

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8202 HOUSE TRANSPORTATION

407

HB

243

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 19, 1993

FURTHER REFERRALS:

Date of Committee Action: 4-13-93

The TRANSPORTATION Committee considered:

HB 243

HOUSE BILL NO. 243

PILOTS ON CERTAIN TUGS ON STATE WATERS

"An Act requiring a licensed pilot for a tug boat used with an oil barge on a river in a pilotage region."

RECOMMENDATIONS:

be replaced with

CS HB 243 (TRANS)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: TRANS, _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note D. Comm. Econ. Deup. zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bullfords</i>	<input checked="" type="checkbox"/>	<i>Allen</i>		<input checked="" type="checkbox"/>	
<i>Conrad</i>	<input checked="" type="checkbox"/>	<i>Angus</i>		<input checked="" type="checkbox"/>	
<i>Richard</i>	<input checked="" type="checkbox"/>	<i>Boyer</i>		<input checked="" type="checkbox"/>	
<i>Boyer</i>		<i>Boyer</i>		<input checked="" type="checkbox"/>	

Richard Boyer
 CHAIRMAN'S SIGNATURE



Official Business

Alaska State Legislature


HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

HOUSE TRANSPORTATION COMMITTEE
APRIL 13, 1993

HOUSE TRANSPORTATION COMMITTEE
LETTER OF INTENT
CSHB 243 (TRANS)

The House Transportation Committee respectfully requests that the House Judiciary Committee address the issue as to whether the federal government has pre-emption over the State of Alaska's jurisdiction in relation to licensing of marine pilots on rivers as required by this proposed legislation.



REP. RICHARD FOSTER, CHAIR
HOUSE TRANSPORTATION COMMITTEE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. **HB 243**

Revision Date: _____ Dept. Affected: Commerce & Economic Development
 Title: An Act requiring a licensed pilot for a BRU: Occupational Licensing
tug boat used with an oil barge on a river.... Component: Operations
 Sponsor: Rep. Sanders
 Requestor: House Transportation COMPONENT SERIAL NO. 1844

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	.0	.0	.0	.0	.0	.0
CAPITAL						
REVENUE FUND SOURCE:	.0	.0	.0	.0	.0	.0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	.0	.0	.0	.0	.0	.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 HB 243 requires a tugboat to be piloted by a licensed marine pilot when navigating a river within a pilotage region. New funds are not required to implement this provision.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing

Phone: 465-2144
 Date: 3/30/93

Approved by Commissioner: Paul Fuhs
 Agency: Commerce & Economic Development

Date: _____

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ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-FT. RICHARDSON

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LEGISLATIVE COUNCIL

- CO-CHAIR -
HOUSE SPECIAL COMMITTEE ON
MILITARY AND VETERANS AFFAIRS

- CO-CHAIR -
MILITARY AFFAIRS FOR
ANCHORAGE CAUCUS

MEMORANDUM

TO: House Transportation Committee

FROM: Representative Mulder *EM*
Representative Mackie *JRM*

RE: Subcommittee Report: CSHB 243 "An Act requiring a licensed pilot for a tug boat used with an oil barge on a river in a pilotage region."

DATE: April 13, 1993

The House subcommittee assigned to HB 243 proposes the following Letter of Intent to CSHB 243 (TRA):

HOUSE TRANSPORTATION COMMITTEE LETTER OF INTENT CSHB 243 (TRA)

The House Transportation Committee respectfully requests that the House Judiciary Committee address the issue as to whether the federal government has pre-emption over the State of Alaska's jurisdiction in relation to licensing of marine pilots on rivers as required by this proposed legislation.

REP. RICHARD FOSTER, CHAIR
HOUSE TRANSPORTATION COMMITTEE

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 5, 1993

SUBJECT: State-licensed Pilots for River Oil Barges (HB 243)

TO: Representative Richard Foster

FROM: Terri Lauterbach 
Legislative Counsel

You have asked whether HB 243 is constitutional with respect to its requirement that certain oil barges be assisted by tug boats with state-licensed pilots aboard when navigating state rivers. The concerns expressed to you involve whether federal law may have preempted state action of this type.

I cannot answer your question definitively. The applicable federal laws are somewhat convoluted about when states may require pilots and when they may not. I do not have the expertise in either maritime law or the factual realities of the oil barge trade on the rivers of the state to determine whether these convoluted federal laws have preempted the pilot requirement contemplated under HB 243.

I have enclosed a copy of the federal laws that seem to me most relevant to your question: 46 U.S.C. 8501, 46 U.S.C. 8502, and 46 U.S.C. 3702.

DISCUSSION

46 U.S.C. 8501(a) states the general rule that piloting in rivers shall be regulated by the states. However, it includes an exception that reads: "Except as otherwise provided in this subtitle [46 U.S.C. 2101 et seq.]." Therefore the issue is whether the oil barge traffic on our state's rivers falls into an exception somewhere in 46 U.S.C. 2101 et seq.

A possibly applicable exception is in 46 U.S.C. 8501(d), which prohibits a state from requiring a "coastwise vessel" to take a state-licensed pilot if the vessel is "subject to inspection under chapter 37 of this title [46 U.S.C. 3701 et seq.]"

Another possibly applicable exception is in 46 U.S.C. 8502(a), which requires federal pilots for a "coastwise seagoing vessel" if the vessel meets the four conditions listed

Representative Richard Foster

April 5, 1993

Page 2

in that subsection, one of which is "subject to inspection under chapter 37 of this title [46 U.S.C. 3701 et seq]." Under 46 U.S.C. 8502(c), a state may not adopt a regulation "that will impede the [federal] pilot in the performance of the pilot's duties."

I do not, as a factual matter, know whether the oil barges on Alaska's rivers are described by either 46 U.S.C. 8501(d) or 46 U.S.C. 8502(a). (Are they "coastwise," "seagoing," "sailing on register," "subject to inspection under chapter 37," etc.?) Furthermore, if they are described by 46 U.S.C. 8502(a), it would still have to be determined whether requiring employment of a state-licensed pilot would necessarily "impede" the federal pilot in performance of the pilot's duties. Perhaps there is room for sharing duties or serving in an advisory role. I also do not know if there is another federal law elsewhere that might say something equivalent to "Notwithstanding the exception in 42 U.S.C. 8501 or 8502, a state may require use of a state licensed pilot if... "

In short, all I can give you at this time is a short explanation of the federal laws involved and a lexicon of terms that may or may not be applicable to the oil barges that would be subject to HB 243.

I hope this short discussion and the enclosed laws are helpful to you as you consider your options on this bill. I wish I could be of more definitive assistance. However, current time constraints, the convoluted nature of federal law on pilots, and my lack of background knowledge about the oil barge trade on the rivers of the state limit the help I can be in this area.

TML:gc
93-310.glc

Enclosure

Barcott and Daly, Offshore Floating Oil Rig Workers, Seamen or Longshoremen: Twilight at High Noon. 16 U San Francisco L. Rev 449-462, Spring, 1982.

§ 3702. Application

(a) Subject to subsections (b)-(e) of this section, this chapter [46 USCS §§ 3701 et seq.] applies to a tank vessel.

(b) This chapter [46 USCS §§ 3701 et seq.] does not apply to a documented vessel that would be subject to this chapter [46 USCS §§ 3701 et seq.] only because of the transfer of fuel from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry if the vessel is—

- (1) not more than 500 gross tons;
- (2) not a tanker; and
- (3) in the service of oil exploitation.

(c) This chapter [46 USCS §§ 3701 et seq.] does not apply to a fishing or fish tender vessel of not more than 500 gross tons when engaged only in the fishing industry.

(d) This chapter [46 USCS §§ 3701 et seq.] does not apply to a fish processing vessel of not more than 5,000 gross tons. However, the vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk.

(e) This chapter [46 USCS §§ 3701 et seq.] does not apply to a foreign vessel on innocent passage on the navigable waters of the United States.

(Aug. 26, 1983, P. L. 98-89, § 1, 97 Stat. 521; July 17, 1984, P. L. 98-364, Title IV, § 402(6), 98 Stat. 446.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

Revised Section	Source (USCS)
3702	46:391a

Section 3702, with certain exceptions, makes this chapter applicable to any tank vessel operating in the navigable waters of the United States or transferring oil or hazardous materials in any port or place subject to the jurisdiction of the United States, and which carries oil or any hazardous materials in bulk as cargo or in residue, regardless of tonnage, size or manner of propulsion; whether it is self-propelled or not; whether it is carrying freight or passengers for hire or not; and whether it is a vessel of the United States or a foreign vessel.

It exempts certain small vessels documented in the service of oil exploitation, certain small tender and fishing vessels used in the Northwest salmon or crab fisheries, certain vessels used in the processing and assembling of fishery products used in the Northwest fisheries, public vessels, and foreign vessels engaged on innocent passage on the navigable waters of the United States. However, processing vessels.

on Columbia river. *The Alcalde* (1887, DC Or) 30 F 133.

Boundary waters, within statute, must be such as possess character of monument on boundary line, and such as are, in real and substantial way, boundary between different jurisdictions; Narragansett Bay and Mt. Hope Bay, which are surrounded by territory belonging to Rhode Island, are not boundary waters, though at certain points state lines between Rhode Island and Massachusetts cut across corners of bay. *The Swift Arrow* (1923, DC Mass) 292 F 651.

18. Exemption from pilotage laws

State pilotage statutes may lawfully exempt from their provisions vessels of specified classes, or engaged in particular trades, insofar as such exemptions are within the fair range of legislative discretion and do not constitute discriminations forbidden by federal statutes. *Cooley v Board of Wardens* (1852) 53 US 299, 13 L Ed 996.

Georgia statute which exempted from its operation "coasters in this State," and "between

ports of this State and those of South Carolina," and "between ports of this State and those of Florida" was discriminatory and void under predecessor to 46 USCS § 8501. *Sprague v Thompson* (1886) 118 US 90, 30 L Ed 115, 6 S Ct 988.

California statute exempting from all charges for pilotage, unless pilot is actually employed, all vessels coasting between San Francisco and any ports in Oregon, Washington or Alaska and vessels coasting between ports of California is void. *Freeman v The Undaunted* (1889, CC Cal) 37 F 662.

Where tariff provisions of city exempted combat and training vessels of United States, but not vessels of Military Sea Transportation Service, predecessor to 46 USCS § 8501 prohibited any claim for recovery by city against United States for pilotage fees. *Los Angeles v United States* (1972, CD Cal) 355 F Supp 461.

State statute exempting vessels sailing between ports of one state from payment of pilotage under existing state law unless pilot is actually employed is valid. *Williams v The Lizzie Henderson* (DC Fla) F Cas No 17726A.

§ 8502. Federal pilots required

(a) Except as provided in subsection (g) of this section, a coastwise seagoing vessel shall be under the direction and control of a pilot licensed under section 7101 of this title [46 USCS § 7101] if the vessel is—

- (1) not sailing on register;
- (2) underway;
- (3) not on the high seas; and
- (4)(A) propelled by machinery and subject to inspection under part B of this subtitle [46 USCS §§ 3101 et seq.]; or
- (B) subject to inspection under chapter 37 of this title [46 USCS §§ 3701 et seq.].

(b) The fees charged for pilotage by pilots required under this section may not be more than the customary or legally established rates in the States in which the pilotage is performed.

(c) A State or political subdivision of a State may not impose on a pilot licensed under this subtitle [46 USCS §§ 2101 et seq.] an obligation to procure a State or other license, or adopt any other regulation that will impede the pilot in the performance of the pilot's duties under the laws of the United States.

(d) A State or political subdivision of a State may not levy pilot charges on a vessel lawfully piloted by a pilot required under this section.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation

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CHAPTER 85. PILOTS

Section

- 8501. State regulation of pilots
- 8502. Federal pilots required
- 8503. Federal pilots authorized

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

Chapter 85 provides for State pilotage to be regulated by the States and only in conformity with the laws of the States. It clearly spells out the preeminence of the State's role in regulating pilots for vessels operating on the bays, rivers, harbors, and ports of the United States. However, those vessels that are required to have a Federally licensed pilot, those that operate on waters outside the territorial sea of the United States, and those that operate on waters of the Great Lakes are not subject to State pilotage laws or requirements. In essence this chapter, with minor changes, confirms the State and Federal relationship with respect to pilotage that has evolved since the founding of the Nation.

This chapter permits the continuation of Federal pilotage requirements for vessels that are not required to obtain compulsory State pilotage. It confirms the practice of allowing anyone with a Federal pilotage endorsement for the waters in which the vessel is operating to be in control of a vessel when engaged in the coastwide trade. It also confirms the practice of using Federal pilots that are often organized into groups or working organizations who offer their expertise and services to vessels that are not required to obtain compulsory State pilotage.

Amendments:

1984. Act Oct. 30, 1984, P.L. 98-557, § 29(f)(3)(B), 98 Stat. 2874, amended the analysis of this chapter by adding the item relating to section 8503.

§ 8501. State regulation of pilots

- (a) Except as otherwise provided in this subtitle [46 USCS §§ 2101 et seq.], pilots in the bays, rivers, harbors, and ports of the United States shall be regulated only in conformity with the laws of the States.
- (b) The master of a vessel entering or leaving a port on waters that are a boundary between 2 States, and that is required to have a pilot under this section, may employ a pilot licensed or authorized by the laws of either of the 2 States.
- (c) A State may not adopt a regulation or provision that discriminates in the rate of pilotage or half-pilotage between vessels sailing between the ports of one State and vessels sailing between the ports of different States,

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(31) "scientific personnel" means individuals on board an oceanographic research vessel only to engage in scientific research, or to instruct or receive instruction in oceanography or limnology.

(32) "seagoing barge" means a non-self-propelled vessel of at least 100 gross tons making voyages beyond the Boundary Line.

(33) "seagoing motor vessel" means a motor vessel of at least 300 gross tons making voyages beyond the Boundary Line.

(34) "Secretary" means the head of the department in which the Coast Guard is operating.

(35) "small passenger vessel" means a vessel of less than 100 gross tons carrying more than 6 passengers (as defined in clause (21)(B) and (C) of this section).

(36) "State" means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(37) "steam vessel" means a vessel propelled in whole or in part by steam, except a recreational vessel of not more than 40 feet in length.

(38) "tanker" means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces.

(39) "tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(A) is a vessel of the United States;

(B) operates on the navigable waters of the United States; or

(C) transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States.

(40) "towing vessel" means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

(41) "undocumented" means not having and not required to have a document issued under chapter 121 of this title [46 USCS §§ 12101 et seq.].

(42) "uninspected passenger vessel" means an uninspected vessel carrying not more than 6 passengers.

(43) "uninspected vessel" means a vessel not subject to inspection under section 3301 of this title [46 USCS § 3301] that is not a recreational vessel.

(44) "United States", when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(45) "vessel" has the same meaning given that term in section 3 of title 1 [1 USCS § 3].

(46) "vessel of the United States" means a vessel documented or numbered under the laws of the United States.

or against vessels because of their means of propulsion, or against public vessels of the United States.

(d) A State may not adopt a regulation or provision that requires a coastwise vessel to take a pilot licensed or authorized by the laws of a State if the vessel—

(1) is propelled by machinery and subject to inspection under part B of this subtitle [46 USCS §§ 3101 et seq.]; or

(2) is subject to inspection under chapter 37 of this title [46 USCS §§ 3701 et seq.].

(e) Any regulation or provision violating this section is void.

(Aug. 26, 1983, P. L. 98-89, § 1, 97 Stat. 553; Oct. 30, 1984, P. L. 98-557, § 29(e), 98 Stat. 2874.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

Revised Section	Source (USCS)
3501(a).....	46:211
3501(b).....	46:212
3501(c).....	46:213
	46:215

Section 8501 establishes the general proposition that the States regulate pilots in the bays, rivers, harbors, and ports of the United States, unless otherwise specifically provided by law.

Subsection (a) states this general proposition and uses the word "only" for emphasis on this point. Further, except as specifically provided in law, the Committee intends that this chapter not be construed to annul or affect any regulation established by the laws of a State requiring a vessel entering or leaving a port in that State to employ a pilot licensed or authorized by the laws of that State. In at least two places in current law, this general proposition is stated in both a positive and negative manner. The Committee intends to consolidate those separate statements into one provision to avoid ambiguity and redundancy.

Subsections (b) and (c) contain provisions regarding pilotage in waters between two States.

Subsection (d) prohibits a State from requiring a State licensed pilot on certain coastwise vessels.

Subsection (e) voids any regulation or provision violating this section.

Amendments:

1984. Act Oct. 30, 1984, in subsec. (a), substituted "subtitle" for "part".

VERALEX™: Cases and annotations referred to herein can be further researched through the VERALEX electronic retrieval system's two services, Auto-Cite® and SHOWME™. Use Auto-Cite to check citations for form, parallel references, prior and later history, and annotation references. Use SHOWME to display the full text of cases and annotations.

RESEARCH GUIDE

Am Jur:
70 Am Jur 2d, Shipping § 89.

§ 8302. Staff department

RESEARCH GUIDE

Am Jur:
70 Am Jur 2d, Shipping § 89.

§ 8303. Service under licenses issued without examination

RESEARCH GUIDE

Am Jur:
70 Am Jur 2d, Shipping § 89.

§ 8304. Implementing the Officers' Competency Certificates Convention, 1936

RESEARCH GUIDE

Am Jur:
70 Am Jur 2d, Shipping § 89.

CHAPTER 85. PILOTS

§ 8501. State regulation of pilots

RESEARCH GUIDE

Am Jur:
70 Am Jur 2d, Shipping §§ 97, 101.

§ 8502. Federal pilots required

(a) Except as provided in subsections (g) and (i) of this section, a coastwise seagoing vessel shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—

(1)-(4) [Unchanged]

(b)-(d) [Unchanged]

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000. The vessel also is liable in rem for the penalty.

(f) An individual serving as a pilot without having a license required by this section or a regulation prescribed under this section is liable to the Government for a civil penalty of \$10,000.

(g)(1) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, if any, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.

(2) In any area of Prince William Sound, Alaska, where a vessel subject to this section is required to be under the direction and control of a pilot licensed under section 7101 of this title, the pilot may not be a member of the crew of that vessel and shall be a pilot licensed by the State of Alaska who is operating under a Federal license, when the vessel is navigating waters between 60°49' North latitude and the Port of Valdez, Alaska.

(h) The Secretary shall designate waters on which tankers over 1,600 gross tons subject to this section shall have on the bridge a master or mate licensed to direct and control the vessel under section 7101(c)(1) of this title who is separate and distinct from the pilot required under subsection (a) of this section.

(i)(1) Except as provided in paragraph (2), a dredge to which this section would otherwise apply is exempt from the requirements of this section.

(2) If the Secretary determines, after notice and comment, that the exemption under paragraph (1) creates a hazard to navigational safety in a specified area, the Secretary may require that a dredge exempted by paragraph (1) which is operating in that area shall comply with this section.

(As amended Aug. 18, 1990, P. L. 101-380, Title IV, Subtitle-A, § 4116(a), (b), Subtitle C, § 4302(g); 104 Stat. 522, 539; Nov. 16, 1990, P. L. 101-595, Title III, § 307, 104 Stat. 2985.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

8-LS0861V
Lauterbach
3/29/93

* House Trans. com. adopted this version.

CS FOR HOUSE BILL NO. 243 (TRANS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

* new materials added to file 4-13-92

Sponsor(s): REPRESENTATIVE SANDERS

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring a licensed pilot for a tug boat used with an oil barge on a
2 river in a pilotage region."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 08.62.185(b) is amended to read:

5 (b) The pilot required in [(a) OF] this section shall control the vessel during
6 all docking operations.

7 * Sec. 2. AS 08.62.185 is amended by adding a new subsection to read:

8 (c) Notwithstanding AS 08.62.180, an oil barge, as defined in AS 46.04.900,
9 whether enrolled or registered, capable of carrying "15,000" barrels or more, shall be
10 assisted by a tugboat that shall employ a pilot licensed under this chapter when
11 navigating a river within pilotage region established by the board under
12 AS 08.62.040(a)(4)(A).

Calista Corporation

601 W 5th Avenue, Suite 200, Anchorage, Alaska 99501-2225 • (907) 279-5515 • Facsimile (907) 272-5080

April 13, 1993

*Office of the President
and Chief Executive Officer*

Representative Richard Foster
Chairman, House Transportation Committee
House of Representatives
State Capitol
Juneau, Alaska 99801

Dear Representative Foster:

I am writing to urge your support of House Bill 243. This bill would require oil barges carrying 15,000 barrels or more to be assisted by state licensed marine pilots through the uncharted waters of the Kuskokwim River.

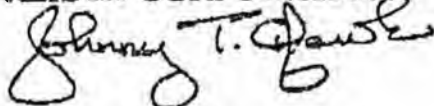
The river is a lifeline to some of our villages. Our people rely upon the fish and game, which in turn rely upon the river as their life sustaining force. An oil spill, not even of the magnitude of the Exxon Valdez accident, would be highly detrimental to our well being.

Your support of HB 243, and its passage from your committee, would be greatly appreciated by all of us who depend on the waters in front of us for our livelihood.

Thank you for your time and consideration in this matter.

Sincerely,

CALISTA CORPORATION



Johnny T. Hawk
President and Chief Executive Officer



Electric Service for 100,000 Alaskans

Alaska
Rural

Electric
Cooperative

Association, Inc.

703 W. Tudor Rd., #200
Anchorage, AK 99503
(907) 561-6103
FAX (907) 561-5547

RECEIVED APR 07 1993

April 7, 1993

Rep. Richard Foster, Chairman
House Transportation Committee
State Capitol Building
Juneau, AK

Dear Rep. Foster:

I understand that HB 243 is in a subcommittee in Transportation. This letter is simply to express concern about the possible cost of this measure to the village utility operations serving communities along the Kuskokwim River. We don't know yet whether the cost to these utilities is going to be a major hit, but I hope this concern is one that is adequately addressed by the subcommittee.

Sincerely,

David Hutchens
Executive Director

**Association of Village Council Presidents, Inc.
P.O. Box 219
Bethel, Alaska 99559**

Ph# (907) 543-3521
FAX(907) 543-3596

April 12, 1993

Senator George Jacko
Room 125
State Capitol
Juneau, AK 99801

Dear Senator Jacko:

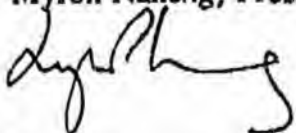
Because the health and vitality of the waterways in our region is such a crucial aspect of Native ways of life, I am writing to urge your support of the Committee Substitute for House Bill 243 that requires oil barges capable of carrying 15,000 barrels or more be assisted by state licensed marine pilots.

The Kuskokwim River is a lifeline in the Yukon-Kuskokwim Delta. Our people live by the seasonal changes that the river brings. From fish to wildlife to vegetation, Native subsistence activities rely on a healthy and thriving environment. Destruction of this habitat would mean both the loss of subsistence foods upon which Native people heavily depend and an assault on Native ways of life. As a people, we are inextricably tied to the river.

As the EXXON VALDEZ oil spill proves, accidents do happen. Our region would not be able to sustain the irreparable damage of a similar spill in our waters. Navigating the Kuskokwim River is particularly tricky as large barges must often manipulate through waters with only a few feet of leeway. These large barges can only be safely guided by someone who knows the continually shifting intricacies of the Kuskokwim.

The insurance of safe transport and delivery of fuel by state licensed pilots is sorely needed. CSHB 243 provides for safeguards that should have long been in place. Again, I urge your support of CSHB 243.

Sincerely,
ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS, INC.
Myron Naneng, President



cc: Representative Foster, Representative Mackie, Representative Sanders,
Representative Hoffman

12 April 1993

To whom it may Concern.

I have been asked to express my professional opinion in regard to the advisability of using pilots on the Kuskokwim River to convey fuel barges to Bethel, Alaska.

During the years between 1961 to 1985 I was involved in towing increasingly larger fuel barges to Bethel. In those twenty five years I experienced just about every kind of weather condition that nature could generate. On the average we started the season about the first of June and it lasted well into October. In other words from the time the ice cleared the River until it formed again in the fall. I made ten to twelve trips a year, experiencing all kinds of weather, the worst in the fall during Sept. and Oct. and I always took a pilot.

The weather conditions on the Kuskokwim River and Kuskokwim Bay vary considerably during the season. Freshets increase the current velocity and height of the water enough to drag a buoy under water and obscure aids to navigation. Adverse winds can lower the water level along with low barometric pressure. Even the loss of a foot of water can make some bars impossible to cross. Extremely bad weather can render electronic navigational instruments unreliable.

One of the primary dangers of navigating the Kuskokwim is the ever changing channels due to its sedimentary formation. It's forever scouring out cut banks and building up bars. It widens or narrows channels along with deepening or shoaling. This condition can only be ascertained by frequent checking of the local pilots. Officers of ships making occasional trips do not have opportunities to stop and make surveys.

Another hazard that must be considered where pilot knowledge would be to great advantage is during the fishing season where local knowledge of the conditions and people would be invaluable.

Considering all the inherent dangers of transporting petroleum products, the increase in consumption which creates more traffic and a larger volume of petroleum transported it behooves one to eliminate as many hazards as possible. To sum it all up and take into consideration all the factors involved one must conclude that the wise course must be to use the services of a competent pilot to reduce as many of the risks as possible.

It must be small consolation to the Marine Department of Exxon to realize what a small cost it would have been to have had an experienced pilot of Prince William Sound aboard the Exxon Valdez compared to what that awful mess finally cost.

Last of all, I would like to say, It's a lot easier getting out of Port Valdez and Valdez Arm then it is getting out of the Kuskokwim River and Bay.

Sincerely yours,

Robert P. Burns

Master Mariner

Petition
in Support
of CSHB 243

Village of AKiak,
Alaska

We, the undersigned, urge you, our elected legislators, to support legislation to protect our waters, keeping them safe for subsistence and recreational use, through passage of CSHB 243. We are grateful for your consideration of our needs.

Printed name	Address, zip code	Signature
FRANK DeMANTLE Sr	AKIAK, AK 99552	Frank DeMantle Sr
DAVID T. JACKSON SR	AKIAK, AK 99552	David T. Jackson Sr
SAMUEL A. IVAN	AKIAK, AK 99552	Samuel A. Ivan
Owen B. IVAN	AKIAK 99552	Owen B. Ivan
Lillian S. Uliak	AKIAK 99552	Lillian S. Uliak
Sarah Jasper	Box 82 Akiaak, Ak 99552	Sarah Jasper
JAMES S Nicolai	P.O. BOX 35 AKIAK, AK.	James S Nicolai
Jackson W. Williams Sr	P.O. BOX 128 AKIAK, AK.	Jackson W. Williams Sr
ROY A. Williams	Gen Del. Ak. 99552	ROY A. Williams
Marian C. Jackson	Box 52063 Akiaak	Marian C. Jackson
Gertrude Lake	P.O. BOX 52011 AKIAK AK 99552	Gertrude Lake
Lucy M. Pete	Akiaak, AK	Lucy M. Pete
Rose Williams	P.O. Box 128	Rose Williams
Julia Kashatok	P.O. Box 91	Julia Kashatok
CHARLES N. Williams	Box 52061	Charles N. Williams
Robert Lee Lott	Box 52094	Robert Lee Lott
EMIL T. Williams	Box 1	Emil T. Williams
John Nicompi	Box 52	John Nicompi
Peter Gilis sr.	Akiaak, Ak	Peter Gilis sr.
Anna G. Phillip	Box 02	Anna G. Phillip
Phillip Phillip Jr	Box 02	Phillip Phillip Jr.
DAVID A.W. IVAN	Box 84	David Ivan
Anna L. Ivan	Box 84	Anna L. Ivan
Lucy Ivan	Box 52106	Lucy Ivan

APR 02 '92 10:40

P.8/11

We, the undersigned, urge you, our elected legislators, to support legislation to protect our waters, keeping them safe for subsistence and recreational use, through passage of CSHB 243. We are grateful for your consideration of our needs.

Printed name	Address, zip code	Signature
ROBERT IVAN AKIAK, AK 99552		Robert Ivan
Tom W. T. VAN AKIAK, AK 99552		Tom W. T. van
Olinka M. Jones AKIAK, AK 99552		Olinka M. Jones
Dorothy M. Andrews AKIAK, AK 99552		Dorothy M. Andrews
Martha Nicolai D. DIBEXSS AKIAK		Martha Nicolai
Bertha Lake AKIAK, AK 99552		Bertha Lake
Mary R Phillip - AKIAK, 99552		Mary R Phillip
Alberta Demonte AKIAK 99552		Alberta Demonte
Wesley Phillip AKIAK 99552		Wesley Phillip
Margie Williams AKIAK 99552		Margie Williams
Catherine G Williams AKIAK, AK 99552		Catherine G Williams
Ida Jasper AKIAK, AK 99552		Ida Jasper
Elizabeth Lake AKIAK 99552		Elizabeth Lake
Patricia A. Ivan AKIAK, AK 99552		Patricia A. Ivan

EEK CITY COUNCIL
P.O. BOX 009
EEK, ALASKA 99578
(907) 536-5129
FAX (907) 536-5711

FAX COVER LETTER

Date 4/8/93 FAX No. 465-3476 Total pages w/ cover 4

Following pages are for Honorable Rep. Seaton

Organization: House of Representatives

From: City of Eek

Additional Notes:

We, the undersigned, urge you, our elected legislators, to support legislation to protect our waters, keeping them safe for subsistence and recreational use, through passage of CSHB 243. We are grateful for your consideration of our needs.

Printed name	Address, zip code	Signature
John C. Alexie	Box 033 EEK, AK 99578	John C. Alexie
Pauline Roehl	Box 78 EEK, AK 99578	Pauline Roehl
Martha Alexie	Box 33	Martha Alexie
Anne Petlusk	Box 62 Eek AK 99578	Anne Petlusk
Carlie Beebe	Box 73	Carlie Beebe
Dennis Brown	Box 44	Dennis Brown
Kenneth Henry	Box 97	Kenneth Henry
Sally Tooluk	Box 47	Sally Tooluk
NICK A. CARTER	Box 3 99578	Nick A. Carter
VERNON BROWN	Box 013 99578	Vernon Brown
CARL McINTYRE	Box 41	Carl McIntyre
Judy Henry	Box 45	Judy Henry
Emma Carter	Box 005	Emma Carter
Annie Green	Box 012	Annie Green
Peter White	Box 063	Peter White
Margaret White	P.O. Box 63	Margaret White
Jim White	P.O. Box 65	Jim White
Walter P. Brown	Box 88 Eek, AK	Walter P. Brown
Sam Moses	Box 001 Eek, AK	Sam Moses
Maggie Henry	Box 037 Eek AK	Maggie Henry
CARLIE PLEASANT	Box 18 Eek, AK	Carlie Pleasant
Henry Green	Box 12 Eek, AK	Henry Green
FLORENCE McINTYRE	Box 076 Eek AK	Florence McIntyre
WASSILLIE BEEBE SR	Gen. DEL Eek AK	Wassillie Beebe

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Printed name Address, zip code Signature

Wassilie Foster Eek Ak 99578 Wassilie Foster

RICHARD MCINTYRE Eek Ak 99578 Richard McIntyre

Elena McIntyre Box 74 Elena McIntyre

William Holby P.O. Box 110 Eek Ak 99578

Tom McIntyre P.O. Box 74 Eek Ak 99578

John F. White Box 024 Eek Ak 99578 John F. White

Joshua White Box 024 Eek Ak Joshua White

Maria C. White Box 24 Eek Ak Maria C. White

James Joshua Box 17 Eek Ak James Joshua

Peter Joshua Box 17 Eek Ak Peter Joshua

Willie Joshua Box 17 Eek Ak Willie Joshua

Cirde Cleveland Box 29 Eek Ak Cirde Cleveland

Harold Cleveland Box 29 Eek Ak Harold Cleveland

Billy Teeluk Box 47 Eek Ak Billy Teeluk

Raymond P. White Box 28 Eek Ak Raymond P. White

Anne White Box 28 Eek Ak 99578 Anne White

Ella Andrew Box 28 Eek Ak 99578 Ella Andrew

Bobby Petruska Box 9 Eek Ak 99578 Bobby Petruska

Andrew Petruska Box 86 99578 Andrew Petruska

Frank Brown Jr. Box 53 99578 Frank Brown Jr.

Isaac Hawk Eek Ak Isaac Hawk

Joylene Green Box 55 Eek Ak 99578 Joylene Green

George Alex Box 091 Eek Ak George Alex

Chris P. Alex P.O. Box 057 Chris P. Alex

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Printed name	Address, zip code	Signature
Agnes Allison	Box 72 Eek, AK 99578	Agnes Allison
Adolph R. Hawk	P.O. Box 084 Eek, AK 99578	Adolph R. Hawk
Carl P. Green	P.O. Box 55 Eek, AK 99578	Carl P. Green
Elias Keyes	P.O. Box 5 Eek, AK 99578	Elias Keyes
Nick P. Carter	P.O. Box 21 Eek, AK 99578	Nick P. Carter
Fritz E. Petruska	Box 62 "	Fritz E. Petruska
John C. ...	P.O. Box 4 99578	John C. ...
Vernon Brown	Box 013 99578	Vernon Brown
Frederick Carter	P.O. Box 04 Eek, AK	Frederick Carter
Fritz J. Willie	P.O. Box 42	Fritz J. Willie
Moses Green	P.O. Box 55	Moses Green
Steven White	Box 002 Eek	Steven White
Amy P. Petruska	Box 71 Eek, AK	Amy P. Petruska

Native Village of Kwigillingok

Kwigillingok I.R.A. Council
P.O. Box 49
Kwigillingok, Alaska 99622
(907) 588-8114/8212

FAX COVER SHEET

TO: REP. JERRY SANDERS

TELEFAX NO.: 465-3476

DATE: APRIL 12 1992

FROM: KWIGILLINGOK IRA COUNCIL

TELEFAX NO.: 588-8429

TOTAL NUMBER OF PAGES, INCLUDING THIS SHEET: 4

IF THERE ARE ANY PROBLEMS WITH THIS TELEFAX, CALL (907) 588-8114/8212 AND ASK FOR: JIMMY

We, the undersigned, urge you, our elected legislators, to support legislation to protect our waters, keeping them safe for subsistence and recreational use, through passage of CSHB 243. We are grateful for your consideration of our needs.

Printed name	Address, zip code	Signature
FRANK PHILIP	Box 6 Kwigillingok AK 99622	Frank Philip
LOIS B. WILSON	PO Box 992 Bethel 99559	Lois B. Wilson
William Igkurak	Box 23 Kwigillingok 99622	William Igkurak
Pauline J. Jim	Box 12 Kwig. Ak 99622	Pauline J. Jim
Roland H. Lewis	Box 4 Kwigillingok 99622	Roland H. Lewis
TONY PHILIP	Box 3 Kwigillingok 99622	Tony Philip
Maggie Philip	Box 23 Kwigillingok 99622	Maggie Philip
Johnny Friend	Box 46 Kwigillingok 99622	Johnny Friend
Jimmy Beaman	Box 77 Kwigillingok 99622	Jimmy Beaman
Herbert Peter	Box 65 Kwigillingok 99622	Herbert Peter
Alfred Lewis	Seagull Valley, Box 35 Kwig. AK. 99622	Alfred Lewis
ARON ANDERSON	PO Box 25 Kwigillingok AK 99622	Aron Anderson
STEVEN EVON	P.O. Box 41 Kwigillingok AK 99622	Steven Evon
Alan H. Peter	PO Box 29 Kwigillingok AK 99622	Alan H. Peter
James Anand	Box 2 Kwigillingok AK 99622	James Anand
Milton M. Lewis	Box 33 Kwigillingok 99622	Milton M. Lewis
James J. Lewis	" 33 Kwigillingok 99622	James J. Lewis
Wanda P. Lewis	" " " "	Wanda P. Lewis
Keith Lewis	" " " "	Keith Lewis
Richard [unclear]	Box 23 Kwigillingok Ak 99622	Richard [unclear]
Cliff [unclear]	Box 50 " " "	Cliff [unclear]
Moore Power	Box 76 Kwigillingok, Ak 99622	Moore Power
Otto Friend		Otto Friend
Ronald Lewis	Box 43 Kwig. Ak 99622	Ronald Lewis

We, the undersigned, urge you, our elected legislators, to support legislation to protect our waters, keeping them safe for subsistence and recreational use, through passage of CSHB 243. We are grateful for your consideration of our needs.

Printed name	Address, zip code	Signature
Johnny Anderson	Box 75 Kwigillingok AK 99622	Johnny Anderson
Wassilie B. Anderson	11 47 Kwigillingok AK 99622	Wassilie B. Anderson
Pearl Anaver	2 Kwigillingok	Pearl Anaver
Sharon Atti	35 " "	Sharon Atti
John Lewis	35 " "	John Lewis
Francine Peter	35 " "	Francine Peter
Peter Timmie	63 " Kwigillingok	Peter Timmie
Jack Beaver	Box 76 Kwig AK 99622	Jack Beaver
Donna Beaver	Box 77 Kwig AK 99622	Donna Beaver
David Beaver	75 KWIGILLINGOK AK 99622	David Beaver
Herman Beaver	P.O. Box 75 Kwigillingok AK 99622	Herman Beaver
Margaret Beaver	P.O. Box 75 Kwigillingok AK 99622	Margaret Beaver
David John	Box 24 Kwigillingok AK 99622	David John
David O. David	Box 78 " "	David O. David
Ernest Even	Box 53 Kwigillingok AK 99622	Ernest Even
Maria J. John	Box 5 Kwigillingok AK 99622	Maria J. John
Herman Lewis	Box 1 Kwigillingok AK 99622	Herman Lewis
Billy W. Anaver	Box 58 Kwigillingok AK 99622	Billy W. Anaver
John C. John	Box 47 Kwigillingok AK 99622	John C. John
Frank M. Anderson	Box 47 Kwigillingok AK 99622	Frank M. Anderson
Nellie Anderson	Box 47 Kwigillingok AK 99622	Nellie Anderson
Natalie Flynn	Box 11 Kwigillingok AK 99622	Natalie Flynn
Joseph John	Box 24 Kwigillingok AK 99622	Joseph John
Norman A. John	Box 24 Kwigillingok AK 99622	Norman A. John

We, the undersigned, urge you, our elected legislators, to support legislation to protect our waters, keeping them safe for subsistence and recreational use, through passage of CSHB 243. We are grateful for your consideration of our needs.

Printed name Address, zip code Signature

MILL PAUL Box 37, KWIGILLINGOK, AK 99622 Mill Paul

KAREN PAUL Box 37, KWIGILLINGOK, AK 99622 Karen Paul

NICK ALEXIE Box 5, KWIGILLINGOK, AK 99622 Nick Alexie

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DONNA ANDREW Box 28 KWIGILLINGOK, AK 99622 Donna Andrew

JEAN COOK Box 15 KWIGILLINGOK, AK 99622 Jean Cook

BENNY COOK Box 15 KWIGILLINGOK, AK 99622 Benny Cook

MOSES MARTIN BOX 57 KWIGILLINGOK, AK 99622 Moses Martin

WILLIAM JR. P.O. BOX 68 KWIGILLINGOK, AK 99622 William Jr.

JESSE K. IGLUKWAK Box 64 KWIGILLINGOK, AK 99622 Jesse K. Iglukwak

FLEANNOR PHILLIP Box 74 KWIGILLINGOK, AK 99622 Fleannor Phillip

RICHARD SIMS P.O. Box 72 KWIGILLINGOK, AK 99622 Richard Sims

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JOSEPH MANCHUK Box 56 KWIGILLINGOK, AK 99622 Joseph Manchuk

MARGARET S. MANCHUK Box 56 KWIGILLINGOK, AK 99622 Margaret S. Manchuk

WALTER T. SNYDER Box 31 KWIGILLINGOK, AK 99622 Walter T. Snyder

ELISE M. SNYDER Box 31 KWIGILLINGOK, AK 99622 Elise M. Snyder



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

HB 243 - "AN ACT REQUIRING A LICENSED PILOT FOR A TUG BOAT USED WITH AN OIL BARGE ON A RIVER IN A PILOTAGE REGION."

I N D E X - H B 2 4 3

1. SPONSOR STATEMENT - COMMITTEE SUBSTITUTE / HB 243
2. ORIGINAL VERSION, HB 243
3. FISCAL NOTE FROM DCED WITH POSITION PAPER ATTACHED
4. SUPPORT LETTER/CAPT. W.E. MURPHY, 3/29/93
5. LETTER/dated 3/25/93 Mr. Langjahr, Vice-President FOSS MARITIME re: conflicts with current Federal regulations/ATTACHMENT:APPLICABLE FEDERAL REGULATIONS
Applicable Federal Regulations.
6. LETTER/dated 3/29/93 CROWLEY MARINE SERVICES, INC. TO: Gene Lafitte FROM: Dan Gleason re: Pre-emption Argument against HB 243.
7. *LETTER/dated 3/30/93 DELTA WESTERN TO: Ray Gillespie FROM: Lawrence J. Soriano, Exec. Vice-President/Delta Western
*LETTER/dated 3/25/93 DELTA WESTERN TO: Rep. Richard Foster FROM: Lawrence J. Soriano, Exec. V.-P./Delta Western
8. LETTER/dated 3/25/93 TO: Rep. Foster FROM: Louis Audette, Jr./Forty Niner Transportation, Inc. re: HB 243 ATTACHMENTS(2):
(1)-RIBELIN LOWELL & CO.(Insurance Underwriter),
(2) American Waterways Operators letter dated 1/6/93
9. LETTER/recd. 3/26/93 TO: Rep. Foster FROM:Rick Blodgett/
T.C. Co. Fuel Inc., Teller, Alaska
10. NEWSPAPER ARTICLE DATED 3/18/93



Representative Jerry Sanders

District 19

Vice Chair, Rules Committee
 Vice Chair, Community & Regional Affairs Committee
 House State Affairs Committee
 Special Committee on Oil & Gas
 Legislative Council
 International Trade & Tourism

S P O N S O R S T A T E M E N T

COMMITTEE SUBSTITUTE FOR HOUSE BILL 243

Four years after the tragic, senseless EXXON VALDEZ oil spill, the Committee Substitute for House Bill 243 seeks to allow licensed marine pilots to further serve the citizens of Alaska by assisting in protecting our pristine rivers and deltas -- which is why, through Chapter 62 of the Alaska Statutes, the legislature created the Board of Marine Pilots to begin with. 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.

Millions of King, Coho, Red, Chum and Pink salmon go up Alaskan rivers each year. Delta lakes, streams and ponds abound with several species of Whitefish, Tomcod, Northern pike, Needlefish, Burbot and Blackfish. The Kuskokwim River delta, for example, is a breeding ground for millions of waterfowl. More than half the North American population of Brant hatch there; Emperor and Pacific white-fronted geese and Tundra swans nest in the region. In addition, the Kuskokwim flows through one of North America's most important wildlife refuges, the Yukon Delta National Wildlife Refuge.

The channel depth from Bethel to Kuskokwim Bay, for example, ranges from 120 feet to 15 feet at high tide (8 feet at low tide). The width of the channel varies from 300 feet to 2500 feet. Barges are up to 100 feet wide by 400 feet long, drawing 14 feet and holding 3 million gallons of mixed fuels (the standard fuel barge holds over 1.5 million gallons). This is significant -- in certain spots, a distance of only 12 inches separates river bottom from barge bottom! Because the river bottom is a cut channel, rather than a more uniformly flat, dredged one, any variance from the proper course could prove disastrous. The depth of the river versus the draft of the large barges presents, in itself, a compelling argument for additional safeguards such as proposed by CSHB 243.

CSHB 243 addresses only the issue of safety, which, as

Alaskans learned in the aftermath of the EXXON VALDEZ disaster, must be addressed through preventive measures rather than after-the-fact hand wringing. By requiring that oil barges capable of carrying 15,000 barrels or greater be assisted by tugboats which shall employ state licensed pilots, the principle of prevention is put into practice, without unduly burdening smaller barge lines, and still enabling tug companies to keep their captains at the wheel, if they choose.

State licensed marine pilots are charged with keeping the interests of Alaska concerning safety, as opposed to profit, first and foremost; their primary responsibilities are not to the owner of the ship and the owner's economic interests, but to the state. Most importantly, however, state licensed marine pilots are familiar with the idiosyncracies of the rivers within their respective piloting regions. In fact, the very 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 interest.

There have been assertions regarding "potentially unqualified pilots" taking control of tugboats and actually increasing the risk, should this legislation pass. However, such assertions are without merit -- both the state and federal governments go to great lengths to ensure that a license holder is qualified in the region he or she is working. In addition, CSHB 243 mandates that the tug company employ a state licensed marine pilot while navigating rivers within pilotage regions; the tug company could keep its own pilot at the wheel, should it so choose, so long as the state licensed marine pilot is present on the bridge.

In light of the above factors, and bearing in mind that no one anticipated the EXXON VALDEZ spill either, I urge you to help keep Alaskan waterways the unique, virtually untouched havens they are by supporting CSHB 243. Your consideration is appreciated.

A fiscal note was requested from the Department of Transportation, and we were advised that there would be no fiscal impact associated with either HB243 or CSHB243.

HB 243

The Department of Commerce and Economic Development, Division of Occupational Licensing, remains neutral on the proposed bill as submitted. The inherent difficulty of navigating a shallow riverway which is ever changing and uncharted, except by local pilots, is recognized within the industry. Currently, all barge traffic on the Kuskokwim River is utilizing pilots on a routine basis; therefore, this bill would only put into statute an existing action. We heartily endorse the use of pilots in the context of safety of the environment in the prevention of oil spills upon these waterways. Passage of this bill will be precedent setting for the State of Alaska, and possibly the nation. The establishment of pilot requirements, as stated in this legislation, will place a requirement on the Board of Marine Pilots to set a maximum tariff, which will be applicable to all oil barge traffic.



Paul Fuhs, Commissioner

3-30-93

Date



Capt. W.E. Murphy, Inc.

P.O. BOX 597
HOMER, ALASKA 99603

(907) 235-8271

March 29, 1993

Representative Richard Foster, Chairman
House Transportation Committee
Alaska House of Representatives
Juneau, Ak. 99811

Dear Representative Foster:

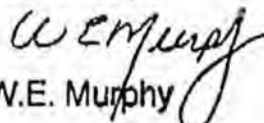
I am writing to urge you and your committee to support passage of House Bill 243 which will require state licensed marine pilots aboard tugs towing petroleum barges upon the rivers of Alaska.

As you are aware state pilots are already required by statute (OPA-90) to be aboard oil tankers in Prince William Sound and on oil tankers of more than 50,000 tons navigating other waters of the state (AS 08.62.185). It makes sense that the narrow confines of Alaska's rivers should be similarly protected by requiring state pilots with local knowledge and experience to be aboard the petroleum hauling vessels on these waters. HB 243 is a simple and straightforward bill which will do this and will not be a detriment to industry.

These comments are based on my experience as a practicing pilot in Southwest and Western Alaska for 20 years and by my service as former chairman of the Alaska Board of Marine Pilots.

Thank you for this opportunity to comment.

Yours truly,


W.E. Murphy



JOSEPH H. LANGJAHN
Vice President & General Counsel

March 25, 1993

Mr. Pete Spivey
G.R.S. Consulting
P. O. Box 020470
Juneau, Alaska 99802

Dear Pete:

Thank you for the draft of HB 243 which would require pilots on tank barges operating on rivers in Alaska. As I have indicated to you, I believe that the federal government has preempted Alaska's jurisdiction in this matter.

The provisions of 46 USC 8502 provide that federal pilots shall be required on all vessels not sailing on register [basically, meaning that they are operating on a coastwise voyage, not coming from a foreign port], are underway, are not on the high seas, and are subject to inspection. Section 8502(c) specifically states that a State may not impose on a federal pilot an obligation to procure a state license. I have enclosed a copy of 46 USC 8502 for your ready reference.

The Coast Guard has promulgated regulations setting forth the requirements for pilots and these are contained in 46 CFR 15.812 (copy enclosed). Coastwise seagoing tank barges subject to inspection shall be under the direction and control of a federal pilot, except when seaward of pilotage waters. This regulation goes on to provide in paragraph (e) that a licensed individual may serve as a pilot on tank barges of not more than 10,000 gross tons provided the individual has met certain service requirements. Our tug captains and mates who have met these requirements, therefore, are authorized to serve as a pilot pursuant to applicable federal law.

I do not believe that the State of Alaska has the authority or jurisdiction to require a State licensed pilot.

Very truly yours,

Joseph H. Langjahr

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POOR
ORIGINAL
COPIES

quired for the safe operation of inspected vessels.

(b) The minimum number of licensed mates required to be carried on every inspected, self-propelled, seagoing and Great Lakes vessel, and every inspected, seagoing, passenger vessel must not be less than the following, except when reductions are authorized under paragraph (e) of this section:

(1) Vessels of 1000 gross tons or more (except MODUs)—three licensed mates (except when on a voyage of less than 400 miles from port of departure to port of final destination—two licensed mates).

(2) MODUs of 1000 gross tons or more:

(i) Three licensed mates when on a voyage of more than 72 hours.

(ii) Two licensed mates when on a voyage of more than 16 but not more than 72 hours.

(iii) One licensed mate when on a voyage of not more than 16 hours.

(3) Vessels of 100 or more gross tons but less than 1000 gross tons—two licensed mates (except vessels of at least 100 but less than 200 gross tons on voyages which do not exceed 24 hours in duration—one licensed mate).

(4) All offshore supply vessels of 100 gross tons or more—two licensed mates (except when on a voyage of less than 600 miles—one licensed mate). A voyage includes the accrued distance from port of departure to port of arrival and does not include stops at offshore points.

(5) All vessels of less than 100 gross tons—one licensed mate (except vessels on voyages not exceeding 12 hours in duration may, if the OCMF determines it to be safe, be operated without licensed mates).

(c) An individual in charge of the navigation or maneuvering of a self-propelled, uninspected, documented, seagoing vessel of 200 gross tons or over must hold an appropriate license authorizing service as mate.

(d) The OCMF may increase the minimum number of mates indicated in paragraph (b) of this section where he or she determines that the vessel's characteristics, route, or other operating conditions create special circumstances warranting an increase.

(e) The Commandant will consider reductions to the number of mates required by this section when special circumstances allowing a vessel to be safely operated can be demonstrated.

(CGD 81-056, 52 FR 38652, Oct. 16, 1987, as amended by CGD 81-059, 54 FR 149, Jan. 4, 1989; CGD 81-052a, 55 FR 14805, Apr. 18, 1990)

Effective Date Note: A: CGD 81-059a, 55 FR 14805, Apr. 18, 1990. § 15.810 was amended by redesignating existing paragraphs (b)(2) through (b)(4) as (b)(3) through (b)(5), respectively; by revising paragraph (b)(1); and by adding a new paragraph (b)(2), effective January 1, 1991. For the convenience of the user, the superseded text of paragraph (b)(1) is set forth below:

§ 15.810 Mates.

(b) . . .

(1) Vessels of 1000 gross tons or more—three licensed mates (except when on a voyage of less than 400 miles from port of departure to port of final destination—two licensed mates).

§ 15.812 Pilot.

(a) The following vessels, when underway and not sailing on register, must be under the direction and control of a pilot:

(1) Coastwise seagoing vessels propelled by machinery and subject to inspection under 46 U.S.C. chapter 33, and seagoing tank barges subject to inspection under 46 U.S.C. chapter 37, except when seaward of pilotage waters.

(2) Vessels operating on the Great Lakes propelled by machinery and subject to inspection under 46 U.S.C. chapter 33, and tank barges subject to inspection under 46 U.S.C. chapter 37.

(b) [Reserved]

(c) The requirements of paragraph (a) of this section are satisfied when the vessel is under the direction or control of either:

(1) A first class pilot holding a valid license issued by the Coast Guard, acting within the restrictions on his or her license; or,

(2) An individual holding a valid license issued by the Coast Guard as

master, mate, or operator, employed aboard a vessel within the restrictions on his or her license and the limitations of paragraphs (d) and (e) of this section, provided he or she:

(i) Has reached the age of 21 years;
 (ii) Complies with the currency of knowledge provisions of 46 CFR 10.713 of this chapter; and,

(iii) Has a current physical examination in accordance with the provisions of 46 CFR 10.709.

(d) A licensed master or mate qualifying under paragraph (c)(2) of this section may serve as pilot of a coastwise seagoing vessel or a Great Lakes vessel, of not more than 1800 gross tons propelled by machinery and subject to inspection for certification, provided the individual has four round trips over the route to be traversed, while in the wheelhouse as watchstander or observer. One of the round trips must be made during the hours of darkness if the route is to be traversed during darkness.

(e) A licensed individual qualifying under paragraph (c)(2) of this section may serve as pilot of coastwise seagoing tank barges or tank barges operating upon the Great Lakes, totaling not more than 10,000 gross tons carrying cargoes subject to the provisions of 46 U.S.C. chapter 37, provided the individual:

(1) Has twelve round trips over the route to be traversed, three of which must be made during the hours of darkness if the route is to be traversed during darkness, as an observer or under instruction in the wheelhouse; and,

(2) Has at least six months' service in the deck department on towing vessels engaged in towing operations.

(f) (Reserved)

(g) In any instance when the qualifications of a person discharging the requirement for pilotage through the provisions of this subpart are questioned by the Coast Guard, the individual shall, within a reasonable time, provide the Coast Guard with documentation proving compliance with paragraph (c) of this section and the applicable portion(s) of paragraph (d) or (e) of this section.

§ 15.815 Radar observers.

(a) Each person in the required complement of licensed deck individuals, including the master, on inspected vessels of 300 gross tons or over which are radar equipped, shall hold a valid endorsement as radar observer.

(b) Each person who is employed or serves as pilot in accordance with Federal law on board vessels of 300 gross tons or over which are radar equipped shall hold a valid endorsement as radar observer.

§ 15.820 Chief engineer.

(a) There must be an individual holding an appropriate license as chief engineer or a license authorizing service as chief engineer employed on board the following inspected mechanically propelled vessels:

(1) Seagoing or Great Lakes vessels of 200 gross tons and over.

(2) Offshore supply vessels of more than 200 gross tons.

(3) Inland (other than Great Lakes) vessels of 300 gross tons and over, if the OCMI determines that a licensed individual responsible for the vessel's mechanical propulsion is necessary.

(b) An individual engaged or employed to perform the duties of chief engineer on a mechanically propelled, uninspected, seagoing, documented vessel of 200 gross tons or over must hold an appropriate license authorizing service as a chief engineer.

§ 15.825 Engineers.

(a) An individual in charge of an engineering watch on a mechanically propelled, seagoing, documented vessel of 200 gross tons or over, other than an individual described in § 15.820, must hold an appropriate license authorizing service as an assistant engineer.

(b) The Officer in Charge, Marine Inspection determines the minimum number of licensed engineers required for the safe operation of inspected vessels.

§ 15.830 Radio officers.

Radio officers are required on certain merchant vessels of the United States. The determination of when a radio officer is required is based on

verse the waters of Block Island Sound en route to a Connecticut port. *Warner v. Dunlap*, C.A.R. 1976, 332 F.2d 767.

Gen. Laws § 46-9.1-1 et seq. were permissible under U.S.C.A. Const. Art. 1, § 8, cl. 3, so long as they fell within ambit of former section 211 of this title which permitted states to regulate pilotage in certain waters. *Warner v. Replinger*, D.C.R.I. 1975, 397 F.Supp. 350, affirmed 332 F.2d 767.

State laws concerning pilotage are regulations of commerce and fall within class of powers which may be exercised by states until Congress sees fit to act otherwise. *People by Lefkowitz v. MacDonald*, 1972, 330 N.Y.S.2d 85, 49 Misc.2d 456.

7. Persons liable for acts of pilot

When vessel is required by compulsion of state or federal law to employ pilot in certain waters, and collision results which is sole fault of the pilot, owners of vessel are not liable in personam, but vessel itself is liable in rem. *Hogge v. SS Yorkmar*, D.C.Md. 1977, 434 F.Supp. 715.

Owner and operator of vessel was liable for negligent acts of pilot employed by them, in causing vessel to run aground with resulting injuries to person and boat on the shore. *Blanchard v. American Commercial Barge Line Co.*, D.C.La. 1972, 343 F.Supp. 920, affirmed 468 F.2d 950.

Ocean-going tug and not tanker midsection in tow of tug in a North Carolina harbor in which tanker midsection collided with moored United States Coast Guard cutter was liable in rem for acts of North Carolina state pilot whose ser-

vices were required under G.S.N.C. § 76-17 because ocean-going tug was of foreign registry. *U.S. Tug Parms Island*, D.C.N.C. 1963, 215 F.Supp. 144.

Owners of vessels which are boarded by qualified pilots who are experienced inland pilots and lake vessels over and pilot them to or from port are liable for acts of such pilots. *Cabins Tacker Industries, Inc. v. The Rio Maracaos*, D.C.Va. 1960, 182 F.Supp. 511, affirmed 235 F.2d 592, certiorari denied 81 S.Ct. 1902, 356 U.S. 948, 6 L.Ed.2d 1241.

8. Three-judge court

Connecticut pilots' claim that Gen. Laws § 46-9.1-1 et seq. which required Rhode Island license of pilots in Block Island Sound violated U.S.C.A. Const. Art. 1, § 8, cl. 3 and conflicted with former section 211 of this title presented only question under U.S.C.A. Const. Art. 6, cl. 2 which did not require convening of three-judge court. *Warner v. Replinger*, D.C.R.I. 1975, 397 F.Supp. 350.

9. Scope of judicial review

In action by pilot who was licensed for sound lying between port and open sea for statutory pilotage fees on ground that second pilot who had piloted ships across sound as well as within port, was licensed only for the port, once it was represented by the Coast Guard that second pilot had been properly examined for crossing sound between sea and port, district court erred in going behind second pilot's license, actively reviewing on its own pilot's examination, and rejecting Coast Guard's representation. *Campos v. Puerto Rico Sun Oil Co., Inc.*, C.A. Puerto Rico 1976, 336 F.2d 970.

§ 8502. Federal pilots required

(a) Except as provided in subsections (g) and (i) of this section, a coastwise seagoing vessel shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—

- (1) not sailing on register;
- (2) underway;
- (3) not on the high seas; and
- (4)(A) propelled by machinery and subject to inspection under part B of this subtitle; or
- (B) subject to inspection under chapter 37 of this title.

(b) The fees charged for pilotage by pilots required under this section may not be more than the customary or legally established rates in the States in which the pilotage is performed.

(c) A State or political subdivision of a State may not impose on a pilot licensed under this subtitle an obligation to procure a State or other license, or adopt any other regulation that will impede the pilot in the performance of the pilot's duties under the laws of the United States.

(d) A State or political subdivision of a State may not levy pilot charges on a vessel lawfully piloted by a pilot required under this section.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000. The vessel also is liable in rem for the penalty.

(f) An individual serving as a pilot without having a license required by this section or a regulation prescribed under this section is liable to the Government for a civil penalty of \$10,000.

(g)(1) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, if any, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.

(2) In any area of Prince William Sound, Alaska, where a vessel subject to this section is required to be under the direction and control of a pilot licensed under section 7101 of this title, the pilot may not be a member of the crew of that vessel and shall be a pilot licensed by the State of Alaska who is operating under a Federal license, when the vessel is navigating waters between 60°49' North latitude and the Port of Valdez, Alaska.

(h) The Secretary shall designate waters on which tankers over 1,600 gross tons subject to this section shall have on the bridge a master or mate licensed to direct and control the vessel under section 7101(c)(1) of this title who is separate and distinct from the pilot required under subsection (a) of this section.

(i)(1) Except as provided in paragraph (2), a dredge to which this section would otherwise apply is exempt from the requirements of this section.

(2) If the Secretary determines, after notice and comment, that the exemption under paragraph (1) creates a hazard to navigational safety in a specified area, the Secretary may require that a dredge exempted by paragraph (1) which is operating in that area shall comply with this section.

(Pub.L. 98-89, Aug. 26, 1983, 97 Stat. 553; Pub.L. 98-557, § 29(f)(1), (2), Oct. 30, 1984, 98 Stat. 2874; Pub.L. 99-307, § 1(13), May 19, 1986, 100 Stat. 446; Pub.L. 101-380, Title IV, §§ 4116(a), (b), 4302(g), Aug. 18, 1990, 104 Stat. 522, 539; Pub.L. 101-595, Title III, § 307, Nov. 15, 1990, 104 Stat. 2985.)

Crowley captains and mates operating vessels in Alaska meet federal pilotage requirements under 46 CFR §15.812 and are therefore authorized under federal law to serve as pilots. Requiring a federal pilot to procure a state license or otherwise attempting to supplant a federal pilot with a state pilot is contrary to and in direct conflict with clearly articulated federal law.

Congress has clearly chosen to occupy this field. Federal legislation and regulations specific to the area of pilotage exist, and have been upheld, interpreted and clarified by federal courts. As such, the State Legislature of Alaska has been preempted from acting in this area and has no authority to require a state licensed pilot.

cc. Charlie Nalen
Gary Faber
Art Jacobsen



7.

4601 Shilshole Avenue N.W.
Post Office Box 70438
Seattle, Washington 98107

Toll-Free (800) 528-0191
Telephone (206) 782-6877
Fax (206) 781-2488

Lawrence J. Soriano

VIA TELECOPIER

March 30, 1993

Mr. Ray Gillespie
Gillespie & Associates
9478 Riverbend Court
Juneau, Alaska 99801

Re: HB 243

Dear Ray:

We have reviewed the provisions of HB 243 requiring state-licensed pilots on tank barges operating in Alaska. We ask that you indicate to the appropriate legislative staff that this bill is directly contrary to Federal law and the constitutional principle of preemption.

At issue are tank vessels or barges (such as those owned by this company) that are Federally documented for the coastwise trade and inspected by the Coast Guard under Chapter 37 of Title 46, United States Code. As a general rule, pilots in the "bays, rivers, harbors, and ports of the United States" are regulated under state law, 46 U.S.C. § 8501. However, that same statute provides:

(d) A State may not adopt a regulation or provision that requires a coastwise vessel to take a pilot licensed or authorized by the laws of a State if the vessel --

(1) is propelled by machinery and subject to inspection under part B of this subtitle; or

(2) is subject to inspection under chapter 37 of this title.

(e) Any regulation or provision violating this section is void.

Mr. Ray Gillespie
March 30, 1993
Page 2

This restriction on state regulation of pilotage is also found in 46 U.S.C. § 8502(c) and (d), which requires Federally licensed pilots on all coastwise vessels.

Pursuant to this statute, Federal courts have struck down several state laws: David v. M/V ESTER S., 509 F.2d 1377 (5th Cir. 1975) (coastwise oil vessel not subject to Florida requirements for a pilot); and Ray v. Atlantic Richfield Co., 435 U.S. 151 (1978) (Washington State could not require pilot on coastwise tanker).

We understand that the only special exception to this rule are tank vessels operating on Prince William Sound, which was adopted after the EXXON VALDEZ oil spill. Otherwise, the State of Alaska cannot require a pilot on Federally inspected tank barges and vessels operating in the coastwise trade in the state.

Sincerely,

DELTA WESTERN


Lawrence J. Soriano
Executive Vice President

glsms.000



4601 Shilshole Avenue N.W.
Post Office Box 70438
Seattle, Washington 98107

Toll-Free (800) 528-0191
Telephone (206) 782-6977
Fax (206) 781-2486

Lawrence J. Soriano

March 25, 1993

Representative Richard Foster
Alaska State Capital
Juneau, Alaska 99801-1182

Re: House Bill 243

Dear Representative Foster:

I am writing to express our company's questions and concerns surrounding House Bill 243, which requires state licensed pilots to operate tug boats in the river pilotage regions. As a Western Alaska fuel distributor, Delta Western is a major operator and charterer of tug and barges that navigate the Western Alaska river systems.

At this point, we are unsure about the source and rationalism for this legislation. Our company has operated safely in the Western river region since 1983. All tug personnel are well trained in seamanship and are well versed in local knowledge of the rivers on which they operate. During our ten years of operation, we have compiled a strong safety record and have had no major spills.

The vessels utilized in the Western rivers are unique equipment specially designed for operating with the extreme shallow drafts located in these rivers. Pilotage requirements and operating experience for this type of vessel are different from pilotage requirements for deeper draft vessels such as those in Southeast Alaska, Cook Inlet or the Dutch Harbor area.

A major concern we have regarding this legislation (other than it would be yet another set of regulations to contend with) is the costs which are associated with it. Our company and management are familiar with pilotage rules, regulations and the increased operating costs that accompany such rules. Operating costs on the Western Alaska rivers are already extremely high due to the specialized nature of the equipment in which to deliver a year's supply of fuel. House Bill 243 will only add to the economic burden of operating in the remote areas of Alaska. We question

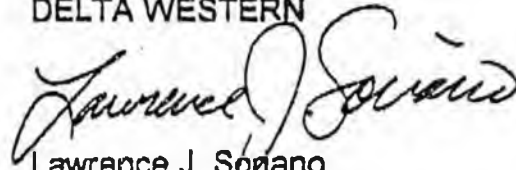
Representative Richard Foster
March 25, 1993
Page 2

whether this legislation is really in the best interest of the communities living and working in these remote areas.

We appreciate the opportunity to submit our concerns and questions for your careful consideration before making a judgment on the necessity of the proposed legislation. Should further information be needed, please feel free to contact me at (800) 528-0191 or directly at (206) 781-4777.

Sincerely,

DELTA WESTERN



Lawrence J. Soriano
Executive Vice President

cc: Senator George Jacko
Senator Al Adams
Senator Fred Zharoff
Representative Eileen MacLean
Representative Lyman Hoffman

hb243.doc



FORTY NINER TRANSPORTATION, INC.

8.

Reply to:

1600 A Street, Suite 308 • Anchorage, Alaska 99501 • (907) 279-5878 • Fax (907) 278-5700

RECEIVED MAR 23 1993

March 25, 1993

Via facsimile to
463-5522

Representative Richard Foster
State Capitol, Court
Room 611
Juneau, AK 99801

Ref: HB 243/Pilotage on Rivers

Dear Representative Foster:

I am opposed to this bill for several reasons. First and foremost, I would not want to relinquish command of my vessels to a pilot who may not have any tugboat experience. A barge "on the hip" responds much differently than a ship where rudders and propulsion are located on the center line. Every tug and barge unit has its own handling characteristics and a pilot, with or without tug experience, cannot gain knowledge of those idiosyncrasies in the short time he is on board.

Secondly, there may be no direct increase in our insurance cost while our vessels are under the command of a pilot, but we are at an increased risk of collision, grounding, etc., for reasons noted above. The direct costs would be lost revenues, vessel repairs and fines. It is my understanding that the pilot would have limited liability which is totally unexceptable.

Thirdly, this bill would set a precedent for other areas in the state to require pilots for smaller tank barges. It would add cost to an industry already overburdened with operating expenses. It should be noted that we use pilots or persons with local knowledge to guide, not take command of, our vessels when it is prudent.

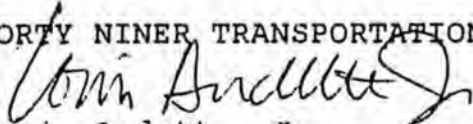
Finally, I take strong exception to a board establishing pilotage areas solely for the monetary benefit of its members. I

Letter to Representative Richard Foster
March 25, 1993
Page Two

have attached copies of letters from our insurance underwriter
and the American Waterways Operators regarding the pilotage
issues.

Sincerely,

FORTY NINER TRANSPORTATION, INC.


Louis Audette, Jr.
General Manager

cc: Senator George Jacko
Representative Eileen MacLean
Representative Lyman Hoffman
Senator Al Adams
Senator Fred Zharoff

RIBELIN LOWELL & COMPANY

3111 C Street, Suite 300
Anchorage, Alaska 99503-1111
Phone: (907) 581-1250 Fax: (907) 581-4315

Destination City and Country: ANCHORAGE

Fax No.: () 278-5700 Date: 3-24-93 Pages: 1

Company: FORTY NINER TRANSPORTATION Attn: LOUIE AUDETTE

FAX TRANSMISSION

SUBJECT: HOUSE BILL 243

LOUIE:

THANKS FOR CALLING AND SENDING ME THE FIRST PAGE OF THIS BILL. I DON'T SEE THE BILL ASSUMING IT PASSED, HAVING ANY DIRECT IMPACT ON MARINE INSURANCE; THAT IS, THE POLICIES WOULD NOT HAVE TO BE REVISED, NOR WOULD PREMIUMS CHANGE. INDIRECTLY, HOWEVER, I SEE A POTENTIAL PROBLEM DUE TO THE POSSIBLE INCREASED RISK THE VESSEL(S), CREW AND OTHER PARTIES WOULD FACE IF A POTENTIALLY UNQUALIFIED PILOT TOOK COMMAND OF A TUG. THE BILL SEEMS TO ME TO INCREASE, NOT DECREASE, THE RISK OF COLLISION, GROUNDING, ETC., ASSUMING, OF COURSE, THAT THE SKIPPER WAS FAMILIAR WITH THE RIVER IN QUESTION AND SO PERFECTLY CAPABLE OF CONNING THE VESSEL HIMSELF.

AS IS SO OFTEN THE CASE WITH INSURANCE, WE CAN'T ATTACH A SPECIFIC PRICE TO THE IMPACT ON INSURANCE COSTS TO SOMETHING SUCH AS THIS BILL. HOWEVER, I DON'T SEE IT HAVING A POSITIVE EFFECT. I HOPE THIS HELPS.

SINCERELY,



SENDER: Michael C. Padden

Ribelin Lowell & Company
Insurance Brokers Inc.
FAX#(907)581-4315

The American Waterways Operators

Pacific Regional Office

5015 West Marginal Way, S.W.
Seattle, WA 98106

TEL: (206) 764-1321
FAX: (206) 764-5782

January 6, 1993

Gerald P. McMahon
Vice President - Pacific Region

Post-It™ brand fax transmittal memo 7671 # of pages >

To	From
Louise Anderson	Gerald McMahon
Co.	Co.
Dept.	Phone #
Fax #	Fax #

Dear Mr. :

I write on behalf of the American Waterways Operators (AWO), the national trade association for the inland and coastal tug and barge industry, regarding the recommendation of the Pilotage Sub-Committee of the San Francisco Bay Harbor Safety Committee to change the U.S. Coast Guard pilotage requirements for tank barges operating on the Days of San Francisco, San Pablo and Suisun.

The American Waterways Operators supports the work of the Harbor Safety Committees in the State of California. Representatives from two of our member companies serve on the San Francisco Committee. AWO also endorses the approach followed by the OSPR to build as much consistency with other states and with the federal government in California marine safety rules. It is important that we all -- industry, local, state and federal government and the public -- work together to ensure that we adopt and implement responsible measures to prevent pollution and protect the environment.

We take strong exception to and oppose the recommendation of the Pilotage Sub-Committee which proposes that U.S. Coast Guard pilotage requirements be changed for laden tank barges on San Francisco and neighboring Bays from 10,000 gross tons to 5,000 long tons of oil. This recommendation has absolutely no factual basis which would demonstrate that it would improve marine safety. This recommendation, without any substantiation would establish a precedent for harbors and ports around the country. The Coast Guard is not likely to adopt a rule such as this for a single harbor. This recommendation would also add substantial cost to tank barge operations without providing any evidence that there would be a commensurate improvement in marine safety in San Francisco Bay.

Two recent studies which analyzed U.S. Coast Guard casualty data provide factual evidence that the safety performance of towing vessel captains is as good as or better than that of federal and state licensed pilots. A 1985 study conducted by Temple, Barker and Sloane, Inc.(TBS) compared the casualty records of oceangoing tank barges without pilots and ships with federal first class pilots while operating in U.S. harbors between 1972-1982. The TBS study compared oceangoing barges of 5000 gross tons or more with oceangoing ships of 1000 gross tons or more, and analyzed incidents of collisions and groundings attributed to the personal fault of the pilot, master, or mate directing the

movement of the vessel. Based on a comprehensive evaluation of U.S. Coast Guard casualty data, the study concluded that tank barges without pilots over 10,000 gross tons (which were not required to carry pilots during the years for which casualty statistics were studied) had about one-third the probability for accidents (0.0324) of U.S. tankers (0.0895). Tank barges of 5,000-10,000 gross tons had about two-thirds the probability for incidents (0.0588) of U.S. tankers (0.0895), using the same measure of exposure to risk. Another recent study was done by AWO of navigational safety on the Hudson River which further provides convincing evidence that the safety performance of towing vessel captains is not inferior to that of federal or state-licensed pilots. This study analyzed 51,314 tank vessel (tank barges and tankers) trips on the Hudson River between 1981-1989. State pilots were present on 5284 of those voyages. The USCG recorded 68 tank vessel casualties on the Hudson, 44 of which were ascribed to knowledge and maneuvering casualties (the kind of accidents which use of a pilot is meant to avoid). The ratio of knowledge and maneuvering casualties per trip for state-licensed pilots was 1/1057; the ratio for federally-licensed navigators was 1/1180. While the slightly better safety performance of federally-licensed navigators may not provide meaningful evidence that these individuals are superior to state pilots, it clearly demonstrates that state pilot performance is not superior to federally-licensed navigators.

These studies support the towing industry's longstanding contention that tug captains are fully qualified -- indeed, uniquely qualified -- to pilot tug-tank barge units. I would be more than happy to make these studies and factual evidence available to the San Francisco Bay Harbor Safety Committee. It should be mentioned that these are the only two studies that we are aware of comparing the performance of towing vessel captains with that of state-licensed pilots using historical data and facts.

We urge that the San Francisco Bay Harbor Safety Committee only adopt recommendations that will truly improve navigational safety ... recommendations that are based on facts and evidence. A navigational problem must first be defined and the proposed solution must be crafted to address the cause of the problem.

With all due respect to the work of the Pilotage Sub-Committee, there is no evidence and there are no facts that support this recommendation. In our opinion, this sub-committee has a responsibility to substantiate such a far-reaching recommendation. Not only does this recommendation lack substantiation, but it runs counter to the safety data that does exist. We, therefore, urge the San Francisco Bay Harbor Safety Committee to not include this recommendation in the Harbor Safety Plan.

Sincerely yours,

Gerald P. McMahon

9.

RECEIVED MAR 23 1983

Rick Blodgett
P.O. Box 532
Teller, Alaska 99778

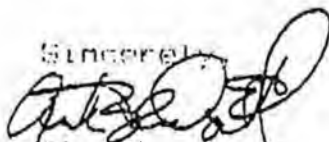
26 March

Honorable Richard Foster
Rm. 611 Court
Juneau, Alaska 99801-1182

Dear Richard .

I am taking the this opportunity to thank you for taking the time to see me on my recent trip to Juneau. I would also like to ask that you be in opposition to H.B. 243 requiring pilots on the barges that are hauling fuel as the vessels that we have through-out our region have very professional people in command and I see this as an additional cost to the consumer and I do not believe that it would be beneficial to have some one unfamiliar taking over a vessel when they are hauling a barge on the hip with a current and a crosswind component, that would be like having a C-130 pilot taking the controls of a 183 on a cross wind landing!!! It would be disastrous!!! I view it as another liability as if we don't have enough built into the system already.

Sincerely,



Rick Blodgett
T.C.Co. Fuel Inc.

THE
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DOCUMENTS
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COPIES



...s Drums

less prac-
irrantine,
in Albert,

shippers' pocketbook

By Mike Lammert
For the Tundra Drums

Shoppers may need to dig deeper into their pocketbooks to pay for groceries and other goods this summer due to a tariff increase scheduled for deep-water barge and ship owners bringing freight into Bethel.

The Kuskokwim Pilots Association, formerly Sumstad Navigation, will charge a half cent per pound or gallon — double last year's price — to guide barges and ships up and down the river when it opens.

In turn Northland Services Inc. and Crowley Marine Services Inc., the two barge companies delivering goods, plan to increase their price by 30 cents per 100 pounds.

"We will be adding the pilotage fee of 50 cents per 100 pounds to the bottom of freight bills similar to the wharfe and handling charges," said Peter Saunders, account manager for Crowley's Western Alaska division. "This is just too great of an expense to absorb."

Crowley, unlike Northland, does not plan to notify its customers in writing of the increase, Saunders said. He said that is the responsibility of Capt. Ron Sumstad, part-owner of the association.

"This is going to affect everyone who brings in freight to the port of Bethel," said Stuart Greydanus, Bethel Port director. Most of the increase will fall on the large barge orders placed by the grocery stores and others, he said.

Last year the pilotage rate was \$7,249 for the river pilots to guide foreign ships and barges, Sumstad said. That cost will nearly double for the upcoming season, said the association's lawyer, Mike Haglund, and Northland sales manager Steve

See Tariff, page 3

*From
the "TUNDRA DRUMS"
Bethel Paper 3/19/03
I've a lot of customers
calling in.*

ises to Iditarod crown

...miles sprint
...g of Denali
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...ping Mar-

behind, finishing just over half an hour behind King. Jonrowe completed the race in 10 days, 16:10:50. King and Jonrowe led the race for most of the last few days.

"I can tell you the difference between us at the end. Jeff had a stronger team," Jonrowe said at a news conference shortly after she and King arrived in Nome.

Jonrowe, who finished fifth in the 1992 Iditarod, started her dog mushing career in Bethel more than 12 years ago while a state Fish and Game biologist.



Michael Faublen/Tundra Drums

Quilters

Quilting Day. The Krazy Kusko Quilternats Wednesday at the Fish and host a quilt display at the Camel Fockwies from front: Julia Eggenberg-Martin, Rhonda Relneke. The quilt will be raffled off at the Camel F-

ished early Wednesday afternoon in seventh place, followed by Doug Swinglay of Montana. Akiak musher Mike Williams was still on the trail at presstime Wednesday. For the past two years, Williams has raced in the Iditarod to call attention to the sobriety movement.

Tariff ...

From page 1

Koponen.

The pilots travel nearly 35 miles out Kuskokwim Bay to meet freight haulers at Pilot Bar and then guide them on the 360-mile, 40-hour round-trip journey, Sumstad said.

"In the past we absorbed the pilotage cost, but it is such a large increase," said Judi McQuade, traffic manager for Northland.

The pilotage fee on 1,000 pounds of groceries will be \$5, McQuade said.

"Where this is really going to hurt is on really dense cargo," Koponen said. "A 40,000-pound shipment of soda pop will cost an additional \$200 in freight over last year's prices.

"It's a big increase for the businesses. In the past we were able to absorb the pilotage cost, but because it is almost a doubling in what was previously charged we need to recover the increase."

Local grocers first heard of the increase early this week when they received a letter from Northland informing them of the new fees.

"It is too soon to tell if the increase in freight will affect the prices of groceries for the average Bethel shopper," said Joe Marchetti, ANICA Grocery Store manager. "A lot of increases ANICA just absorbs and does not pass onto the customer."

Swanson's General Manager George Myran said he would rather not comment because he has not yet received confirmation from Crowley, the store's major barge supplier.

Steve Kikendall, the Anchorage-based spokesman for Alaska Commercial Co., could not be reached for comment.

Sumstad said his company was forced to increase fees because of the cost of complying with the overhauled pilotage statute. After the Exxon Valdez ran aground in Prince William Sound, the legis-

lature decided in 1991 to increase their enforcement of regulations, including ensuring pilots were properly trained and certified.

The increase must still be approved by the Alaska Board of Marine Pilots, the licensing and regulatory agency for marine pilots and Attorney General Charles Cole, Haglund said. He said he expects the board and the state will approve the tariff.

The tariff can be renegotiated with foreign vessels and barge lines once per year, Haglund said.

Sumstad began navigating the Kuskokwim in 1963 and his family has been the only company navigating ships up the Kuskokwim since 1957, he said.

"No one else knows the river," Sumstad said. "The state recognized the channel is always changing and pilots here must have previous season's experience in order to do the job. It is a gray-hair job."

Besides insurance, Sumstad said it costs his company \$2,000 for each of three pilots to become certified and \$30,000 in lawyers fees to restructure the business. In restructuring and renaming his business, Capt. Kim Buckman of Seldovia and Charles Phillip of Kwigillingok became equal owners with Sumstad of Seward.

Sumstad and Buckman have received state certification and Phillip is in the process of getting his Coast Guard license, the first step toward certification.

"They were always well-qualified but not certified," Haglund said. "For over 100 years there were only a few people on the whole river qualified to navigate."

"They used none of the elaborate navigational aids such as Corps of Engineers charts, soundings and navigational buoys used everywhere else," Haglund said. "Sumstad navigation opened and closed the river, set the navigational buoys and everyone had complete trust in them to navigate the deeper draft traffic. The Kuskokwim Pilots Association will be the first certified pilots in the history of the region."

TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION
FROM MICHAEL E. HAGLUND
ON H.B. 243

Admiralty Counsel for
Kuskokwim Pilots Association

March 30, 1993

I. Pilotage on the Kuskokwim River is a Unique and Unprecedented Situation.

Unlike this Country's other major rivers, the Kuskokwim River is primitive in terms of its navigational infrastructure. There is no dredged channel. There are no government-issued charts or any lights. The antiquated buoy system that does exist represents only a fraction of the typical number of aids to navigation per river mile found on other U.S. rivers.

The U.S. Coast Pilot, published by NOAA for the benefit of sea-going vessels, describes the hazardous passage into Kuskokwim Bay and up the Kuskokwim River as follows:

"The 40-mile approach through Eek Channel to Kuskokwim River is a maze of shifting sand bars, both visible and covered, and blind channels. The channels in the bay and river undergo constant change from year-to-year, because of the action of the sea, currents, and ice; extreme caution and continuous soundings are necessary. The procedure usually followed is for a small pilot boat from Goodnews Bay to precede the vessel through these waters, constantly feeling out the channels and sounding."

Despite the difficult passage, the Kuskowkim River has been open for commerce through the dedicated service of Sumstad Navigation over the last four decades. Capt. Ron Sumstad and his Uncle Ole before him have provided pilotage service to three to

six ships and 15-25 oil and freight barges each year on the Kuskokwim River since the 1950's. Alaska Geographic in a 1988 edition dedicated entirely to the Kuskokwim described how an oil barge transits the 93 miles to and from Bethel: it is led by a shallow draft pilot boat on a voyage that will take 10 hours each way -- "as the pilot picks a careful way amid the sand and mud bars along a channel that has not been charted since 1910."

One quote from Capt. Ron Sumstad is instructive:

"The whole river is tricky. But after a while, you get to be able to read the water, and see the bars under the water by just the way the water looks. Nowadays we have Loran and sophisticated navigation that we use to find the channel. Loran helps, but it will not teach you the channel. The mouth of the river has a 12-foot range of tides, so there's a strong current down there. If you don't know what you're doing, you can go sideways."

When Capt. Sumstad spoke those words in 1988, he and the two pilots working for his company were without question the only qualified pilots on the river, but they had no pilot's license of any kind -- federal or state. Following the passage in 1991 of a major revision to this state's pilotage statute, it was discovered that the Kuskokwim River was out of compliance because it had no state-licensed pilots. During the last six months, compliance has been achieved. The Kuskokwim Pilots Association has been formally approved and recognized by the Alaska Board of Marine Pilots and two of the Association's pilots, Capts. Sumstad and Buckman, have passed their exams with scores above 95% and received their licenses. But on the federal

side, there is still no federal first-class pilotage endorsement in existence for the Kuskokwim River.

Why protect the Kuskokwim River through compulsory pilotage for all vessels with dangerous cargoes? The answer is simple: fish and waterfowl. The lower Kuskokwim flows through one of North America's most important wildlife refuges. The Yukon Delta National Wildlife Refuge covers 20 million acres along the Kilbucks to Kuskokwim Bay and north to Norton Sound. The river supports important commercial and subsistence salmon fisheries. Indeed, the Kuskokwim, along with the Yukon, support Alaska's only riverine commercial salmon fisheries.

II. The Two Key Reasons for Requiring State-Licensed Pilots for Oil Barges on the Kuskokwim: Environmental Protection and a License that Ensures Adequate Local Knowledge.

There are two basic reasons to support requiring state pilotage for oil tank barges through the modest expansion of Alaska's current provision, AS 08.62.185, which already mandates state pilots for all oil tankers while plying Alaska waters. First, within the unique waters of Kuskokwim Bay and River, oil barge traffic is the single biggest threat to the marine environment. 100 x 400 ft. oil barges, which regularly supply Bethel, can carry over 2.5 million gallons of oil. Historically, barges are a significant source of U.S. oil spills. In Washington, the 250,000 gallon spill from the barge NESTUCCA in 1988 is that state's single largest oil spill, causing damage to the north coast of Washington and Vancouver Island in British Columbia.

Second, the only license that guarantees the requisite level of local knowledge to pilot oil tank barges into the Kuskokwim River is that issued by this State to the historic pilots on this waterway. Without state regulation, we have only the promise of industry's voluntary use of Capt. Sumstad and his colleagues. Without the passage of this bill, there is nothing to prevent a tug and barge company from using one of their own masters or mates who meets the following minimal criteria: 12 round trips over the route and six months experience in the deck department on towing vessels. These trips can be accumulated over a period of years and the recency requirement is only one trip every five years.

Compare this with Alaska's licensing requirements for the Kuskokwim: three years as a trainee pilot on the river; 15 round trips during the two years prior to licensure plus supervised dockings; and a minimum of 15 trips in any one year to renew the license for the following year. Can there be any question that this is a regulatory gap that must be filled if the Alaska Pilotage Statute is to fulfill its declared policy "to prevent the loss of lives and property, and to protect the marine environment of the state by requiring compulsory pilotage on the inland and coastal water of and adjacent to the state."

III. **This Oil Pollution Prevention Bill is Not Preempted by Federal Law.**

Prior to 1990, there was a good argument that states were prohibited from imposing additional regulatory requirements on the coastwise oil trade. However, with the passage of the Oil

Pollution Act of 1990, Congress explicitly authorized states to enact their own statutes and regulations to prevent oil spills on state waters and to impose liability for those spills. OPA 90 at 33 U.S.C. § 2718(a) expressly allows states to impose more restrictive regulations than those contained in federal law.

This is exactly what this bill proposes to do: extend compulsory state pilotage to include large oil barges.

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

NAVIGABLE WATERS

YES

1990, as provided by § 1020 of Act Aug. 18, 1990, P. L. 101-380, 104 Stat. 484, which appears generally as 33 USCS

Under this Act may be had of Appeals of the United States within 90 days from the date to which review could not be had in any civil or criminal proceeding for recovery of response costs. The United States district courts under this Act, without removal to any Federal court, shall lie in any district in which the defendant resides, the service of process was made, or the removal took place. For the purposes of this Act, the removal of claims for removal under this Act or State law shall be treated as if the removal were a matter of course. (a), (b), and (c) shall not affect the collection of any tax under the Internal Revenue Code of 1986 [26 U.S.C. 101 et seq.] or the right of recovery under this title (enacted after August 18, 1990, as provided by § 1020 of Act Aug. 18, 1990, P. L. 101-380, 104 Stat. 484, which appears generally as 33 USCS 2701 et seq.) applicable on the date of enactment of this title. (3) and (4), an action shall be brought within 3 years after the date of discharge or removal of oil or other pollutant with the discharge of oil or other pollutant. 1002(b)(2)(A) [33 USCS 2702(b)(2)(A)] sources damage assessment completed in section 1002(b)(1) shall enter a declaratory judgment on any subsequent claim for recovery of removal costs or damages may be recovered of such costs or damages with respect to such costs or damages under this Act by reason of the discharge or removal of oil or other pollutant not begin to run— (1) if the minor reaches 18 years of age after the date of discharge or removal of oil or other pollutant for such minor, or (2) if the minor is incompetent at the time of discharge or removal of oil or other pollutant on which such incompetent is duly appointed.

YES

101-380, 104 Stat. 484,

OIL POLLUTION

33 USCS § 2718

which is entitled the "Oil Pollution Act of 1990" and which appears generally as 33 USCS §§ 2701 et seq. For full classification of such Act, consult USCS Tables volumes. "This title", referred to in this section, is Title I of Act Aug. 18, 1990, P. L. 101-380, 104 Stat. 484, which appears generally as 33 USCS §§ 2701 et seq. For full classification of this Act, consult USCS Tables volumes.

Other provisions:

Applicability of section. This section is applicable to an incident occurring after August 18, 1990, as provided by § 1020 of Act Aug. 18, 1990, P. L. 101-380, which appears as 33 USCS § 2701 note.

§ 2718. Relationship to other law

(a) **Preservation of State authorities; Solid Waste Disposal Act.** Nothing in this Act or the Act of March 3, 1851 shall—

(1) affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof from imposing any additional liability or requirements with respect to—

(A) the discharge of oil or other pollution by oil within such State; or

(B) any removal activities in connection with such a discharge; or

(2) affect, or be construed or interpreted to affect or modify in any way the obligations or liabilities of any person under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or State law, including common law.

(b) **Preservation of State funds.** Nothing in this Act or in section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall in any way affect, or be construed to affect, the authority of any State—

(1) to establish, or to continue in effect, a fund any purpose of which is to pay for costs or damages arising out of, or directly resulting from, oil pollution or the substantial threat of oil pollution; or

(2) to require any person to contribute to such a fund.

(c) **Additional requirements and liabilities; penalties.** Nothing in this Act, the Act of March 3, 1851 (46 U.S.C. 183 et seq.), or section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), shall in any way affect, or be construed to affect, the authority of the United States or any State or political subdivision thereof—

(1) to impose additional liability (or additional requirements); or

(2) to impose, or to determine the amount of, any fine or penalty (whether criminal or civil in nature) for any violation of law, relating to the discharge, or substantial threat of a discharge, of oil.

(d) **Federal employee liability.** For purposes of section 2679(b)(2)(B) of title 28, United States Code, nothing in this Act shall be construed to authorize or create a cause of action against a Federal officer or employee in the officer's or employee's personal or individual capacity for any act or omission while acting within the scope of the officer's or employee's office or employment. (Aug. 18, 1990, P. L. 101-380, Title I, § 1018, 104 Stat. 505)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text

"This Act", referred to in this section, is Act Aug. 18, 1990, P. L. 101-380, 104 Stat. 484, which is entitled the "Oil Pollution Act of 1990", and which appears generally as 33 USCS §§ 2701 et seq. For full classification of such Act, consult USCS Tables volumes.

"The Act of March 3, 1851", referred to in this section, is a reference to Act Mar. 3, 1851, ch. 43, 9 Stat. 635, which appears generally as 46 USCS Appx §§ 182 et seq. For full classification of this Act, consult USCS Tables volumes.

Other provisions:

Applicability of section. This section is applicable to an incident occurring after August 18, 1990, as provided by § 1020 of Act Aug. 18, 1990, P. L. 101-380, which appears as 33 USCS § 2701 note.

Oil pollution report. Act Dec. 19, 1991, P. L. 102-241, § 32, 105 Stat. 2222, provides: "Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (Public Law 101-380; 104 Stat. 484) [this section] on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill."

RESEARCH GUIDE

Law Review Articles:

Mitchell, Preservation of state and federal authority under the Oil Pollution Act of 1990 21 *Envil L* 237, 1991.

PILOTAGE JOBS PERFORMED
BY SUMSTAD NAVIGATION SERVICES, INC.

1988-1992

(Compulsory Pilotage Vessels Designated by Asterisk)

1988		1989	
TUG	MERCURY <i>C</i>	TUG	MARINE CRUASADER <i>PW</i>
TUG	MALOLO <i>N</i>	TUG	POLAR SEA <i>N</i>
TUG	JUSTINE FOSS <i>F</i>	TUG	SEA RACER <i>C</i>
TUG	SEA WOLF <i>C</i>	TUG	SEA HORSE <i>C</i>
*M/V	NICHIO MARU	*M/V	SHINMEI MAUR
*M/V	SASHIO MARU	TUG	VIGILANT <i>L</i>
TUG	SIDNEY FOSS <i>F</i>	TUG	VIGILANT <i>C</i>
TUG	PT OLIK TOK <i>C</i>	*M/V	NICHIYO MARU
TUG	HARRIS BAY <i>DW</i>	TUG	JEFFERY FOSS <i>F</i>
*M/V	KOYO MARU	TUG	ELEPHANTE GRANDE <i>C</i>
*M/V	UNO MARU	TUG	MARINE CHALLENGER <i>ER DW</i>
TUG	PT OOIKTOK <i>C</i>	TUG	POINT THOMPSON <i>C</i>
TUG	MACRIS BAY <i>DW</i>	TUG	ELEPHANTE GRANDE <i>L</i>
TUG	POLAR STAR <i>N</i>	*M/V	HIYOSHI MARU
TUG	HARRIS BAY <i>DW</i>	TUG	SEA VIKING <i>C</i>
TUG	GERONIMO <i>C</i>	TUG	MARINE CHALLENGER <i>DW</i>
TUG	SIOUX <i>L</i>	TUG	MARINE CHALLENGER <i>DW</i>
*M/V	HIYOSKI MARU	*M/V	KOYO MARU
TUG	HARRIS BAY <i>DW</i>	TUG	POLAR STAR <i>N</i>
		TUG	MARINE CHALLENGER <i>DW</i>
		TUG	ELEPHANTE GRANDE <i>L</i>
		TUG	SEAHORSE <i>C</i>
		TUG	JEFFERY FOSS <i>F</i>
		TUG	SIOUX <i>L</i>

C = Crowley

N = Northland

F = Foss

DW = Delta Western

1990

TUG MARINE CHALLENGER DW
TUG JUPITER C
TUG SIOUX C
TUG ELEPHANTE GRANDE L
TUG POLAR STAR N
TUG OCEAN MARINER O
TUG PACIFIC FALCON O
TUG MAYA H O
*M/V HAKUSHIN MARU
TUG MAYA H O
TUG JUPITER C
TUG ELEPHANTE GRANDE C
TUG DREW FOSS N
*M/V HAKO CARDIOID
TUG SIOUX - C
TUG MARINE CHALLENGER DW
TUG PACIFIC FALCON - O
*M/V HOKUSHIN MARU *
TUG DAPHNE O
TUG MARINE CHALLENGER DW
TUG JUPITER C
TUG POLAR STAR N
TUG GERONIMO C
TUG MARINE CHALLENGER DW
TUG DREW FOSS N
TUG OCEAN MARINER - O

1991

TUG JUPITER C
TUG SIOUX C
TUG TARUS N
TUG MERCURY C
TUG SIOUX C
TUG SIOUX C
TUG ALASKA MARINER - O
*M/V SHINHAE MARU
TUG SEA VIKING C
TUG PASTOLIK O
TUG DREW FOSS N
TUG NICHIGO MARU
TUG TWILIGHT DW
TUG SIOUX C
TUG TRIDENT O
*M/V HIYOSKI MARU
*M/V POLAR WIND N
TUG SEA HORSE C
TUG TETUSHIN #5
TUG TWILIGHT DW
*M/V KOYO MARU
TUG TARUS N
TUG TARUS N
TUG GERONIMO C
TUG SEA HORSE C
TUG BLARNEY O
TUG DREW FOSS N
TUG SIOUX C

1992

TUG	TWILIGHT DW
*M/V	CAPT ST. JOHN
TUG	TARUS N
TUG	JUPITER L
TUG	SIOUX L
TUG	SIOUX L
TUG	SIOUX L
TUG	JUPITER L
*M/V	KOYO MARU
TUG	SIOUX L
TUG	JUPITER L
TUG	SIOUX L
*M/V	KOYO MARU
TUG	SIOUX L
TUG	TWILIGHT DW
TUG	JUPITER L
TUG	BLARNEY O
TUG	POLAR STAR N
TUG M/V	KOSEI MARU
*M/V	TITUSEN #5
TUG	BLARNEY O
TUG	POLAR WIND -N
TUG	BLARNEY O
*M/V	KOYO MARU
TUG	SIOUX L
TUG	SIOUX L
TUG	JUPITER L
TUG	SIOUX L
*M/V	KOSEI MARU
TUG	OCEAN NAVIGATOR DW
TUG	TARUS N
TUG	SIOUX L
TUG	SIOUX L
TUG	SIOUX L
TUG	TARUS N
TUG	TARUS N

March 30, 1993

Representative Richard Foster
Alaska State Legislature
Juneau, Alaska

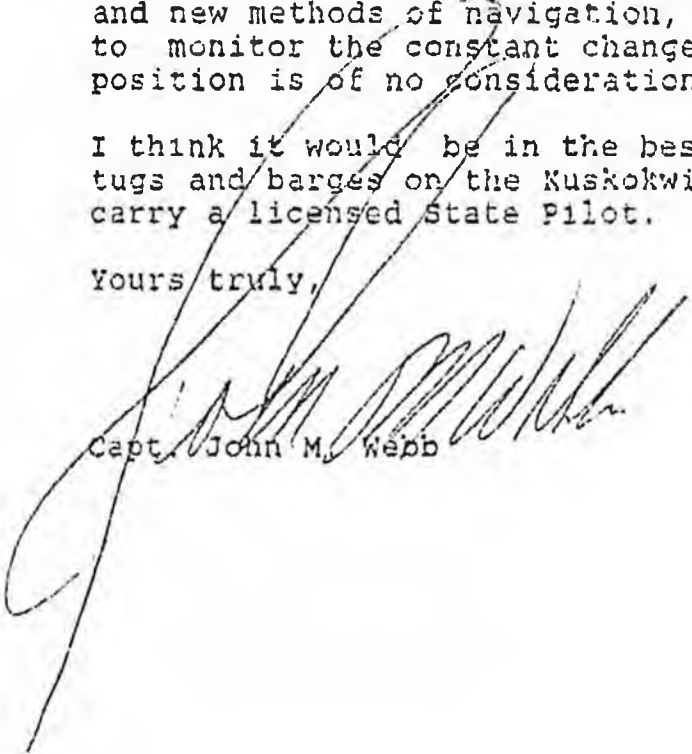
Dear Sir:

I worked on tugs and barges for 10 years for Crowley Maritime and 8 years for the Foss Company out of Seattle. I worked mostly on the Aleutian Chain, Bering Sea and made many trips into the Kuskokwim River. The last 15 years I have been an Alaska State Pilot.

Regardless of what is said about the Global Positioning System and new methods of navigation, if one does not have the facility to monitor the constant change in bottom conditions and depth, a position is of no consideration.

I think it would be in the best interest of the state to require tugs and barges on the Kuskokwim River hauling hazardous cargo to carry a licensed State Pilot.

Yours truly,



Capt. John M. Webb

GRS Consulting

COMMUNICATIONS & GOVERNMENTAL AFFAIRS

PETE SPIVEY • 429 W. 10TH STREET • JUNEAU, ALASKA 99802 • (907) 586-1555

March 26 1993

Ray Gillespie
Gillespie & Associates
318 Fourth Street
Juneau, AK. 99801

Dear Ray:

I have discussed HB 243 with my client, Foss Maritime. Attached you will find a statement on the bill from Joe Langjahr, Foss vice president and general counsel, as well as copies of the relevant federal regulations he cites.

Clearly, in Mr. Langjahr's view, the bill would move the state into an area in which the federal government has preemption.

Sincerely,



Pete Spivey
for Foss Maritime



P.O. BOX 3098
HOMER, ALASKA 99603
(907) 235-2490

FACSIMILE TRANSMITTAL FORM

DATE AND TIME:

2100 HOURS, 29 MARCH 1993

TO:

GEOFF BULLOCK

FROM:

ED MURPHY

SUBJECT:

LETTER TO REP. FOSTER

If there are any problems with this facsimile transmission, please call (907)-235-2490

Capt. W.E. Murphy, Inc.

P.O. BOX 597
HOMER, ALASKA 99603

(907) 235-8271

RECEIVED APR 01 1993

March 29, 1993

Representative Richard Foster, Chairman
House Transportation Committee
Alaska House of Representatives
Juneau, Ak. 99811

Dear Representative Foster:

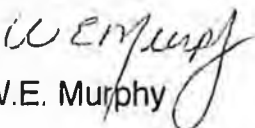
I am writing to urge you and your committee to support passage of House Bill 243 which will require state licensed marine pilots aboard tugs towing petroleum barges upon the rivers of Alaska.

As you are aware state pilots are already required by statute (OPA-90) to be aboard oil tankers in Prince William Sound and on oil tankers of more than 50,000 tons navigating other waters of the state (AS 08.62.185). It makes sense that the narrow confines of Alaska's rivers should be similarly protected by requiring state pilots with local knowledge and experience to be aboard the petroleum hauling vessels on these waters. HB 243 is a simple and straightforward bill which will do this and will not be a detriment to industry.

These comments are based on my experience as a practicing pilot in Southwest and Western Alaska for 20 years and by my service as former chairman of the Alaska Board of Marine Pilots.

Thank you for this opportunity to comment.

Yours truly,


W.E. Murphy

Atty Michael Haglund
& Haglund and Kirtley
1247 6th Avenue
Portland, Oregon

(503) - 225 - 0777

Captain Ron Sumstad
Bethel, Alaska

224-3249

P.S. No "Script" was
used



House Transportation CMTE.

DATE: 3-30-93

PLACE: C-102

SUBJECT OF MEETING:
-HB 243-
-HB 182+183

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
* Mike Tagliazento	Delta Western	Anch. 510 L. St. Suite 306	99501	No	276 2688	(Y) N	HB 243
* Louis Audette	49er Transportation	1600 A. St, Suite 308 Anch 99501		No	279 5878	(Y) N	HB 243
* Art Jacobsen	Crowley Marine Svcs.	P.O. Box 2287 Seattle, Wa. 98111		No	206 340 2938	(Y) N	11
Clyde Stoltzhus	DOT/PPF	3132 Channel Drive Juneau, AK 99801			465 3900	Y N	ref needed
* * Mike Haglund * Tom SUMSTAD	Rustokwin K. P. A.	Box 1476 SEWARD ALASKA 99664		Y	224-3209	(Y) N	HB 243
Jannette James	Self.	sponsor.				Y N	HB 182/183
✓ Bryce Edmon / Sen. Jack	—	STATE CAPITOL	99502-1193	No		(Y) N	HB 243
Ray Gillespie		Crowley		No		Y N	
Bob Hewson	Hoffman			No		Y N	
Bob [unclear]	[unclear]			No		Y N	
[unclear]						Y N	

* will address a mail of [unclear]