

PUGET SOUND PILOTS' RESPONSES TO PMSA DATA REQUESTS Nos. 134-160

DATE PREPARED: November 11, 2022 DOCKET: TP-220513 REQUESTER: Pacific Merchant Shipping Association ("PMSA")	WITNESS: MITCHELL STOLLER RESPONDER: MITCHELL STOLLER PUGET SOUND PILOTS DATE: November 11, 2022 TEL: 949-632-9556 EMAIL: marexco@aol.com
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PMSA DATA REQUEST NO. 134: Please state whether you agree or disagree with the testimony of PSP Executive Director Costanzo at Exh. CPC-01T 3:4-5 that the State of "Washington has been the most aggressive state regulator in the U.S. in areas of spill prevention and response."

RESPONSE: Admit.

PMSA DATA REQUEST NO. 135: Please state whether you agree or disagree with the testimony of PSP Executive Director Costanzo at Exh. CPC-01T 3:13–15 that “Compulsory pilotage is integral to Washington’s best-in-class oil spill prevention mission and overall maritime transportation safety infrastructure.”

RESPONSE: Admit.

PMSA DATA REQUEST NO. 139: Regarding your testimony at Exh. MSS-01T 3:1–14 regarding “successful applicants will come from multiple segments of the maritime industry,” is it your experience that the mariners from any single segment of the maritime industry are more apt or likely to successfully complete pilot training and receive a state-issued pilot’s license? If so, please provide relevant and supporting data.

RESPONSE: No.

PMSA DATA REQUEST NO. 140: Regarding your testimony at Exh. MSS-01T 3:16–4:20 regarding the differences between pilot trainees’ “skill sets obtained in a blue-water compared to a brown-water career,” is it your experience that the mariners from a blue-water or brown-water career are more apt or likely to successfully complete pilot training and receive a state-issued pilot’s license? If so, please provide relevant and supporting data.

REPOSE: No.

PMSA DATA REQUEST NO. 141: Regarding your testimony at Exh. MSS-01T 5:23 that when asked to “describe the nature of the risks involved with serving as a state-licensed pilots [*sic*] on a heavily trafficked pilotage ground” you answered that you “would describe the level of risk as persistent and growing,” please provide all of the following: (a) define “level of risk”; (b) describe the baseline “level of risk” that you established in order to conclude that this “level of risk” is “persistent and growing”; (c) describe and quantify to the extent possible that the baseline “level of risk” is “persistent”; and (d) describe and quantify to the extent possible that the baseline “level of risk” is “growing.”

RESPONSE:

My testimony regarding the level of risk is not based upon baseline data, but reflective of the longstanding trend over centuries toward vessels of increasing size which, in my opinion, increases the potential risk of accident not only for the ship's bridge team, but for a compulsory state-licensed pilot directing a ship's transit through state waters. The growing size of ocean-going vessels in all vessel classes (container, tanker, cruise, general cargo, roll-on/roll-off) increases risk in multiple ways. A larger ship encounters more sail-effect, is less maneuverable at slow speeds and carries more hazardous cargo and more fuel than an earlier generation smaller vessel in a particular vessel class. The trend is obvious and is discussed in the testimony of Ken Eriksen at Exh. KAE-1T, 22-31, where he presents data showing dramatic growth in ship size in all vessel classes and the continuation of this trend in booked shipbuilding orders for the years 2022 through 2029. The trend toward larger ships also increases risks in constricted waters due to the lower maneuverability resulting from the downsizing of rudders to achieve greater fuel efficiency. In addition, the generally unchanging character of constricted waterways in terms of special dimensions makes these waterways even more constricted when maneuvering increasingly larger vessels.

PMSA DATA REQUEST NO. 142: With respect to the IGP&I 2020 study entitled *Report on P&I Claims Involving Vessels Under Pilotage (1999-2019)* submitted with your testimony at Exh. MSS-03, admit that this report describes incidents for the period 1999-2019 that have given rise to P&I liabilities in excess of \$100,000 occurring when vessels are under pilotage, and where it is considered that actions of the assisting pilot have caused or contributed to the casualty.

RESPONSE: Admit.

PMSA DATA REQUEST NO. 143: Further regarding the IGP&I 2020 study entitled *Report on P&I Claims Involving Vessels Under Pilotage (1999-2019)*, submitted with your testimony at Exh. MSS-03, admit both (a) that the study does not demonstrate a level of risk to pilots and (b) the study does demonstrate the costs of P&I liabilities to vessels in the form of claims due to or resulting from the actions of a pilot who causes or contributes to a vessel casualty, including allisions, collisions, and groundings.

RESPONSE:

Deny (a) and admit (b).

PMSA DATA REQUEST NO. 145: Further regarding the IGP&I 2020 study entitled *Report on P&I Claims Involving Vessels Under Pilotage (1999-2019)*, submitted with your testimony at Exh. MSS-03, at the categorization and summary of Table 1, admit all of the following: (a) the year with the highest costs to vessels for incidents while under pilotage was 2007 which was in excess of \$300 million; (b) the vast majority of these 2007 costs of pilotage incidents, in excess of \$200 million, was the allision of the *M/V Cosco Busan* with the Bay Bridge while under pilotage in the San Francisco Bay; (c) none of the other years of incident costs approach the high costs of 2007; (d) of the \$1.8 billion of total costs imposed on vessels by pilot causes and contributions from 1999-2018 worldwide, the highest single cost incident was the allision of the *M/V Cosco Busan* with the Bay Bridge while under pilotage in the San Francisco Bay; (e) the average net income of a pilot in the San Francisco pilotage ground in 2007 was higher than the average net income of a pilot in the Puget Sound in 2007; (f) the level of total industry costs from pilot casualty in the San Francisco Bay in 2007 was the worst of all ports on the globe from 1999-2018; and (g) vessel risk and costs are not correlated with pilotage rates or with pilot average net income.

RESPONSE:

Admit (a) through (f). Deny (g) to the extent it states that vessel risks and costs are not correlated with pilotage rates in jurisdictions where rates are tied to vessel size utilizing either LOA or tonnage or both. Admit (g) to the extent it states that pilotage rates are not correlated with pilot average net income.

PMSA DATA REQUEST NO. 146: Further regarding the IGP&I 2020 study entitled *Report on P&I Claims Involving Vessels Under Pilotage (1999-2019)*, submitted with your testimony at Exh. MSS-03, at Table 7 and Table 8, admit all of the following: (a) the country with the most incidents is the United States; (b) the ports in the United States with the most incidents are the ports of Houston, New Orleans, Mississippi River, and New York; (c) the text accompanying Tables 7 and 8 specifically states “that no adverse conclusions should be drawn from the position in the tables of any particular country or port. The figures of course reflect the volume of shipping traffic in each country. Data is not available to determine the number of ship moves under pilotage in each of these countries over the 20 year period covered by this report, and therefore the numbers below cannot be benchmarked with reference to such information.”; (d) average net income of pilots in the Houston and New Orleans pilotage grounds is historically higher than the average net income of a pilot in Puget Sound; (e) the Puget Sound, including the Ports of Seattle and Tacoma, do not appear on Table 8 which shows all cumulative incidents sorted by Port for every port worldwide from 1999-2018 with 3 or greater incidents; (f) it is logical to presume from Table 8 that the total level of vessel risks and costs as a result of pilotage error or contributory pilot error at the ports of Houston, New Orleans, Mississippi River, and New York are each well in excess of the total level of vessel risks and costs in the Puget Sound; and (g) vessel risks and costs are not correlated with pilotage rates or with pilot average net income.

RESPONSE:

Admit (a) through (e). Deny (f) because it calls for speculation. Deny (g) to the extent it states that vessel risks and costs are not correlated with pilotage rates in jurisdictions where rates are tied to vessel size utilizing either LOA or tonnage or both. Admit (g) to the extent it states that pilotage rates are not correlated with pilot average net income.

PMSA DATA REQUEST NO. 147: Further regarding the IGP&I 2020 study entitled *Report on P&I Claims Involving Vessels Under Pilotage (1999-2019)*, submitted with your testimony at Exh. MSS-03, at Table 7 and Table 8, admit all of the following: (a) the country with the most incidents is the United States; (b) the busiest container port complex in the United States is the San Pedro Bay, home to the ports of Los Angeles and Long Beach; (c) that the vessels under pilotage at the Port of Los Angeles are federal licensed pilots and not state licensed pilots; (d) that the vessels under pilotage at the Port of Long Beach are federal licensed pilots and not state licensed pilots; (e) the San Pedro Bay, including the Ports of Long Beach and Los Angeles, do not appear on Table 8 which shows all cumulative incidents sorted by Port for every port worldwide from 1999-2018 with 3 or greater incidents; (f) it is logical to presume from Table 8 that the total level of vessel risks and costs as a result of pilotage error or contributory pilot error at the ports of Houston, New Orleans, Mississippi River, and New York are each well in excess of the total level of vessel risks and costs in the San Pedro Bay; and (g) vessel risks and costs are not correlated with pilotage rates or with pilot average net income in federal pilotage or state pilotage ports.

RESPONSE:

Admit (a) through (e). Deny (f) because it calls for speculation. Deny (g) to the extent it states that vessel risks and costs are not correlated with pilotage rates in jurisdictions where rates are tied to vessel size utilizing either LOA or tonnage or both. Admit (g) to the extent it states that pilotage rates are not correlated with pilot average net income.

PMSA DATA REQUEST NO. 148: Regarding your testimony at Exh. MSS-01T, 7:18–10:9, is it your assertion that these safety incidents, accidents, and instances of pilot error are related to pilotage rates or pilotage tariff levels? If yes, please describe how, why, and upon what basis.

RESPONSE: No.

PMSA DATA REQUEST NO. 149: Regarding your testimony at Exh. MSS-01 11:25–12:19, citing a 2016 survey on pilotage, towage, and mooring which covered 472 ports and 123 counties commissioned by the International Chamber of Shipping, please provide a copy of the survey cited.

RESPONSE: Copy attached.

PMSA DATA REQUEST NO. 150: Regarding your testimony at Exh. MSS-01 17:8–11, where you state that “[t]he challenge for today’s maritime pilots is incredible because both regulators and the general public have zero tolerance for maritime accidents,” admit that the essential purpose of licensed pilotage and therefore the fundamental goal of all pilot licensees and all pilot regulators generally is currently and has historically been to avoid maritime accidents.

RESPONSE: Admit.

PMSA DATA REQUEST NO. 153: Regarding your testimony at Exh. MSS-01T 20:22–21:4 describing the value of drawing pilots from a highly diverse set of maritime industry backgrounds, please list each of those pilotage grounds nationally which have pilot corps which do NOT exemplify “a broad diversity of experience among the individual members of the pilot corps.”

RESPONSE:

I'm not aware of a major pilot group in the U.S. that does not have a broad diversity of experience among its members.

PMSA DATA REQUEST NO. 154: Regarding your testimony at Exh. MSS-01T 21:9–13, describing the value of drawing pilots from a highly diverse set of maritime industry backgrounds, please list each of those pilotage grounds nationally in which either a “pilot group” or “state regulatory agency” or both is NOT “attentive to maintaining a highly diverse pilot corps in order to maximize safety.”

RESPONSE:

I'm not aware of a pilot group or state regulatory agency that is not attentive to maintaining a highly diverse pilot corps in order to maximize safety.

PMSA DATA REQUEST NO. 155: Regarding your testimony at Exh. MSS-01T 22:9–12, regarding your opinion that the “Puget Sound must attract the best of the best in every feeder pipeline that is generating top candidates,” please: (a) define “best of the best”; (b) define “top candidates”; (c) describe why Puget Sound should be the only pilotage ground in the country with the “best of the best” and “top” candidates; (d) describe why all other pilotage grounds in the country should not have the “best of the best” and “top” candidates; (e) by what process do you identify the “best of the best” candidates; (f) by what process do you identify the “top candidates”; (g) please identify by name the current Puget Sound Pilots who were and who were not the “best of the best” or “top candidates” at the time of their licensing; (h) please identify by name the current Puget Sound Pilot trainees who were and who were not the “best of the best” or the “top candidates” at the time of their acceptance into the training program; and (i) please identify the pilotage grounds which have done the worst job of attracting the “best of the best” and the “top candidates.”

RESPONSE:

My references to "best of the best" or "top candidates" are synonymous and refer to mariners with strong academic and/or experiential backgrounds who have the demonstrated ability to direct the navigation of vessels and who are thoroughly familiar with the technologies utilized in this modern era to safely navigate ocean-going and other vessels. The process utilized to identify the best candidates for pilotage positions involves a combination of reviewing the academic and experiential credentials of each candidate, performance on an appropriately designed test and, where appropriate, an interview. I have not attempted to evaluate any of the current PSP trainees or the trainees on any other U.S. pilotage ground and therefore am unable to address (g), (h) and (i).

PMSA DATA REQUEST NO. 156: Regarding your testimony at Exh. MSS-01T 22:13–16, please: (a) identify all US pilot groups which have maintained “years of accident-free performance”; and (b) for each of these “accident-free” pilot groups, describe their composition with respect to a diversity of experience, including their composition of “top performers from every marine sector providing significant vessel-handling experience in a broad array of conditions.”

RESPONSE:

My testimony makes the observation that "there is no question that US pilot groups in the best position to maintain years of accident-free performance are those that attract top performers from every marine sector providing significant vessel-handling experience in a broad array of conditions." I go on to explain why the level of collective knowledge within a pilot group is enhanced by diversity. I have not performed the research necessary to identify all U.S. pilot groups which have maintained "years of accident-free performance" and therefore unable to respond to (a) and (b).

PMSA DATA REQUEST NO. 157: Regarding your testimony at Exh. MSS-01T 22:22–26, is it your opinion that the Puget Sound Pilots' current casualty-prevention capability is substandard?

RESPONSE: No.

PMSA DATA REQUEST NO. 159: Is it your professional experience that any state or federally licensed pilots in the United States will perform their jobs in a recognizably substandard way, counter to a standard of care or duty, with disregard for safety, or with willful negligence based on any of the following: (a) the tonnage rate in a pilotage tariff; (b) the hourly rate in a pilotage tariff; (c) relative increases in a pilotage tariff over time; (d) the relative rate of a pilotage tariff in one pilotage district versus another; (e) the relative net income of pilots in one pilotage district versus another; (f) the relative benefits of pilots in one pilotage district versus another; (g) the costs of the necessary infrastructure of a pilotage district, including dispatch, navigational, pilot station, and pilot boat expenses; and (h) any personal financial considerations?

RESPONSE: No.