

Exh. MM-46
Docket TP-190976
Witness: Capt. Michael Moore

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

DOCKET TP-190976

**EXHIBIT TO
TESTIMONY OF
Captain Michael Moore
ON BEHALF OF
PACIFIC MERCHANT SHIPPING ASSOCIATION**

PMSA Letter to Gov. Inslee on Sweeney Settlement

July 13, 2020

PMSA



November 7, 2016

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Dear Governor Inslee,

I am writing on behalf of the members of the Pacific Merchant Shipping Association (PMSA) regarding the state's settlement of the case of the Washington State Board of Pilotage vs. Catherine Sweeney. PMSA members include marine terminal operators and ocean carriers that serve the West Coast of the United States – including all of the public ports in the Puget Sound area. Our ocean carrier members are required by state law to pay a tariff for pilotage services provided by the Puget Sound Pilots which are licensed by the State Board of Pilotage Commissioners.

The fact that Captain Sweeney's gender discrimination lawsuit had to be brought in the first place is troubling, and we encourage the State and Board to work hard to eliminate the possibility that such gender discrimination and subsequent judgment would ever occur again.

Post-judgment we were surprised to learn that the subsequent settlement between her legal representatives and the State of Washington now approaches \$6.1 million. Even more surprising is the notion that ocean carriers might be held responsible for payment of the \$6.1 million settlement – even though these companies were not parties to the lawsuit. In addition, these companies were not involved in the court action regarding discriminatory practices of the State nor were they involved in the settlement negotiations. While the gender discrimination actions of the state were unfortunate, and hopefully corrected going forward, it is the state that must take responsibility for its actions as opposed to passing it off to innocent third parties. Legal penalties are designed to be paid by the responsible parties. Transferring payment responsibilities to uninvolved third parties circumvents this principle.

The state's pilotage service is compulsory and provided by a monopoly, and vessels have very little to say in how the service is delivered, who delivers it, how pilots are selected or trained, or even when pilots work or for whom. Yet, at a recent meeting with Office of Financial Management staff, a PMSA representative was asked if our members would support increasing the tariff charged to ocean carriers to pay for the ruling against the state. We simply cannot accept setting the precedent that vessel operators calling Washington's ports can be held

Pacific Merchant Shipping Association

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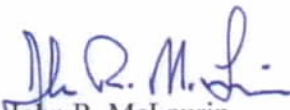
financially responsible for any portion of the liability which resulted from behaviors and actions of the State of Washington.

Further still, it is in the best interests of the State of Washington to avoid adding additional costs and fees to these vessels thereby compromising the ability of Washington public ports to attract cargo and create jobs. Washington's two container ports are largely discretionary, with 70 percent of cargo moving over the docks bound for the Midwest and East Coast. Canada and East Coast ports are now competing for that cargo. Because of slowing international trade, cargo growth at one port comes at the expense of another. The precedent of pushing state liability costs onto ocean carriers increases the uncertainties of doing business in the Puget Sound gateway and undermines competitiveness.

The added pressure on the industry of consolidation, low rates, fewer but larger vessels means some ports will win and some will lose. The recent example of Zim Shipping Line announcing a new weekly service to the Pacific Northwest bypassing Tacoma and Seattle in favor of the Port of Prince Rupert demonstrates these competitive realities. The loss of discretionary imported cargo from Asia means a reduction in access for Washington growers and manufacturers to Asian markets. In other words, the imports subsidize the exports, providing the critical link for Washington businesses and employees.

On behalf of PMSA members, we urge you to ensure settlement obligations of the state are addressed by the state and not by ocean carriers that had nothing to do with the legal case or the settlement. If you need more information please contact Captain Mike Moore in our Seattle office at (206) 441-9700.

Sincerely,


John R. McLaurin
President

CC:

Jay Balasbas, OFM
Senator Curtis King
Representative Judy Clibborn
Senator Steve Hobbs
Representative Ed Orcutt