

PUGET SOUND PILOTS' RESPONSES TO PMSA DATA REQUESTS Nos. 328-346

DATE PREPARED: December 28, 2022 DOCKET: TP-220513 REQUESTER: Pacific Merchant Shipping Association ("PMSA")	WITNESS: CAPTAIN ANNE MCINTYRE RESPONDER: CAPTAIN ANNE MCINTYRE PUGET SOUND PILOTS DATE: January 20, 2023 TEL: 415-393-0460 EMAIL: <a href="mailto:a.mcintyre@sfbarpilots.com">a.mcintyre@sfbarpilots.com</a>
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**PMSA DATA REQUEST NO. 328:** Regarding Exh. ALM-02, and your experience which included service as a Pilot Commissioner on the Oregon Board of Maritime Pilots in 2006-2014, please provide all of the following:

- 1) Describe the total staffing level of the pilot corps and the level of diversity for the Columbia River Bar Pilots and the Columbia River Pilots in 2006.
- 2) Describe the total staffing level of the pilot corps and the levels of diversity for the Columbia River Bar Pilots and the Columbia River Pilots in 2014.
- 3) Do you agree that the testimony of Capt. Dan Jordan is a fair representation of the rate and pilot income environment during your time on the Oregon Board of Maritime Pilots (Exh. DJ-01T 12:13–15 (“During most of the first decade of the 2000s, which was a period of considerable rate instability, the CRBP fell behind much of the West Coast in terms of pilotage compensation and benefits.”))?

**RESPONSE:**

- 1) I did not maintain records related to the total staffing level of the pilot corps and level of diversity for the Columbia River Bar Pilots and the Columbia River Pilots in 2006. However, my recollection is that the Columbia River Bar Pilots had one female pilot and the Columbia River Pilots had one female pilot and one Native American pilot in 2006.
- 2) I did not maintain records related to the total staffing level of the pilot corps and level of diversity for the Columbia River Bar Pilots and the Columbia River Pilots in 2014. However, my recollection is that the Columbia River Bar Pilots had one female pilot and the Columbia River Pilots had two female pilots and one Native American pilot in 2014.
- 3) Yes.

**PMSA DATA REQUEST NO. 330:** Further regarding Exh. ALM-01T 3:9–20, regarding callbacks, admit that San Francisco Bar Pilots are allowed to arrange for trades of assignments between on-duty and off-duty pilots under SFBP bylaws or operating rules. If denied, please describe the manner in which trades of assignments are authorized or allowed.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 331:** Further regarding Exh. ALM-01T 3:9–20, regarding callbacks, admit that San Francisco Bar Pilots bylaws do not require two days of compensation to be credited to a pilot that takes one callback assignment.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 332:** Further regarding Exh. ALM-01T 3:9–20, regarding callbacks, please describe the watchkeeping rotation schedule that San Francisco Bar Pilots utilize.

**RESPONSE:**

The San Francisco Bar Pilots' watchkeeping rotation schedule is 7 days on and 7 days off.

**PMSA DATA REQUEST NO. 334:** Regarding Exh. ALM-01T 5:15–18, please define “regulatory lag.”

**REPOSE:**

While I believe that the term "regulatory lag" is self-explanatory, it refers to the delays that can occur throughout a regulatory process such as the rate setting process for pilotage rates. Though the Legislature did consider the bills referenced in PMSA’s data requests 335 & 336 it is my opinion, and I believe that PMSA would agree, that the rate setting process was extraordinarily politicized and dysfunctional and as a result, pilotage rates were not updated or reviewed in a manner consistent with an effective rate setting model.

I believe the passage of AB 2056 on September 30, 2022, which requires an evidence based hearing with an administrative law judge will remedy the deeply flawed system that was previously in place.

**PMSA DATA REQUEST NO. 335:** Regarding Exh. ALM-01T 4:14–22, regarding legislation which concerned the imposition of pilotage rates or surcharges in the California legislature since 2002, please respond to all of the following:

- 1) Admit that in 2002 the California Legislature considered SB 1353.
- 2) Admit that in 2004 the California Legislature considered SB 1303.
- 3) Admit that in 2005 the California Legislature considered AB 852.
- 4) Admit that in 2009 the California Legislature considered SB 300.
- 5) Admit that in 2010 the California Legislature considered AB 1888.
- 6) Admit that in 2011 the California Legislature considered AB 907.
- 7) Admit that in 2012 the California Legislature considered AB 2287.
- 8) Admit that in 2015 the California Legislature considered AB 1432.
- 9) Admit that in 2016 the California Legislature considered AB 1432.
- 10) Admit that in 2021 the California Legislature considered AB 807.
- 11) Admit that in 2022 the California Legislature considered AB 2056.

If any of the above are denied, please state the basis for the denial.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 336:** Regarding Exh. ALM-01T 4:14–5:13, regarding legislation on the subject of regulation of state licensed pilotage generally, including reforms to the pilotage rate setting process, in the California legislature since 2002, please respond to all of the following:

- 1) Admit that in 2008 the California Legislature considered SB 1217.
- 2) Admit that in 2008 the California Legislature considered SB 1627.
- 3) Admit that in 2010 the California Legislature considered AB 2637.
- 4) Admit that in 2011 the California Legislature considered AB 1025.
- 5) Admit that in 2012 the California Legislature considered AB 2042.
- 6) Admit that in 2012 the California Legislature considered SB 1408.
- 7) Admit that in 2016 the California Legislature considered SB 1312.
- 8) Admit that in 2018 the California Legislature considered AB 251.
- 9) Admit that in 2018 the California Legislature considered AB 3049.
- 10) Admit that in 2018 the California Legislature considered AB 3181.
- 11) Admit that in 2020 the California Legislature considered AB 1372.
- 12) Admit that in 2022 the California Legislature considered AB 2056.

If any of the above are denied, please state the basis for the denial.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 337:** Regarding Exh. ALM-01T 6:12–21, regarding the question of a pilotage rates which “include medical insurance benefits for pilots as an expense,” admit that under Oregon Board of Maritime Pilots’ Final Order 10-01, May 19, 2010, relating to the Columbia River Pilots, and Final Order 10-02, May 19, 2010, relating to the Columbia River Bar Pilots, which were approved during your term as a Commission on the Oregon Board of Maritime Pilots, that payments to pilots on the Columbia River and Columbia River Bar are to be considered part of Target Gross Income, which are funds to be distributed to individual pilots for the purpose of enabling each pilot to fund their own individual retirement plans, and not treated as a pilot association expense. If denied, please provide an explanation of the basis for denial.

**RESPONSE:**

Admit.



**PMSA DATA REQUEST NO. 338:** Regarding Exh. ALM-01T 6:23–7:9, admit that San Francisco Bar Pilots also sponsors a 401(k) program in which individual pilots may choose to participate.

**RESPONSE:**

Admit, with the clarification that ERISA rules require all pilots to participate. Note that the San Francisco Bar Pilots' primary pension benefit is a statutory farebox or pay-as-you-go defined benefit plan. Specifics of the pension benefit are detailed in the California Harbor and Navigation Code, Division 5. Pilots for Monterey Bay and the Bays of San Francisco, San Pablo and Suisun, Chapter 3. Pension Plan (1160-1168).

**PMSA DATA REQUEST NO. 339:** Further regarding Exh. ALM-01T 6:23–7:9, please describe how many currently licensed pilots opt to voluntarily participate in the 401(k) program administered by San Francisco Bar Pilots.

**RESPONSE:**

ERISA rules require all pilots to participate in the 401K plan; however individual contribution options vary from zero to IRS maximums.

**PMSA DATA REQUEST NO. 340:** Regarding Exh. ALM-01T 7:23–26, regarding exposure to significant risk and liability for independent contractor pilots, admit that California Harbors and Navigation Code §1198 provides that all liability arising from negligence or errors in judgment in connection with the provision of pilotage service by pilots, organizations of pilots, or their officers or employees, except in the case of willful misconduct, shall either be defended, indemnified, or held harmless by a vessel for any damages or expenses sustained by the vessel, even if resulting in whole or in part from the acts, omissions, or negligence of the pilot, or primary marine insurance must be purchased to cover the pilots such that they are covered if named in any civil claim regarding any action arising out of the provision of pilotage service.

If denied, please state the basis for the denial.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 341:** Regarding Exh. ALM-01T 7:23–26, regarding exposure to significant risk and liability for independent contractor pilots, please describe if either the San Francisco Bar Pilots or individual pilot members of the San Francisco Bar Pilots carry their own marine insurance insuring a pilot from liability arising from negligence or errors in judgment in connection with the provision of pilotage service outside of and in addition to any coverage provided by trip insurance purchased by a vessel pursuant to California Harbors and Navigation Code §1198. If such insurance is carried, please describe the annual costs and coverage provided by the policy for the San Francisco Bar Pilots and any for individual pilots, if known.

**RESPONSE:**

**San Francisco Bar Pilots**

<b>Coverage Type</b>	<b>Premium</b>	<b>Coverage Limits (Overview)</b>
Pilot License Defense & Income	\$167,500.00	\$5,000,000 Basic Legal Expenses per Pilot; \$300,000 income Continuity, annually, per Pilot.
Primary & Contingent Trip	\$43,128.00	\$1,000,000 Combined Single Limit.
Marine General Liability	\$7,323.00	\$1,000,000 Combined Single Limit; \$2,000,000 Products/Completed Ops; \$1,000,000 Personal/Advertising Injury; \$1,000,000 Fire Legal Liability; \$1,000,000 Wharfinger’s Legal; \$1,000,000 Employee Benefits Liability; \$2,000,000 General Aggregate.
1 <sup>st</sup> Excess (\$10M Excess)	\$102,996.00	\$10,000,000 Combined Single Limit Excess of Primary Trip insurance and excess of Marine Multiliability insurance.
2 <sup>nd</sup> Layer Excess - \$25M x \$10M (\$35M Total XS)	\$89,250.00	\$25,000,000 Any One Accident/Occurrence, Combined Single Limit, excess of Underlying Trip Insurance and Marine Multiliability insurance.
Vessel Pollution (Great American)	\$7,500.00	\$5,000,000 Any One Vessel, Any One Accident or Occurrence.