

MEMORANDUM OF UNDERSTANDING

FOR THE PUGET SOUND PILOTAGE DISTRICT

BETWEEN

(In alphabetical order)

ARCO MARINE, INC., PUGET SOUND PILOTS and

PUGET SOUND STEAMSHIP OPERATORS ASSOCIATION, INC.

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8 (in alphabetical order)
9

10 **ARCO MARINE, INC., PUGET SOUND PILOTS and**
11
12 **PUGET SOUND STEAMSHIP OPERATORS ASSOCIATION, INC.**
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17 WHEREAS there exists a mutual desire to streamline the tariff setting process, the
18 terms and conditions, as set forth below, constitute an agreement between ARCO
19 Marine, Inc. (referred to hereinafter as ARCO), Puget Sound Pilots (referred to
20 hereinafter as PSP) and the Puget Sound Steamship Operators Association, Inc.
21 (referred to hereinafter as PSSOA) relating to the establishment and maintenance of a
22 mechanism for tariff setting for the Puget Sound Pilotage District. (ARCO, PSP and
23 PSSOA, as a body, referred to hereinafter as the Parties)
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26 **SECTION ONE**
27 **PURPOSE**
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30 The Parties wish to implement a simplified method of adjusting the tariff. In doing so,
31 such an agreement will enable the respective parties to jointly and individually focus
32 more time and attention on issues which relate to the safe movement of vessels and
33 the overall improvement and stability of the maritime industry in the region by
34 accomplishing a multi-year solution to the tariff setting process.
35

36 The Agreement intends to ensure that an adequate manning level is maintained for
37 the requirements of the pilotage grounds, that the real value of pilot income is not
38 eroded by inflationary pressures and that tariff adjustments are made in relation to
39 actual income earned by a pilot, while at the time ensuring that adequate tariff funding
40 is available to maintain the efficiencies of the pilotage service. To this end, it is also
41 appropriate that the Agreement be sufficiently flexible to accommodate unanticipated
42 future requirements and provide confidence that pilotage rates will not be in excess of
43 those necessary to accomplish the stated purpose.
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SECTION TWO
MANNING

The Parties accept and agree that the number of pilots required to maintain a safe, acceptable and equitable pilotage service is a cornerstone to streamlining the tariff process. Therefore, after due consideration of the potential circumstances which may dictate a change in the number of pilots licensed for the Puget Sound Pilotage District and funded through the applicable tariff, it is agreed that the application of the Vessel Traffic Formula and the maximum Safe Assignment Level will be the basis for any manning adjustments and to define the minimum number of pilots necessary to fulfill the obligation of providing safe and efficient pilotage on Puget Sound.

The Vessel Traffic Formula is designed to assist the Board of Pilotage Commissioners in determining the need for licensing of additional pilots in order to maintain service efficiencies, it is mutually agreed to adopt and maintain the following formula to annually forecast vessel traffic within the Puget Sound Pilotage District:

The projected number of total pilotage assignments for any given year is equal to the actual total number of pilotage assignments for the previous year adjusted by fifty percent (50%) of the difference between the projection for the previous year and the actual number of assignments for that year.

Specifically, the Vessel Traffic Formula is expected to assist the Board of Pilotage Commissioners in determining the need for licensing of additional pilots in order to maintain minimum service efficiencies when an increase in vessel traffic is expected. Another application of the Vessel Traffic Formula, when combined with the maximum Safe Assignment Level, is the evaluation of service requirements when an active pilot retires and the Board of Pilotage Commissioners must undertake to determine if a pilot candidate should be trained and licensed as a replacement for the pilot who is retiring.

An example of the application of the Vessel Traffic Formula for projecting vessel traffic during 1996 is as follows:

Step 1:	1995 Projection	7,752 assignments
	LESS:	
	1995 actual	<u>-7,926</u> assignments
	Subtotal	174 assignments
	Divided by 2	87 assignments
Step 2:	1995 Actual	7,926 assignments
	PLUS:	
	Adjustment	<u>+ 87</u> assignments
	1996 Projection	<u>8,013</u> assignments

1 The Vessel Traffic Formula is intended to be utilized in conjunction with a maximum Safe
2 Assignment Level. Therefore, in consideration of current state and federal regulations,
3 as well as other safety factors affecting the prudent utilization of pilots, it is agreed the
4 maximum Safe Assignment Level is 149 assignments per pilot. (The establishment of this
5 level corresponds with determinations made by the Board of Pilotage Commissioners in
6 1995.)

7
8 The minimum number of pilots required shall be calculated annually by dividing the
9 Vessel Traffic Formula by the maximum Safe Assignment Level and adding one (1) to
10 include the President, PSP.

11
12 An example of the application of the Vessel Traffic Formula and the maximum Safe
13 Assignment level for establishing the minimum number of pilots required for 1996 is as
14 follows:

15
16 **8,013 projected assignments**
17

 = 53.77 pilots + 1 (President) = 54.77 pilots
18 **149 assignments**

19
20 Notwithstanding the above, for 1996 the Parties mutually agree the number of pilots for
21 which tariff funding will be provided is 54 pilots, including the position of President, PSP.

22
23 It is further agreed that:

24
25 A) If vessel traffic is projected to increase in a subsequent year:

26
27 The combined application of the Vessel Traffic Level and the maximum
28 Safe Assignment Level will determine the minimum number of pilots
29 required and for which tariff funding will be provided.

30
31 B) If vessel traffic is projected to decrease in a subsequent year:

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33 Tariff funding will continue to be provided for the actual number of active
34 PSP members. The number of active PSP members will ultimately be
35 reduced, if required, through attrition (e.g. retirement).

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38 **SECTION THREE**
39 **ANNUAL TARIFF ADJUSTMENT**

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41 It is expressly understood and agreed by the Parties that the basis for annual
42 adjustments in the Puget Sound Pilotage District Tariff shall be equal to the Seattle-
43 Area Consumer Price Index (CPI) for All Urban Consumers, as reported by the U. S.
44 Department of Labor, Bureau of Labor Statistics, for the preceding calendar year,
45 regardless of whether the adjustment is a plus (+) or minus (-) change in the CPI.
46 The annual tariff change shall include, in addition to the foregoing, adjustments for
47 the following:

- 1 A) An adjustment to the tariff to compensate for any shortfall or overage in
2 actual income per pilot when compared with the specified Target Net
3 Income for the preceding year, regardless of whether the adjustment is a
4 plus (+) or minus (-).
5
6 B) An adjustment to compensate for any projected increase or decrease in the
7 number of active PSP members or the minimum number of pilots which will
8 be required for the pilotage grounds, as determined annually by application
9 of the Vessel Traffic Formula and the maximum Safe Assignment Level,
10 whichever is greater, regardless of whether the adjustment is a plus (+) or
11 minus (-).
12
13 C) An adjustment to compensate for retroactive recapture of PSP expenses
14 previously approved by the Board of Pilotage Commissioners for tariff
15 funding. The amount of each of these expenses subject to recapture shall
16 be determined and reported by independent accountants responsible for
17 PSP's annual audit.
18
19 D) An adjustment to cover projected PSP expenses related to major capital
20 expenditures. (A major capital expenditure is an acquisition of an asset for
21 which the cost exceeds an amount equal to one percent (1%) of pilotage
22 gross revenues for the preceding year.)
23
24 E) An adjustment to cover any projected increase or decrease in expenses
25 resulting from State fees and/or taxes regardless of whether the adjustment
26 is a plus (+) or minus (-).
27
28 F) An adjustment(s) to exclude specific PSP operating expenses from the
29 calculation of actual income per pilot. Those operating expenses which are
30 excluded are: 1) American Pilots' Association dues, 2) Master, Mates and
31 Pilots dues and 3) lobbyist expenses. The amount of each of these
32 expenses shall be determined and reported by independent accountants
33 responsible for PSP's annual audit.
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36 SECTION FOUR
37 ANNUAL ADJUSTMENT
38 TARGET NET INCOME AND INDIVIDUAL BUSINESS EXPENSE ALLOWANCE
39

40 It is expressly understood and agreed by the Parties that the basis for annual
41 adjustments in the Target Net Income per pilot and the tariff-allowed Individual
42 Business Expense Allowance per pilot shall be equal to the Seattle-Area Consumer
43 Price Index (CPI) for All Urban Consumers, as reported by the U. S. Department of
44 Labor, Bureau of Labor Statistics, for the preceding calendar year.
45

46 A specific Target Net Income amount shall be declared annually in order to facilitate
47 evaluation, tariff setting and to comply with provisions of the *Amended Retirement*

1 *Program of Puget Sound Pilots (Revised January 1, 1988)* which stipulate the procedures
2 for calculating retirement benefits.

3
4 In addition to the CPI adjustment in Target Net Income, it is agreed that during each of
5 the first two (2) years of this agreement (1996 and 1997) a special adjustment equal to
6 three-point-zero-six percent (3.06%) shall be added to the Target Net Income, in order
7 to equalize the value of Target Net Income with a CPI-adjusted 1984 Target Net Income.
8

9 Therefore, the Target Net Income for 1996 shall be calculated, and is hereby determined
10 and agreed, to be as follows:

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Adjustments:	
1995 Consumer Price Index (CPI)	+ 3.00%
Special adjustment	<u>+ 3.06%</u>
TOTAL	<u>+ 6.06%</u>
1995 Target Net Income	\$148,535.00
	<u>X 1.0606</u>
1996 Target Net Income	<u>\$157,536.00</u>

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22 It is further agreed that the amount of the Individual Business Expense Allowance per
23 pilot shall be specifically declared each year in order to provide the basis for financial
24 reporting and subsequent adjustments. The expenses which are included in the lump-
25 sum reimbursement amount consist of, without specific allocation:

- 26
27 A) Medical insurance
28 B) Disability insurance
29 C) Professional insurance
30 D) State license fees
31 E) Annual physical examination expense
32 F) Subsistence and lodging expenses
33 G) Business communications
34 H) Navigation/office supplies.
35

36 Therefore, the lump-sum Individual Business Expense Allowance per pilot for 1996 shall
37 be calculated, and is hereby determined and agreed, to be as follows:

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Adjustment:	
1995 Consumer Price Index (CPI)	+ 3.00%
1995 Lump-sum Allowance	\$14,437.00
	<u>X 1.03</u>
1996 Lump-sum Allowance	<u>\$14,870.00</u>

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**SECTION FIVE
DOCUMENTATION**

By agreeing to streamline and to establish a multi-year solution to the tariff setting process, the Parties acknowledge the appropriateness of, as well as the legal requirements for, full financial disclosure.

Therefore, the Parties agree that PSP shall continue to annually prepare and submit to the Board of Pilotage Commissioners, ARCO and the PSSOA a *5-Year Capital Spending Plan* covering any major capital expenditure which exceeds an amount equal to one percent (1%) of pilotage gross revenues for the immediately preceding calendar year. PSP shall also continue to furnish copies of annual audited Financial Statements to the Board of Pilotage Commissioners, ARCO and the PSSOA.

In addition to those documents mentioned above, annual tariff submissions by PSP shall also include:

- A) An abstract of audited Financial Statements which provides a detailed listing of retirement benefits paid to PSP retirees during the preceding calendar year. (Appendix A, attached.)
- B) A written statement by independent accountants responsible for PSP's annual audit listing the actual amount of specific PSP expenses, incurred during the preceding calendar year, which were previously approved by the Board of Pilotage Commissioners and which are subject to recapture through the calculation of an annual tariff adjustment, pursuant to Section Three, paragraph C, of this Agreement. (Appendix B, attached.) (At this time, it is known that fifty-nine-point-eighteen percent (59.18%) of annual principal payments on the *JUAN DE FUCA* loan and sixty-eight-point-fifty-three percent (68.53%) of annual principal payments on the *PUGET SOUND* loan are subject to tariff recapture.)
- C) A written statement by independent accountants responsible for PSP's annual audit listing the actual amount of specific PSP operating expenses, during the preceding calendar year, which are excluded from the calculation of an annual tariff adjustment, pursuant to Section Three, paragraph F, of this Agreement. (Appendix B, attached.)
- D) An abstract of audited Financial Statements which provides a summary listing of PSP Operating Results during the preceding calendar year. (Appendix C, attached.)
- E) A detailed calculation, jointly prepared and duly executed by the Parties, of the tariff adjustment pursuant to the terms and conditions of the Agreement. (Appendix D, attached.)

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**SECTION SIX
TARIFF CHANGE CALCULATION**

The Parties stipulate that simplification of the tariff setting process is dependent upon utilization of a formula which consistently monitors the relationship between annual Target Net Income per pilot and actual income per pilot, in accordance with prescribed procedures.

Accordingly, the Parties agree that adjustments shall be made, either plus (+) or minus (-) to ensure the tariff generates sufficient revenue to satisfy operating requirements, including maintenance of a level of actual income per pilot which is nearly identical to established amounts.

To this end, the Parties agree to utilize a formula which consist of the following documented elements:

KEY

- A = Target Net Income for preceding year
- B = Total Pilotage Revenue
(per audited Financial Statements, page 11, OPERATING RESULTS, line D.1.)
- C = Operating expense
(All divisions, include Seattle, Pilot Boats, Port Angeles and Retirement Payments)
(per audited Financial Statements, page 11, OPERATING RESULTS, line D.2.)
- D = Other Expense
(Individual Out-Of-Pocket Allowance expense and Transportation expense)
(per audited Financial Statements, page 11, OPERATING RESULTS, line D.7.)
- E = Excluded expenses
(American Pilots' Association dues expense, Master, Mates and Pilots dues expense and lobbyist expense)
(per written statement by independent accountants.)
- F = Recapture amounts of previously-approved tariff expense
(59.18% of *JUAN DE FUCA* loan principal and 68.53% of *PUGET SOUND* loan principal)
(per written statement by independent accountants.)
- G = Amount of projected increase (+) or decrease (-) in State fees and/or taxes, if any.

- 1 H = Amount of projected first year costs associated with major capital
2 expenditure, if any.
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4 I = Number of active PSP members or the minimum number of pilots
5 required, as determined by application of the Vessel Traffic Formula
6 and the maximum Safe Assignment Level, whichever is greater.
7
8 J = Consumer Price Index (CPI) for preceding calendar year
9
10 K = Special Target Net Income adjustment (1996 and 1997 only).
11
12 L = Tariff adjustment

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14 Based on the foregoing, the formula to determine the appropriate tariff adjustment
15 pursuant to the terms of this Agreement is as follows:
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$$A - \left(\frac{B - (C + D) + E - (F + G + H)}{I} \right) + J + K = L$$

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(A text based Tariff Adjustment Calculation for 1996 is detailed on Appendix D, attached.)

SECTION SEVEN TERM

This Agreement shall be in full force and effective from April 10, 1996 to and including April 9, 2001. The effective five (5) year period shall include the respective tariff setting process which shall occur during 1996, 1997, 1998, 1999 and 2000.

Furthermore, the Agreement may be extended for an additional three (3) year period, through April 9, 2004, to include the respective tariff setting process which shall occur during 2001, 2002 and 2003, subject to mutual consent.

If either ARCO, PSP or PSSOA do not wish to extend the Agreement, the party desiring to terminate the Agreement at the expiration of the initial five (5) year period shall serve the other parties with written notice of termination one hundred twenty (120) days prior to the date of expiration.

SECTION EIGHT
MISCELLANEOUS

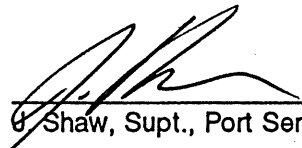
In the event of any regulatory action which materially effects this Agreement, the Parties agree to meet and, in good faith, endeavor to modify the Agreement to mutual satisfaction. The Parties further agree to meet, in good faith, and endeavor to recommend and support modification of specific verbiage of WAC 296-116-300 in a manner which is deemed mutually satisfactory.

This Agreement is further subject to ratification and endorsement by the Board of Pilotage Commissioners.

IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be duly executed at Seattle, Washington on the 10th day of April, 1996 between:

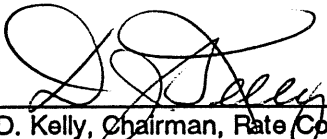
ARCO MARINE, INC.


PUGET SOUND PILOTS

By: 
G. Shaw, Supt., Port Services NW

By: 
Capt. J. Niederhauser, President

PUGET SOUND STEAMSHIP OPERATORS ASSOCIATION, INC.



Capt. D. Kelly, Chairman, Rate Committee

By: 
J. Geary, President


Capt. C. Hunziker, Rate Committee


D. Coburn, Chairman, Pilotage Committee


Capt. G. Larson, Rate Committee


V. Addington, Pilotage Committee


Capt. M. Wood, Rate Committee


D. Mehus, Pilotage Committee


D. Ward, Pilotage Committee

PUGET SOUND PILOTS
SCHEDULE OF RETIREMENT INCOME FOR INACTIVE
PILOTS AND WIDOWS OF DECEASED PILOTS

Year Ended December 31, 1995

1. Mrs. Marjorie Abney.....	\$ 5,271
2. Mrs. Esther Bock.....	5,271
3. Capt. S.R. Carlson.....	20,354
4. Mrs. Carole Cramer.....	8,078
5. Capt. R.H. Curry.....	7,200
6. Capt. H.R. Damon.....	21,390
7. Capt. R.O. Deschamps.....	21,744
8. Capt. K.L. Ekrem.....	1,920
9. Capt. K.L. Florian.....	15,181
10. Mrs. Patricia Grandy.....	16,043
11. Capt. G. Griffiths.....	6,589
12. Capt. W.M. Grobschmit.....	25,697
13. Capt. E. Hayes.....	18,449
14. Capt. J.F. Henshaw.....	34,263
15. Capt. W.W. Henshaw.....	17,280
16. Capt. B.C. Holmes.....	7,998
17. Capt. C.L. Johnson.....	30,531
18. Capt. N.C. Laine.....	5,760
19. Capt. L.V. Langstaff.....	24,969
20. Capt. R.L. Leson.....	13,178
21. Mrs. Sheila Lindholm.....	6,000
22. Capt. E.J. Lofquist.....	22,403
23. Capt. P.H. Luther.....	50,077
24. Capt. F. Michelson.....	21,137
25. Capt. R.A. Moss.....	14,496
26. Capt. G. Olsborg.....	48,759
27. Capt. R.S. Peake.....	29,749
28. Capt. R.H. Quinn.....	7,200
29. Capt. A.H. Reeve.....	4,320
30. Capt. L.W. Sackett.....	17,132
31. Capt. A.S. Skucy.....	36,899
32. Capt. A. Soriano.....	44,147
33. Capt. Dewey Soriano.....	42,112
34. Capt. D.A. Thornton.....	13,178
35. Capt. J.W. Trimmer.....	18,727
36. Capt. D.E. Turner.....	12,484
37. Capt. R.O. Watkins.....	<u>14,037</u>
38. TOTAL.....	<u>\$710,023</u>

See independent auditor's report on additional information.



CERTIFIED PUBLIC ACCOUNTANTS
600 STEWART STREET, SUITE 1420
SEATTLE, WA 98101-1237
PHONE 206-441-4288
FAX 206-448-6608

March 21, 1996

Jay Niederhauser, President
Puget Sound Pilots
101 Stewart St. Ste 900
Seattle, WA 98101

Dear Capt. Niederhauser:

The following supplemental information is not specifically available in the December 31, 1995 audit report, and therefore is provided to you in this letter.

1. Principal reduction on the launch "Puget Sound" for the year ending December 31, 1995 was \$114,149.87.
2. Principal reduction on the launch "Juan de Fuca" for the year ending December 31, 1995 was \$140,214.51.
3. Lobbyists fees paid for the year ending December 31, 1995 was \$30,682.79.
4. Dues paid to the MM&P for the year ending December 31, 1995 was \$11,475.00.
5. Dues paid to the APA for the year ending December 31, 1995 was \$48,913.54.

Please let me know if you require any additional information.

Sincerely yours,

SCHNEIDER & KOBATA, P.S.

A handwritten signature in cursive script that reads "Jim Schneider".

Jim Schneider, CPA

PUGET SOUND PILOTS
 COMMENTS ON 1995 OPERATIONS, Continued

C. FEATURES OF INDIVIDUAL DISTRIBUTIONS, Continued

	<u>1995</u>
1. Total annual duty days.....	18,569
2. Working Pilot roster (duty days divided by days in year).....	50.9
3. Piloting engagements.....	7,926
4. Total pilotage revenue per day per Pilot.....	\$679
5. Expense per day per Pilot.....	\$251
6. Balance of revenue pool per day per Pilot.....	\$428
7. Transportation fees per day per Pilot.....	\$39

D. OPERATING RESULTS, 1995

	<u>1995</u>
1. Total Pilotage Revenue.....	\$12,613,127
2. Operating expense - pooled.....	(3,205,397)
3. Seattle.....	\$1,336,389
4. Boats.....	866,873
5. Port Angeles.....	292,112
6. Retirement payments.....	<u>710,023</u>
7. Expense - other.....	<u>(1,461,111)</u>
8. Individual out of pocket allowances.....	\$ 734,467
9. Transportation.....	<u>725,644</u>
10. Balance of Pilotage Revenue Pooled.....	<u>\$ 7,945,619</u>
11. Working Pilot Roster.....	<u>50.9</u>
12. Balance of Pilctage Revenue Pooled Per Pilot.....	<u>\$156,122</u>

See independent auditor's report on additional information.

TARIFF ADJUSTMENT CALCULATION - 1996

A	Target Net Income for preceding year	\$148,535
	<u>MINUS:</u>	
B	Total Pilotage Revenue	\$12,613,127
	<u>MINUS:</u>	
C	Operating expenses	-\$3,205,397
D	Other expenses	-\$1,461,111
	<u>PLUS:</u>	
E	Excluded expenses	+ \$91,073
	<u>MINUS:</u>	
F	Recapture previously-approved expenses	-\$161,206
G	Projected change in State fees and/or taxes	\$0
H	Projected Major Capital expenditure expense	\$0
	Subtotal (Net Pilotage Revenue)	\$7,876,486

DIVIDED BY:

I	Number of active PSP members or minimum number of pilots required for the grounds (VTF+ MSAL), whichever is greater	54
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DIVIDED BY:

A	Target Net Income for preceding year	\$148,535
	Subtotal	1.800%
	<u>PLUS:</u>	
J	Consumer Price Index (CPI)(preceding year)	3.000%
K	Special Target Net Income adjustment (1996 and 1997 only)	<u>3.060%</u>
L	TARIFF ADJUSTMENT - 1996	7.860%

Initials:

ARCO 

PSP 

PSSOA 

PSP_004411