism for a few pilot groups. I have attached some suggested amendments to assist your committee in that direction.

Sincerely,



Captain Michael C. Spence

cc



## About the Alaska Coastwise Pilots' Association:

The Association was formed in 1988 by marine pilots who sought an opportunity to work outside of the two then-established marine pilotage associations in Alaska: the Southeastern Alaska Pilots' Association (SEAPA), and the Southwest Alaska Pilots' Association (SWAPA). The new group was formed to promote access to what was before a closed-shop profession in Alaska, and improve conditions for marine pilots in the state.

In late 1990 and early 1991, they were joined by other experienced marine pilots, nearly all of whom had earlier worked for one of the older associations, and all of whom desired higher professional standards and better management in their dispatch organization. The group obtained a contract with Holland America Line as its first entry into the pilotage dispatch business. Soon afterward, Royal Caribbean Cruise Line joined as a pilotage client of the Association. The Association commenced cargo operations throughout Southeastern Alaska in the Fall of 1991. To date, all of the pilots of the Association are career accident-free, and have an average of thirteen years of Alaska pilotage experience.

Just as the Alaska Coastwise Pilots Association came into being, the two previously dominant organizations, SEAPA and SWAPA, pooled their forces in promoting new legislation through the State of Alaska legislature seeking to reestablish their once-airtight monopolies. The legislation was intended to give regional (eg: turf) protection to their self-defined "regions", powers of enforcement of fixed prices, and exemption from antitrust laws so they would no longer have to defend their monopolistic practices in court. The Alaska Coastwise Pilots Association members had to oppose much of the legislation simply to remain in business. In 1991, the Alaska legislature passed the Marine Pilotage Act, which continues to allow competition in the pilotage profession.

The Alaska Coastwise Pilots Association is a full service pilotage organization, providing 24 hour dispatch capability anywhere in Southeastern Alaska, from Dixon Entrance to Yakutat, and maintains offices in Ketchikan and Juneau. It serves vessels of all classes and ownership. Its diverse clientele includes all of the major shipping firms and vessel agencies serving Alaska, and the U.S. Navy.

# PA Pacific Associates

116 Gold Street

Juneau, Alaska 99801

(907) 586-3107

FAX 586-1001

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March 29, 1993

Ms. Lynda Giguere  
House Labor and Commerce Committee  
Alaska House of Representatives  
Juneau, Alaska 99801

Dear Ms. <sup>Lynda</sup>Giguere:

Please accept the attached documents for the briefing books for tomorrow's Labor and Commerce Committee hearing on House Bill 237.

Hopefully, they are self-explanatory. I will be happy to answer any questions.

Sincerely,



Joe Kyle

- Attachments:
- (1) Letter from Mary Truitt
  - (2) Letter from Pacific Associates to Presidents of Alaska's pilot assoc.
  - ~~(3) Letter from Pacific Associates to Presidents of Alaska's pilot assoc.~~
  - (4) Graph depicting steamship agency disbursements to pilot assoc.
  - (5) Graph depicting expiring pilot licenses
  - (6) Graph showing trends in expiring and first time licenses

TO: House Labor & Commerce Committee  
FM: Mary Truitt

Dear Chairman and Members of the Committee,

My name is Mary Truitt. I am a native Alaskan and spent eight years working in the Aleutian chain attending ships over all of western Alaska. I no longer do this but now act as agent in the summer season attending cruise ships calling S.C. Alaska Ports from May through September.

Those early days, in the 1980s, were extremely difficult in the handling of vessels in the remote Alaskan waters. Ships frequently were told to wait the required 36 hours then, when no pilot arrived, move without one if the Captain felt confident or continue to wait if he did not. The pressures of business often made the captains decide to move when they might have preferred to wait.

Some ships would not even request a pilot but move without, which created great animosity among our principals who tried to comply with the regulations. These "maverick" ships were rarely caught and the illegal and unsafe activity not only saved them the cost of piloting but the valuable time which allowed them to "grab" cargo while a law abiding vessel sat and waited. The comment from our principals that we heard over and over again was "If a pilot is required then a pilot should be available".

There were NOT enough pilots available to cover the area because many of the pilots, in the only group available to us, did not want to come out to Bristol Bay to move fish carriers; "cruise ships and tankers were easier and more profitable". I heard this from the pilots themselves. Another part of their roster would be on vacation even though it was the busiest time of the year. The ones that did come out (usually the newest members) would work long and hard to cover the demanding schedule. Much of their time was spent transporting themselves from one busy location to another. Then, when exhausted, would return home and another would be sent out. This was, of course, expensive as well as inefficient.

Another practice that was employed during those times was the "convoy system". Often, the one pilot would board the first of two or more ships wanting to proceed to the next port and lead the other(s). This was usually through shallow and treacherous passages because, were it not, the captains would have opted to wait the 36 hours and proceed without pilot. There would be little chance that the pilot could return and physically take each vessel in the allotted 36 hours. The convoy resulted in the grounding of at least one vessel. It should also be noted that the charges for this "service" came through as if the pilot were in fact on the bridge of each ship so there was little incentive to send us more pilots.

It was evident that the needs of the Alaskan fisheries were not to be met by the existing pilot group even though we would have yearly meetings with the pilots and repeatedly pointed out the serious and continuing problems. We would receive encouraging words and promises but little, if any, improvement. We eventually took our problem to the Pilot Board. They listened and agreed that our area had not been properly served. The pilot association, S.W.A.P.A., was directed to provide enough pilots to adequately cover the area. However, the Pilot Board seemed dominated by pilots, even though we had two seats on the board filled by people from the maritime industry, and there was little improvement. We had another season of poor service and the resulting frustrations.

In time S.W.A.P.A. managed to annoy a few of their own members enough that they left and formed their own group, A.M.P. They came up with a plan that addressed the needs of the fisheries in a professional way. We had pilots that stayed in each of the busy areas and moved the vessels in a timely and safe manner. It was not necessary for one or two pilots to try to cover the vast area by themselves. The problems dissolved immediately and dramatically! No more vessels and cargo waiting for pilots. No more convoys. Costs were lower because of lower travel expenses and better efficiency. The new group manned the areas and stayed on the scene. Our principals were satisfied that pilots were available in a reasonable length of time. Ships moved safely and quickly WITH pilots on board.

The simple fact that the market had options made western Alaskan waters safer and the trade served much better. It might also be noted that the other areas served by S.W.A.P.A. received better service, too. The reason seems clear.

It would be a tremendous loss to go back to the outdated system. Things are better, much better except perhaps for a few of the previously privileged pilots. The state is better served and safer than it was before and I firmly believe that competition is the major reason. I do not believe that anything would have changed without it.

Thank you for listening to me on this matter. I feel strongly about it and I believe that my years on the scene have given me an insight to the true picture.

# PA Pacific Associates

119 Seward St., Suite 8 Juneau, Alaska 99801 (907) 586-3107 FAX 586-1001

## MEMORANDUM

March 5, 1993

Sent via fax  
1 page total

To: Captain Bill Swann (SEAPA) 907-247-9696  
Captain Mike Spence (ACP) 907-247-4568  
Captain Mike Stone (SWAPA) 907-835-2134  
Captain Tom Dundas (AMP) 907-581-1372  
Captain Bob Boyd (WAPA) 907-581-3902  
Captain Ron Sumstad (KPA) 503-225-1257

From: Joe Kyle  
Alaska Steamship Association

Subj: Industry/Pilot Association Meetings

As a result of recent telephone conversations and meetings between and among industry, pilots, Representative Hudson, and Commissioner Fuhs, a consensus seems to have formed regarding the best process to follow for dealing with various problems in the current Marine Pilot Act. Whether Representative Hudson introduces a bill to amend the Act this session or not, we believe that he and Commissioner Fuhs want industry and the pilots to enter into serious discussions, now, to narrow their various differences and hopefully reach agreement over several problem areas in the Act.

The Alaska Steamship Association (ASA) wants to play a constructive role in these discussions. In an effort to get the ball rolling, we need points of contact within each pilot association to assist ASA in the preparatory work necessary to ensure these discussions are held in a timely manner. Joe Kyle (ph. 907-586-3107, fax 907-586-1001) will be the point of contact for ASA. Please respond to him as rapidly as possible with the name(s) of your point of contact, so we can begin.

Additionally, and based upon conversations during the recent SWAPA and industry tariff negotiations and other conversations with pilots, we understand the pilots would like to see as many shipping companies represented during the discussions as possible. In order to help us bring principals to the meetings, it would be helpful if the various pilot associations could identify some of the shipping interests they believe would be pivotal for constructive dialogue. As you know, agents normally perform representational duties on behalf of the well over 100 steamship principals operating in Alaska. Nevertheless, we want to do our reasonable best to accommodate any concerns you have in this regard. Over the next few days we look forward to hearing which principals you reasonably hope could be present from each region.

Thank you ... Joe Kyle

# **PA** Pacific Associates

116 Gold Street

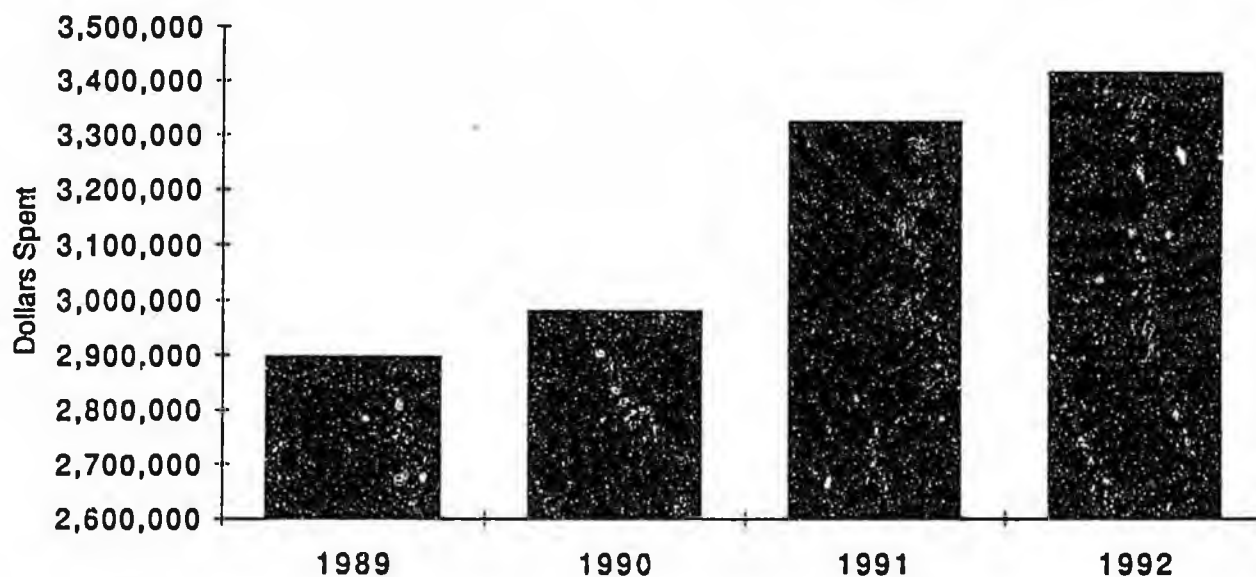
Juneau, Alaska 99801

(907) 586-3107

FAX 586-1001

The table below shows the annual payments for pilot services made by one of the major ASA members. Note that the cost has escalated 18% during the four years.

## **Major Steamship Company Payments for Pilot Services**



Source: Information provided by one of ASA's member companies.

# **PA** Pacific Associates

116 Gold Street

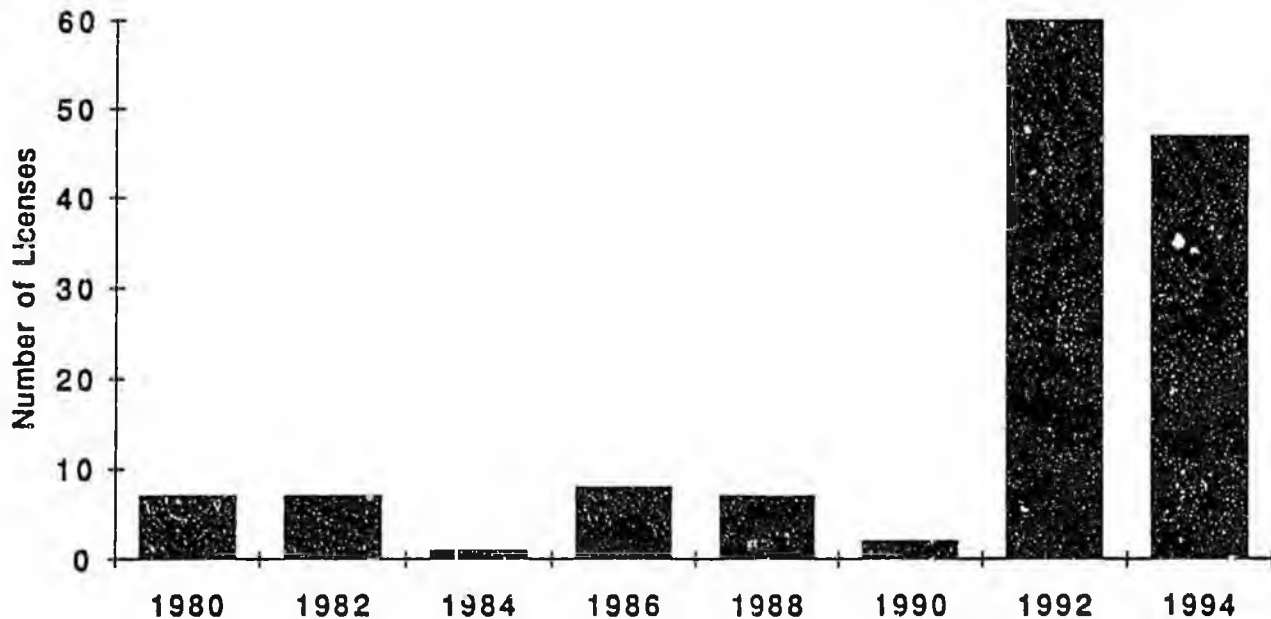
Juneau, Alaska 99801

(907) 586-3107

FAX 586-1001

Nearly all current pilot licenses must be renewed between 1992 and 1994. Renewals are subject to the more stringent requirements specified in the 1991 Act.

## Number of Licenses Up For Renewal



Source: Alaska Department of Commerce & Economic Development

# PA Pacific Associates

116 Gold Street

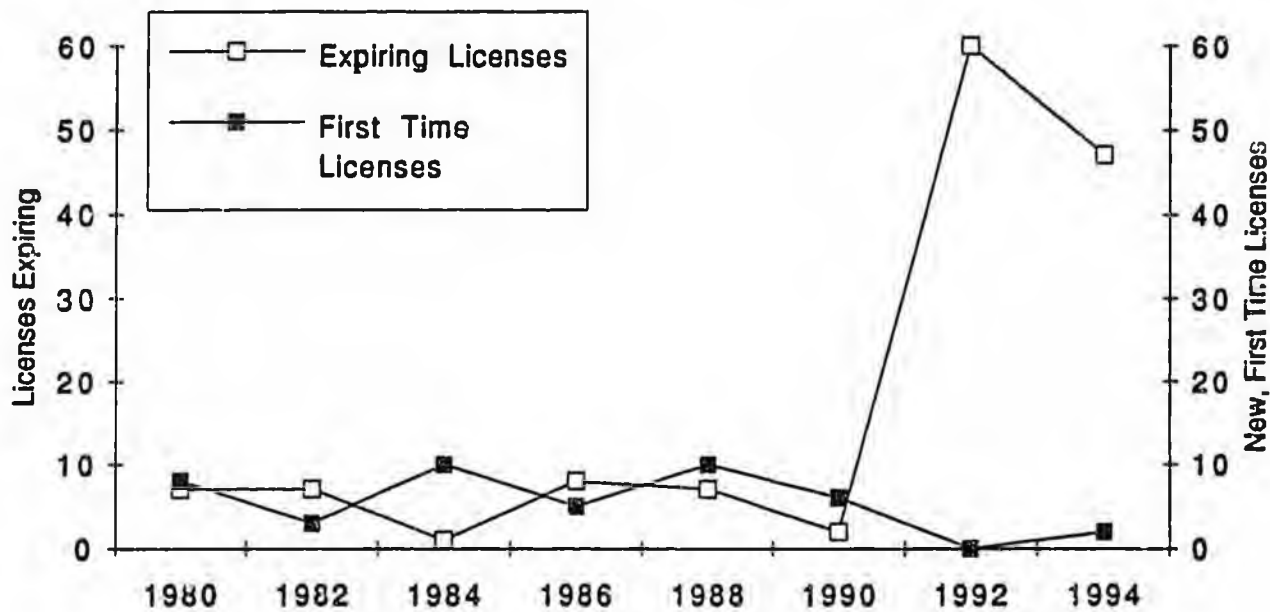
Juneau, Alaska 99801

(907) 586-3107

FAX 586-1001

Since the passage of the 1991 Act, new licenses are substantially more difficult to obtain and more stringent standards apply for renewal of existing licenses. This is due, at least in part, to the emphasis the 1991 Act places on safety and implementation of comprehensive training programs. These factors will result in a de facto limitation in the number of pilots available to serve the industry.

## Trends in the Number of Expiring and New, First Time Licenses



Source: Alaska Department of Commerce & Economic Development

March 16, 1993

From: Joe Kyle / Pacific Associates

To: Lynda Giguere / Rep Hudson's Office  
Fax 445-6790

Lynda - you can call me @ the  
Alaska Airlines Board Room @ SEATAC  
(ph. 206-433-3234) until 4 P.M.,  
I mean time with any questions.

As a result of ASA's meeting, today,  
to discuss the draft legislation, the  
following general comments apply:

- 1) ASA appreciates Rep HUDSON's desire  
to sponsor/introduce a bill now  
to "fine tune" the current Marine Pilot  
Act. (please don't read as "patronizing", we  
understand Bilo's desire to begin now!!)
- 2) While ASA would prefer to work  
through the contentious areas in the  
current Act with the pilots, in an  
effort to reach agreement or narrow  
the differences, before legislation is  
introduced; we will work actively  
with the legislature and the pilots  
to get the best legislation we can.

page 2

b) With regard to the specific bill (draft) we were provided, we/ASA concur with the bill's effects insofar as:

— the tariff is removed from the Board of Maine Pilots to another entity for rate setting (this does not imply we agree to the other "entity" setting a fixed vice maximum tariff)

— tariffs would be set for a three year period

— the language relating to cross regionalization (while primarily of interest to pilots) is not objectionable.

a) Our general feelings are best summarized by stating that while there are some positive things in the bill, we are concerned that two of six pilot associations are being heard more clearly than the other four (they're pushing harder, of course). We do not share the DCED viewpoint that the pilot board and state pilotage in general is "broken" and in need of immediate repair.

page 3

We share what we believe Rep HUDSON's perspective to be; that is, that the ACT requires fine tuning.

5) We will approach that fine tuning from the reference point that:

- pilots are professionals and should be compensated as such
  - pilots are not hourly wage employees
  - we are concerned about any language that places barriers to entry in a professional occupation
  - we believe service to our customers has improved since the current ACT was passed.
  - we do not believe, nor have we been ~~presented~~<sup>shown</sup>, that any empirical data exists which demonstrates safety has been compromised or pilot incomes reduced since the current ACT was enacted... we believe the reverse to be true in each case.
- 6) We are happy to help the process begin.

Respectfully,  
Joe Kyle

THE ESSENTIAL FEATURES OF  
STATE PILOTAGE

by  
Captain Pat J. Neely, Jr.

In its April 15, 1992 editorial, "Freeing the Tiller," the Journal of Commerce succeeded in collecting in a few paragraphs many of the most often repeated myths and misconceptions about the state pilotage system. Given the acknowledged success of the system and the availability of accurate, reliable information about it, it is difficult to understand the persistence of these myths and misconceptions.

Debate over various aspects of the state pilotage system is perhaps unavoidable and, under the right circumstances, can be beneficial. For the debate to have any value, however, it should be informed. It should proceed from an understanding of the essential features and objectives of the state pilotage system.

1. The State System. There is only one pilotage system in the United States - the state pilotage system. Unlike the limited federal pilot licensing program administered by the Coast Guard, the state system is a comprehensive regulatory system of training, licensing, discipline, economic regulation and operational oversight. The objective of state regulation is to ensure the availability of trained, ~~local~~ navigation experts 24 hours a day, 365 days a year.

Through the state pilotage system, the state's interests in the protection of life, property and environment and in the expeditious flow of waterborne commerce are protected by the presence on the bridge of a ship of a pilot whose primary responsibilities are not to the owner of the ship and the owner's economic interests but to the state. Shipowners are assured that a well-trained, competent

pilot will be provided in a timely manner and that the ship will be charged a standard pilotage fee determined by the state to be fair and reasonable. Subject to the normal uncertainties of the shipping business, state pilots have an opportunity for a career that combines public service with rewards sufficient to justify the large investment that each pilot must make in his pilotage operation, not only financially but in terms of training and professional dedication.

2. The State Pilot. The essence of pilotage is to provide navigational guidance in waters where special knowledge of local hazards is necessary. Compulsory pilotage is governmental safety regulation. When a state requires a ship to utilize a state-licensed pilot, the state seeks to protect its interests. The state pilot is on the ship to serve the state. For that reason, state pilots are deemed state officials either by specific statutory direction or through recognition as such by administrative or judicial decisions.

3. The State Pilot's Independence from Shipowner Control. Perhaps the most important aspect of a state pilot's traditional status and function is the state pilot's freedom from control by a shipowner. The state pilot strives to provide good service to a ship and to satisfy the shipowner and the owner's interests while fulfilling the pilot's primary duty to protect the public interest. Any conflict that might occur between the interests of the ship and those of the state must always be resolved by the pilot in favor of the latter. A state pilot is required to exercise independent judgment and to make navigational decisions in the interests of safety that may sometimes be contrary to the immediate wishes of other parties involved in ship operations.

Some shipowners would like to be able to select the pilot that will handle their ships. States reject that practice because it is inherently inconsistent with the primary duty owed by a state pilot to the public. It would be foolish and naive in the extreme to believe that a shipowner's desire to avoid ship accidents is all the protection that a state needs. If that desire were indeed so predominant that it would always be the overriding consideration in all actions by a ship's agent, charterer, manager, master and others who are typically more involved in a ship's operation than the shipowner, no safety regulation of any kind would ever be necessary. Of course, that is not the case. It is quite appropriate and proper for states and other governmental bodies to impose safety regulations on shipowners, and the single most important navigation safety regulation that a state can have is the requirement that a ship take a state pilot.

4. Pilot Commissions. For 22 of the 24 coastal states, the vehicle for regulating pilotage is a pilot commission. These commissions vary considerably from state to state in their composition, their functions and their legal status within the state governmental framework. For this reason, generalizations about pilot commissions are dangerous.

It is not true that pilot commissions are typically dominated by pilots and retired pilots and that through these commissions pilots set their own rates. Only three states (soon only two) have pilot commissions in which a majority of the members are pilots or pilot representatives. In only one of those three states does the pilot commission set rates.

5. Pilot Associations. Pilot associations facilitate state regulatory oversight

and further the intended objectives of the state system. As an example, each pilot association maintains a rotation system that ensures that each ship will be serviced without discrimination and will receive a rested pilot whenever needed. Also, as agents for the state, most pilot associations administer pilot training programs.

By sharing expenses, pilots in an association are able to acquire, crew and operate pilot boats; obtain other equipment such as radars, computers, radios and transportation vehicles; and maintain dispatching, vessel-tracking, recordkeeping, billing and other services required for a reliable pilotage operation.

6. Pilot Training. State pilots traditionally learn their craft under the tutelage of senior pilots. This is hands-on, locality-specific training, which is a prerequisite for a state pilot license. By contrast, a federal pilot license requires no prior pilot training and is typically issued on the basis of an individual's experience as a member of a ship's crew.

Those who decry the lack of a minimum national standard for pilot licensing ignore the fact that every state-licensed pilot also holds a federal pilot license. The federal license provides the minimum standard. Fortunately, even the least stringent state's pilot license requirements far exceed the requirements for a federal license.

The ~~state~~ pilotage system is constantly improving. In many states, training and licensing standards are being made more stringent, oversight of pilot conduct and pilotage operations are being enhanced, and pilotage requirements are being broadened and more rigorously enforced. If the state system is to continue to evolve in a positive way and to maintain its traditionally high standards in a

changing shipping industry, however, the quality of discourse about the system must improve. Opportunities for real progress are missed when those who support the state system must spend their time rebutting groundless factual assertions and explaining that what critics cite as the outrages of the system, such as training programs, pilot associations and freedom from shipowner control, are, in reality, the fundamental strengths of the system.

## MEMORANDUM

TO: Representative Bill Hudson

FROM: Thomas Dundas  
President, Alaska Marine Pilots

RE: An Act Relating to Marine Pilot Tariffs  
Word Draft 8-L50808\J - Cramer 3/11/93

DATE: March 16, 1993

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The draft legislation proposed will improve the Alaska Pilotage Act, but does not go far enough to free pilots from the control of agents and ship owners. This is particularly true in regions where more than one pilot group exists and the industry side is dominated by one company. Alaska Marine Pilots believe that this is not in the State's best interest. Pilots must be completely independent from control by agents or ship owners and make decisions based on training and experience. The pilots must make decisions to assure the safety of shipping, protection of human life and property, and the marine environment. The decisions should not be made because of pressure to get the job done or possibly lose the business. Pilots should function as a public service or utility, and must offer service at a reasonable rate to all who request it.

This bill would place the rate-setting for pilotage tariffs into the hands of the Alaska Public Utilities Commission and will welcome input from all interested parties. The shipping industry, consumers, and the public are protected by a mountain of regulation to guarantee that when a pilot is requested, a pilot will be dispatched in a timely manner and be fully licensed and trained to do the job at a reasonable rate. On the other side of the equation, the pilots must be protected by regulation as well.

It is in the State's best interest to secure and perpetuate the highest quality pilotage service possible and at a reasonable rate. This can only be accomplished through regulation and not through a belief in competitive market forces. By proposing that the Alaska Public Utilities Commission become the rate-setting body for pilotage tariffs, the industry and the State would seem to be recognizing the public service or utility function of pilots and the need to stabilize rates to protect commerce. Regulations are in place and more are proposed that will guarantee pilots will be available in a timely manner. In return, the pilots must be assured protection by limiting the number of licenses per region, equitable dispatch and dispersal of revenue, no cross-regional licensing, fair access into the profession, access to training, etc. A very important area, equitable dispatch and dispersal of revenue, is not addressed and is an area that remains in the hands of industry monopolies in regions with multiple pilot groups.

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We believe that this bill should include a provision for a single pilot group per region which is open to all pilots licensed for that region. Or, as a second choice, a regional dispatch entity should be created that would function much as a single pilot group but would be more costly. In any event, we feel there must be a state-sanctioned entity that would separate the pilots from the control of agents and ship owners. To expect competition between pilot groups is unfair when the Alaska Public Utilities Commission will set the tariffs for the region, pilots are obligated to serve all vessels who request a pilot, and the industry side in a region is controlled by one company.

#### **Alaska Public Utilities Commission Section 4 AS 08.62.045**

AMP concurs that the Alaska Public Utilities Commission would be a good body to set pilotage tariff rates, but this change must be coupled with protection for pilots through regulation as discussed. The language change discussed makes it clear that private contracts must charge the same rate as the regional tariff. We have a problem with private contracts in regions that have more than one pilot group for reasons that will be discussed later.

#### **Private Contracts AS 08.62.045(g) AS 08.62.175(e)**

When contracts exist between pilots and agents or ship owners in a region where more than one pilot group operates, problems will be caused at the board level when trying to set the maximum number of pilots per region. The smaller group will contend that more pilots must be licensed in the region so that group can fulfill its contractual obligations even though enough pilots are already licensed for the region, but belong to another pilot association. Allegations of anti-competitive practices will no doubt arise even though a statute is enacted.

This problem would seem to be most prevalent in Southeast Alaska, but could no doubt arise elsewhere. The practice of bringing in masters from the Marine Highway System for 10 to 30 days is common in the peak season when perhaps full-time pilots from another association would be idle. Work should first go to full time pilots until they are utilized and then dispatch part time pilots. A single dispatch office would solve this problem.

#### **Limiting the Number of Regional Licenses AS 08.62.175(10)(a)**

AMP agrees that the maximum number of licenses per region should be set and reviewed from time to time. If only one pilot group exists in a region or there is a regional dispatch entity, the optimum number of licenses could be set with relative ease. If, however, the notion of competition continues to be embraced, the board will face severe challenges from smaller, industry-favored pilot groups who will contend that they must have more new pilots to fulfill contractual obligations. This will occur even if previously licensed pilots

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from another group would be idle.

### **Single Regional Dispatch**

A state-sanctioned dispatch entity should exist in each region. It could be the pilot group itself in regions with one association, and this could be the most cost effective and efficient. However, in regions with more than one pilot group, a regional dispatch should be established. This office would be the contact point for agents to arrange pilotage service. It would be responsible for equitable dispatch of work and would collect and disperse revenue to pilots. The central dispatch idea would make it much easier to arrive at the optimum number of licenses needed per region. It would also make pilots independent from industry control.

### **Section 7 AS 08.62.080(c)**

The language in this section would seem to allow an argument that a pilot could be licensed to work in a part of a region. The language should be clarified to assure that a pilot must be licensed to work an entire region or "cherry picking" will occur.

### **Conclusion**

The mix of strict state regulation, rate setting by the Alaska Public Utilities Commission and the notion that competition should exist in piloting is unfair and unworkable, especially when the industry side in a region is controlled completely, or for the most part, by one company.

Thank you for taking time to consider our suggestions. We do appreciate it.

TD/djf.001



March 1993

Dear Legislator:

This letter summarizes the attached discussion paper setting out AMP's position on HB 237, the bill to amend the Marine Pilotage Act:

1. The legislature must start on this legislation now. The tariff provision of the Act expires June 30, 1994.
2. HB 237 as proposed addresses a couple of problems but not all of them. AMP does support what the bill would do now: return to a fixed pilotage tariff and regulate the number of pilots in the state. However, AMP believes the bill must go farther.
3. AMP asks the legislature to expand HB 237 to cure what AMP believes is the central problem: the 1991 amendments tried to turn piloting into a free-market, competitive enterprise. For the reasons outlined in the discussion paper, marine piloting cannot be truly competitive as a practical matter, and should not be as a matter of sound public policy. The most critical problem is that industry effectively controls piloting by controlling allocation of work to pilot groups. Pilots are no longer independent, but are economically dependent on industry. This is a fundamental safety issue requiring action now.
4. To address these problems, AMP urges the legislature to expand HB 237 by adding the following provisions:

- (a) Eliminate the notion of competition from marine piloting. Create a single central dispatch office in each region with more than one pilot group, so that pilots are once again independent from industry's economic control.
- (b) Prohibit vessel operators and agents from being involved in the financial affairs of marine pilots and pilot groups.
- (c) Eliminate "cherry picking" by requiring pilot groups to serve all ships in all ports of the region at all times of the year.

5. The legislature has the legal authority to do this as a proper exercise of its police power in the interest of public safety.

AMP's pilots and their Juneau representative, Bob Evans, are on call to discuss this issue with you. You can contact Mr. Evans at 364-3360.

Capt. Tom Dundas, President  
Alaska Marine Pilots



# **ALASKA MARINE PILOTS**

## **DISPATCHING SERVICE**

P.O. BOX 700 • DUTCH HARBOR, ALASKA 99582 • 907 581 1210

### **DISCUSSION PAPER** **March 1993**

#### **Proposed amendments to the Marine Pilotage Act**

#### **HB 237**

Alaska Marine Pilots (AMP) actively supports the proposed amendments to the Alaska Marine Pilotage Act (AS 08.62) set out in HB 237, but does not believe HB 237 goes far enough to meet the public safety interests of the people of Alaska. This paper is intended to answer the most common questions being raised about AMP's position respecting the Act and HB 237.

**The marine pilotage act was just amended in 1991. Why must the legislature take further action so soon?**

The tariff section of the current statute (AS 08.62.045) expires automatically on June 30, 1994. If the legislature does not enact a new tariff section before then, there will be no statutory provision governing fees for pilotage services.

Attention to this issue must not be deferred until the 1994 legislature. It is a complex issue with which most legislators are not fully acquainted. If it is deferred until next year, AMP fears that the legislature will be forced to take action without sufficient time to deal with it knowledgeably and carefully.

**How did the 1991 amendments change existing law?**

The 1991 amendments to the Act radically changed the statutory scheme governing marine pilots. In the main, the amendments sought to turn marine piloting into an open-access,

free-market, competitive enterprise. To accomplish this objective, the 1991 amendments made the following changes:

-- Abandoned the former fixed tariff and substituted a two-tiered tariff system comprising a maximum tariff set by the Board of Marine Pilots and a "working" tariff that was supposed to be adopted by each marine pilot organization in response to market forces in a competitive marketplace. (AS 08.62.045)

-- Created statutory entities in each of the marine pilot regions called "regional marine pilot organizations." These regional marine pilot organizations were to supplant the existing pilot groups. These new regional organizations must be recognized by the Pilot Board upon compliance with extensive regulatory requirements. Every Alaska pilot must be a member of a regional organizations. Every regional organization must provide the training experience to anyone who requests it, and must accept for membership any licensed pilot who applies. (AS 08.62.080(a), .175)

What has happened in the aftermath of the 1991 amendments?

Since the 1991 amendments, the significant developments relevant to HB 237 involved pilotage regions, marine pilot organizations, and pilotage tariffs:

#### Regions

The Pilot Board has increased the number of pilotage regions from two to four. The former Southeast Region, from Yakutat southward, is unchanged. However, the former Southwest Region has been subdivided into three new regions:

- the Southcentral Region, from Kakutat to Kodiak Island
- the Western Region, from west of Kodiak Island westward to the end of the Aleutians and north to the Arctic, excluding the Kuskokwim River
- the Kuskokwim River Region

#### Pilot Organizations

There were four marine pilot organizations prior to the 1991 amendments. The Pilot Board has since granted formal recognition

to the four original groups, all of which restructured to comply with the 1991 amendments, and two additional new groups:

- Southeast Region: SEAPA and ACP
- Southcentral Region: SWAPA
- Western Region: AMP and (just this year) Western Alaska Pilots Association (WAPA)
- Kuskokwim Region: Kuskokwim River Pilots Association

ACP and WAPA were both formed with the active support of the steamship industry to compete with the larger established groups in their respective regions. Industry has been able to exercise substantial control over piloting by playing ACP against SEAPA in the Southeast Region and WAPA against AMP in the Western Region, by favoring ACP and WAPA in allocation of work and in other ways. Industry has exerted substantial influence over SWAPA in the Southcentral Region by threatening to ask the Pilot Board to divide the region into two smaller regions and by holding out the prospect of supporting a new pilot organization to compete directly with SWAPA.

#### Tariffs

The Pilot Board has adopted by regulation a maximum pilotage tariff for each of the four regions. This "maximum tariff" establishes the ceiling on marine pilot fees in each region.

In addition, the Pilot Board has approved "working tariffs" for each of the regional marine pilot organizations. Each of these working tariffs is structured differently. The pilots in each regional organization can only charge the fees set out in that organization's working tariff.

#### **Why aren't the 1991 changes working?**

A single reason: marine piloting cannot and should not be a free-market, competitive enterprise in Alaska. As a practical matter, competition does not work in marine piloting. As a matter of sound public policy, it should not even be attempted.

#### The practical problem: true competition does not exist

True competition requires a pool of willing buyers and a pool of willing sellers. The pool of both buyers and sellers

must be large enough that no one buyer or seller can effectively control the market. The buyers and the sellers all have to be able to act freely in their own economic interest. This is the basic model of a truly free and competitive market. The 1991 amendments were based on the incorrect premise that this model exists or can be created in marine piloting in the real world.

In truth, none of these factors actually exists. On the industry side, a handful of people control almost all of the compulsory pilotage vessels in Alaska. As a practical matter, these few people dictate which of the competing pilot organizations will get the work, and their decisions are not necessarily based on market factor such as price or service.

On the other side of the equation, marine pilots are so heavily regulated that they cannot respond to market forces the way a "real world" business can. The only factors on which any seller can compete are price, service, and its ability to control its own size and operating expenses. Under Alaska law, no pilot organization has any real control over any of those factors:

1. Price. The fees a pilot organization may charge for its services are regulated by both the working tariff and the maximum tariff. The maximum tariff set by the Pilot Board sets price ceilings that cannot be exceeded regardless of market conditions. Once an organization's working tariff is established, it cannot be adjusted for a year. There is little if any leeway to adjust fees in response supply, demand, operating costs, and other market factors.

2. Service. A pilot organization must provide service to anyone who asks for it, limited only by the number and license qualifications of its members. A vessel operator can adjust its service in response to market forces -- send more ships or fewer, call at more ports or fewer -- but a marine pilot cannot decline to provide service regardless of whether it would be economically advantageous to do so.

3. Size and composition of membership. In the "real" world, a business can expand or shrink in response to market forces; if it is hiring at all, it can train and hire only the best qualified people to make it as competitive as possible. However, under the 1991 amendments, a pilot organization must provide training to new pilots if asked to do so, placing it in the untenable position of having to train its own competitors. Further, a pilot organization must accept for membership anyone with a pilot license; it cannot regulate its own size or limit its members to the very best (and therefore most competitive) pilots. It cannot regulate its income and expenses by limiting the size and composition of its membership. It must dispatch all

its members on a fair and equitable basis, thereby losing the ability to give priority to its most experienced members.

When a handful of buyers control the marketplace, and when the sellers are so tightly regulated that they cannot freely make decisions in their economic interest, there simply is no competition. AMP urges the legislature to recognize this fact and stop forcing marine pilots to try to compete in a non-competitive environment.

**What are the public policy objections to the 1991 amendments?**

There are two primary public policy objections to the 1991 amendments. The first has to do with industry control over piloting. The second has to do with what has come to be called "cherry picking."

The only reason for any state to enact a compulsory pilotage statute is to ensure public safety. As the Act itself states, the purpose of compulsory pilotage service is "to assure the protection of shipping, the safety of human life and property, and the protection of the marine environment." AS 08.62.040(a)(1). All other considerations are secondary at best.

The public's safety interests are only served properly if there is a corps of properly qualified and fully independent marine pilots available to serve every ship in every port, day or night, at all times of the year. The 1991 amendments actively impair these interests.

#### Industry control of marine piloting

The independence of pilots is one of the paramount elements of any statutory scheme for marine piloting. Under the Alaska statute, marine pilots are supposed to be independent. AS 08.62.163. Pilots must be so independent of vessel owners and operators that they can freely determine when and how a vessel can safely be moved in pilotage waters.

As soon as a pilot's economic welfare is placed in the hands of the few people who control shipping in Alaska, the pilot's independence is in grave jeopardy. Vessel owners and operators are frequently under heavy financial pressure to keep their vessels moving. In the maritime industry as in all others, time is money. Schedules must be kept. Fish processors must move their product. Passengers must make travel connections.

A vessel operator subject to these kinds of pressures may understandably have a different view of the perils of weather, seas, and circumstance from that of a truly independent marine pilot acting on behalf of the people of Alaska. While no responsible vessel operator will put his vessel and its cargo at risk by making a clearly unsafe decision, the pressure to cut corners is unavoidable. The only surety against corner-cutting is a truly independent marine pilot.

Under the current system, a vessel operator or agent can shop around for tractable pilots. Vessel operators and agents can let it be known that a continued flow of business to a group of pilots depends less on the fees charged by that organization, but on that organization's willingness to cut corners. The simple fact is that the costs of delaying a ship for safety reasons far outweigh whatever difference there may be in the fees charged by competing pilot groups. Vessel operators and agents can and will give the work to the pilots who are most willing to eliminate delays.

Vessel interests will also give the work to the pilot group that is most willing to be agreeable at rate-setting time. A pilot group that has been promised all or most of the work can afford to set its rates lower than the competition. When the great majority of the vessel traffic is controlled by a few people, those few are in a position to make such promises free of market constraints. Pilots who do not fall into line can be forced out of business.

Industry can exert economic power over pilots in two main ways. First and most obvious, vessel interests control a pilot's income if they control access to the work. Second and less obvious, vessel interests can control a pilot's ability even to renew his license, because piloting regulations require a minimum number of vessel movements per year as a prerequisite to license renewal.

Is industry "the bad guy"? Of course not. However, the companies and agencies that control shipping in Alaska have their own economic interests to consider. They understandably will try to control each and every aspect of their cost equations, and from industry's point of view marine piloting is merely another one of those costs.

From the standpoint of Alaskans, however, marine pilots are not simply another cost of doing business. They are the professional mariners entrusted with the safety of lives, property, shipping, and the marine environment. The private economic interests of the shipping industry are not necessarily

the same as the safety interests of the people of Alaska; the latter, not the former, should control marine piloting.

### "Cherry picking"

A second public policy argument against the 1991 amendments involves what has come to be called the "cherry picking" problem. Every region has its peak seasons and high-volume ports. In the Southeast Region, the summer cruise ship trade is the high-profit business. In the Western Region, it is Dutch Harbor and a couple of other ports during peak fishing periods.

If pilots are forced to compete with one another, supply and demand will tend to concentrate the competition in the high-volume ports and the high-volume seasons. No one will want to work in unprofitable ports or during unprofitable times of the year.

Public safety interests are not limited to peak seasons in profitable ports. Public safety demands fully qualified, independent pilots in every port at all times.

That is the kind of full-coverage, year-around service AMP is committed to providing in the Western Region. However, it is a simple truth that the high-volume ports and seasons subsidize the low-volume ports and seasons. Without the Dutch Harbor work, AMP pilots cannot provide service in the remote outports such as Adak or St. Paul for anything approaching a reasonable fee.

Under the current system, vessel operators and agents can freely give the desirable, high-profit work to one pilot association in a region and leave the "dregs" to the others. Even if the members of a pilot group are willing and able to provide full year-around full coverage in a region, they have no control over the allocation of work. No pilot group can survive if its members are not given enough work to earn a reasonable living and meet the annual experience requirements for license renewal. Before long, its members will leave the profession or leave Alaska, and there is no guarantee that those left behind will be able to provide the full coverage required to meet the safety needs of Alaska.

Without some mechanism to prevent "cherry picking," the public safety interests of the people of Alaska are at risk.

Can't we simply allow market forces to set pilotage fees so that all ports are profitable?

If pilotage fees for remote ports and low-volume seasons of the year were set strictly on the basis of the cost of providing the service, they would be prohibitively expensive. Historically, pilotage fees set by the Pilot Board for all ports of a region have been predicated on the overall year-around pilotage revenues for all ports of the region. Under that system, the high-volume seasons and ports helped pay for service in the low-volume seasons and ports.

AMP believes that the public interest is best served by continuing this policy. No public interest is served by discouraging trade to remote parts of Alaska by making pilotage fees prohibitively high.

How are the state's interests harmed by having more than one pilot group competing in a region?

As discussed earlier, the ability to play one pilot group off against another is the ability to exercise de facto control over marine pilots and piloting. The handful of people who control Alaska shipping will inevitably act in their own economic interests, which are not necessarily the best interest of the public.

Further, pilots in competition with one another will inevitably be under pressure to cut corners on safety. Whatever interest individual pilots may have in so-called "free competition" is clearly subordinate to the public's interest in making sure pilots have no incentive to cut corners on safety.

Industry's only legitimate requirement of marine piloting is that every vessel subject to compulsory pilotage be able to get a qualified pilot when and where needed at a reasonable rate. Beyond that, industry has no legitimate interest in controlling or influencing pilots.

Does HB 237 solve the problems in marine piloting?

HB 237 addresses part of the problem but not the central problem. AMP believes that the only way to solve the problem altogether is to eliminate the notion of competition, isolate industry from the allocation of piloting assignments, and ensure that industry cannot exert influence directly or indirectly on pilots. Marine piloting is first and foremost a public safety

activity. The concept of competition must be eliminated, and marine piloting should be controlled and regulated exclusively by the state, not by either industry or pilots.

What HB 237 does do

AMP supports the following changes that HB 237 would accomplish as written:

1. Restore a single fixed pilotage tariff in each region. Place tariff-setting responsibility in the hands of an objective and qualified state agency. Give all interested parties an opportunity to participate in the rate-setting process, but the state agency must set piloting rates in the public interest.

2. Regulate the number of pilots coming into the profession on the basis of actual need for pilots to provide services in all ports at all times of the year.

What HB 237 does NOT do

What HB 237 does not do is eliminate the notion of competition from piloting or insulate piloting from the economic influence of industry, nor does it eliminate the problem of "cherry picking."

In the past, AMP has supported a statutory change to create a single pilot organization in each region. The purpose of each regional organization would be to dispatch pilots, bill and collect fees for pilotage services, distribute income to pilots, and coordinate pilot training in the region. AMP remains convinced that this is the best solution in the public interest.

However, some pilots oppose imposition of unitary regional pilot organizations. In some cases, the opposition stems from bad feelings and distrust that have arisen in the past. Members of some competing pilot groups do not want to be forced to work with their former colleagues.

AMP recognizes that unitary regional pilot groups may not be politically feasible. However, the problem remains that public safety is compromised if industry can control pilots by controlling the allocation of work. If unitary regional pilot organizations are not acceptable, then the only way to prevent industry from controlling work allocation is to require a central

dispatching office in every region with more than one pilot group.

In each multi-group region, industry would contact the central dispatch office to request a pilot. The dispatch office would allocate the work among the pilot groups in the region on an equitable basis.

To solve the "cherry picking" problem, every group in the region would be required to have a sufficient number of members with sufficient licensure to serve every kind of vessel in every port at all times of the year. Industry would not longer be able to promote "cherry picking" by selective allocation of work, and pilot groups would not be able to "cherry pick" because the central dispatch office would be distributing all the work, both high-profit and low-profit, equitably to all the groups in the region. All the groups would share all of the piloting responsibilities of the entire region.

AMP therefore urges the legislature to expand HB 237 to accomplish the following additional changes:

1. Require a central dispatching office in every region with more than one pilot group. The groups themselves would set up the central dispatch office in accordance with statutory and regulatory guidelines, subject to supervision by the Pilot Board. Each group would do its own billing, collection, and income distribution; all groups would share equally in training new pilots. The cost of creating, operating, and maintaining the dispatch office would be included in the regional

2. Prohibit vessel operators and agents from being involved in the financial affairs of marine pilots, pilot organizations, and dispatch offices.

3. Require pilot groups to have the capacity to serve every kind of ship in all ports of the region at all times of the year, and compel them to accept assignments to provide pilotage services for all ships in all ports at all times of the year. Don't permit pilot groups to limit their activities to easy high-volume ports, seasons, and trades.

Wouldn't this just create a protective monopoly to make sure marine pilots make a lot of money? How is the public interest served by encouraging such a monopoly?

One of the common misconceptions about marine pilots is that they make an unreasonably high income. That is not true. The

average income for AMP pilots in 1992 after expenses was about \$100,000. AMP pilots do not get fringe benefits; they must pay for health and life insurance, professional liability insurance, and retirement out of their earnings. Their income is far from excessive for the level of experience and judgment we expect from marine pilots.

Marine pilots are, by definition, at the peak of their profession. The level of experience and training required just to obtain a license is considerable. Comparing the income figures for Alaska's marine pilots to the average income for other pilots in the Lower 48 shows that Alaska pilots are paid appreciably less than their colleagues elsewhere.

They are also paid less than comparable professionals in the maritime industry here in Alaska. For instance, the masters of the American-flag container ships calling at Dutch Harbor typically earn about \$155,000 annually, plus benefits such as a retirement plan and health insurance for the same amount of work AMP pilots typically do each year. A tanker captain can expect to earn \$120,000 annually, plus benefits, for the same amount of work. AMP pilots also earn less than masters of Alaska Marine Highway ferries, when the fringe benefits of ferry employees are taken into consideration.

Opponents of AMP's proposed changes like to argue that these are really "rice bowl" issues, not safety issues. Certainly, AMP does not deny that income is a big part of the equation, nor do AMP pilots deny their personal interest in making a reasonable income and having reasonable job security.

AMP does deny that this factor is unrelated to safety. Marine pilots serve a very different function from those of other people who must hold occupational licenses issued by the state. In Alaska, there are only about 100 active licensed marine pilots to serve a state with more coastline than the rest of the United States combined and some of the worst weather and sea conditions in the world.

If some of the thousands of hairdressers, accountants, and lawyers licensed by the state are forced out of business, public safety is not compromised. But if marine pilots are forced out of the profession or out of Alaska because they cannot make a reasonable living, or do not have reasonable job security, public safety is at risk. If a marine pilot cuts corners in order to make a living, public safety is at risk.

Marine pilots are like air traffic controllers, who control the airports and air space in the public interest, not in the interest of one airline or another or the airline industry in

general. It is in the public interest to encourage experienced marine pilots to stay in Alaska. In marine piloting, it is the year-in, year-out accumulation of experience with different ships, different weather and sea conditions, and different ports that serves the public interest. Alaska has a clear safety interest in encouraging the best, most experienced pilots to stay in Alaska, not only to move ships but to train new pilots.

In a true competitive environment, the best survive and the least capable are forced out. Ironically, the reverse is true in marine piloting in Alaska. The most qualified pilots are the ones who will leave first, because they have the best opportunities to go elsewhere for a reasonable income and reasonable job security commensurate with their professional standing.

How does regulating the number of pilots serve the public interest? Why not continue to allow unlimited access to the profession?

Regulating the number of pilots serves at least two important public interests. First, it prevents the risk of corner-cutting on safety and the dilution of professional expertise that inevitably results when too many pilots are competing for a limited amount of work. As noted above, pilot regulations establish a minimum level of annual piloting experience to renew a license. However, the public interest is served by encouraging more than just the minimum level of experience. We want our pilots to move a lot of ships in all kinds of weather in all of the ports in a region. That can't happen if the work is being spread around among too many pilots.

Second, regulating the number of pilots permits the state to establish a reasonable pilotage tariff in each region based on a target income for pilots. As noted above, the only way to ensure a stable corps of experienced professional pilots is to give them a reasonable expectation of a reasonable income and reasonable job security.

However, that will work only if there is some control over the number of pilots. It does no good to fix a tariff based on a target income if you do not also regulate the number of pilots working under that tariff. For this reason, AMP supports the provisions of HB 237 that would allow the Pilot Board to regulate the number of pilots in each region.

Marine pilots should be treated no differently from other public safety personnel such as policemen or firemen. Alaska does not permit anyone who wants to be a state trooper to move

into that profession at will. Rather, the state brings new troopers into service when and as needed through an equitable system of application and examination.

**What are the trade-offs for marine pilots under such a monopoly?**

In return for the reasonable job security afforded by monopoly treatment, pilots give up control over what they charge for their services. They surrender to the state the authority to set pilotage rates. They subject themselves to comprehensive state regulation on training, licensing, and discipline. They agree to provide top-quality pilotage services to every vessel every day of the year in every part of the state.

**Does the legislature have the legal authority to create such a pilotage system?**

Absolutely. Marine piloting is regulated by law for the express purpose of advancing the public welfare. It is a public safety activity, not a matter of private commerce, with both federal and state governments exercising control over piloting in their respective jurisdictions. Governments at every level enjoy broad police power authority to act in matters of public safety.

Promoting public safety is one of the basic objectives of government. Whenever public safety is threatened, government has the right and obligation to cope with the threat by any necessary and appropriate means, subject only to constitutional limitations. Suber v. Alaska State Bond Committee, 414 P.2d 546 (Ak. 1966). Both state and federal pilotage statutes have been enacted expressly to deal with the public safety hazards created by vessels moving in U.S. navigable waters without local marine pilots.

Any legal challenge to a state scheme that regulates or limits access to employment (such as HB 237's proposed regulation of the number of marine pilots in the state) would be based on the equal protection provisions of the federal and state constitutions. The argument from someone who is being denied unrestricted access to employment as a marine pilot would be that the state is violating the equal protection provisions by discriminating in issuing marine pilot licenses.

Alaska's supreme court has ruled that the right to engage in a certain kind of employment is not a fundamental right. According to our supreme court, it is an "important" right, and any statutory restriction on that right must be "closely related"

to a legitimate state interest. Matson v. Commercial Fisheries Entry Commission, 785 P.2d 1200, 1205 (Ak. 1990).

The safety of shipping, human life and property, and the marine environment is clearly a legitimate and compelling state interest. Regulating the number of pilots in the state bears not simply a "close" relationship to that interest, but a direct relationship, for the reasons outlined above.

It is important to note that AMP's proposals would not "disenfranchise" anyone currently holding a state marine pilot license. Alaska law properly protects vested property interests, and a strong argument can be made that anyone currently holding a license has a protected interest in continuing to use it. AMP's proposal would only apply prospectively, to regulate licensure of new pilots.

Another point worth noting is that the federal government reserves the right to impose compulsory pilotage in any state's waters if that state does not do so. Under 46 USC 8503(a), the federal government may impose pilotage on any vessel engaged in foreign commerce and operating in U.S. navigable waters "when a pilot is not required by State law."

Under the 1991 amendments, it is possible that pilots soon will not be available to service Alaska's remote ports, low-volume ports, and low-volume seasons. There is nothing currently in Alaska law to preclude cherry picking; pilot groups are not required to accept any and all requests to provide pilotage services in every port in the region at all times of the year.

A state regulation that identifies a particular port as compulsory pilotage waters is meaningless if there are no pilots to serve that port. If it comes to pass that pilots are not serving parts of Alaska, the federal government has the authority to step in and impose a federal pilotage system.

CARGO MOVEMENTS IN SOUTHEASTERN ALASKA

1991-1992

Winter Months of October through April, inclusive

SEAPA		ACPA	
Pilots	Movements	Pilots	Movements
9 (64% of pilots)	175 (73.5% of work)	5 (35% of pilots)	62 (26% of work)

TOTAL MOVEMENTS = 234

TOTAL PILOTS = 14

(Source: Quarterly reports of marine pilots, Alaska Department of Commerce and Economic Development, Division of Occupational Licensing)

Testimony of Captain Terry Bennett  
to the House Labor and Commerce Committee  
of the Alaska Legislature  
on HB 237  
April 1, 1993

Mr. Chairman, members of the committee, thank you for allowing me the opportunity to speak today. My name is Terry Bennett, and I hold unlimited licenses as master and pilot. I have piloted in southeast Alaska since 1981 and I am co-founder of Alaska Coastwise Pilots Association.

This bill was not asked for by us, the smaller, weaker competitor pilot group, and as far as I know it was not requested by industry. This then raises a question or two as to why is it now being proposed and who asked for it? The bill says, on page 4 line 16, "a tariff...is valid for three years..." It also says it can be amended annually.

The sponsor statement says that setting a fixed tariff will allow "industry...a longer view of the tariff situation, tariffs will be uniform where they are now often dissimilar between pilot organizations,..." In southeast, called by the board, region one, both pilots' organizations have multi-year contracts allowing industry a "longer view" of the tariff. In my group's contracts there is also a clause referring to annual adjustment, patterned after those we have seen in Union collective bargaining agreements.

With respect to "uniformity of tariffs" I would direct your attention to the state's requirement that pilot groups publish

their tariffs and maintain them for at least a year. You will notice that the result of last year's contract negotiations by industry with the pilot organizations in southeast is about a ten percent differential, total, in the tariff collected by one group of pilots versus the tariff collected by the other group.

Mister Chairman, members of the committee, ACPA is doing nothing unfair in its bargaining with industry and they have not complained to us or about us. From what I have been able to gather it appears that SEAPA made bad business decisions last year and they want you to make it up for them. Last year to stay competitive with us they had to lower their fee for services resulting in reduced revenue. They also hired a large number of part-time pilots they say they did not need with a view toward keeping those people from working with ACPA. This further reduced their revenue. Add to this costs they incurred in other overhead and you can see how their bottom line suffered.

If you put in play a mechanism for a fixed tariff you will destabilize a bargaining procedure that all participants have haggled over for almost two years; what we have in place now was acceptable to both groups in southeast until SEAPA thought they saw an opportunity to gain another whopping pay increase.