



West Coast Sailors

Official Organ of the Sailors' Union of the Pacific

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Friday, April 23, 2004

Senators blast Bush Administration for lack of port security funding

Senators from both sides of the aisle lashed out on March 24, at the Bush Administration's continued refusal to provide adequate funding for port security and, in fact, not take port and rail security as serious as it should.

During a hearing by the Senate Commerce, Science and Transportation Committee on the status of maritime security, several committee members —Chairman John McCain (R-AZ), Ernest Hollings (D-SC), Barbara Boxer (D-CA), Frank Lautenberg (D-NJ), Trent Lott (R-MS), John Breaux (D-LA), Olympia Snowe (R-ME) and Kay Bailey Hutchison (R-TX)— expressed complete disgust with the White House's seemingly laid-back position on steps necessary to security the nation's pons.

The Department of Homeland Security (DHS) was well represented during the hearing, with testimony from Admiral Thomas H. Collins, Commandant, Coast Guard; Robert C. Bonner, Commissioner, U.S. Customs and Border Protection; and Read Admiral David M. Stone, Acting Administrator, Transportation Security Administration. Industry representation including testimony from Christopher Koch, President and CEO, World Shipping Council; Gary P. LaGrange, Executive Director/CEO, Port of New Orleans; Dr. James Carafano, Senior Research Fellow, Defense and Home Security, Heritage Foundation; and Mike Mitre, Director of Coast Port Security, Longshore Division of the International Longshore and Warehouse Union.

Chairman McCain said, "No comprehensive maritime security plans exists, and I am concerned that a lack of resources and the demands of the reorganization [Department of Homeland Security] have inhibited the Department's focus on its security mission." He noted that "the lack of coordination and absence of established standards and goals have lead to confusion for the maritime industry as to what must be done to improve security and whom to go to with security questions."

Senator Lautenberg said, "It appears that the Administration expects port authorities and facility operators to comply with new security regulations with little federal assistance." He noted further, "port security is one of those areas that makes me disap-

pointed with this Administration's homeland security effort. The needs are out there, and rather than starting to address them, this Administration forces the good people at DHS to play budget games.

But we need them to have the resources they need to help secure our country against terrorism."

McCain called Commander Collins' statement that he was "very pleased" with the increased Coast Guard budget and the funding was adequate, "an excellent political answer." After further intense questioning by Senator Hollings, Admiral Collins was unable to come up with funding needs for various security initiatives being spearheaded by the Coast Guard.

Maritime labor objects to U.S. Coast Guard's proposal on merchant mariner documents

In response to the U.S. Coast Guard's proposed interim rule that would exacerbate the issuance of merchant mariner document by placing further burdensome regulations on American mariners, the Sailors' Union of the Pacific, the American Maritime Officers, the Inlandboatmen's Union of the Pacific (ILWU), the International Organization of Masters, Mates & Pilots, the Maritime Engineers Beneficial Association, the Marine Firemen's Union, the Seafarers International Union-AGLIWD and the AFL-CIO's Maritime Trades Department submitted comments to the Coast Guard voicing strong objections to the proposed rule. The full text of those comments follow:

On behalf of the above referenced American maritime labor organizations, we are writing to express our strong objections to a number of provisions in the Interim Rule (USCG-20003-14500) pertaining to the forms and procedures for the issuance and renewal of merchant mariners' documents (MMDs). Collectively, our organizations represent the overwhelming majority of United States citizens who work aboard U.S.-flag commercial vessels engaged in all aspects of our nation's foreign and domestic shipping trades. The members of our organizations are directly impacted by this Interim Rule and our comments will focus on those provisions we find most onerous and objectionable.

At the outset, we believe it is extremely important to emphasize that the procedures and requirements governing the issuance and renewal of MMDs determine whether a trained and qualified individual will or will not in fact be able to pursue his or her chosen profession. It is absolutely essential that such procedures and requirements be reasonable, realistic, clear and fair, and that they do not serve to arbitrarily deny qualified persons with the opportunity to work aboard U.S.-flag commercial vessels.

It is also important to emphasize that to the extent American citizens are denied the chance to pursue a career in the United States merchant marine for reasons that have very little, if anything, to do with their current qualifications and on-the-job performance, our country will lose a valuable, irreplaceable component of its militarily-use-

ful commercial sealift. We understand that the changes contained in the Interim Rule have been promulgated ostensibly "to protect the national security interests of the United States." We submit, however, that the Interim Rule and its procedures and requirements must be changed to reflect the fact that it is essential to the overall security interests of the United States that our nation have a sufficient number of trained, loyal American-citizen merchant mariners ready and able, as they have always been, to respond to our nation's call whenever and wherever they are needed.

THE INTERIM RULE IS DIRECTED AT MARINERS LEAST IN NEED OF ADDITIONAL REGULATION AND IS THUS AN UNNECESSARY MEANS TO IMPROVE SECURITY

We seek meaningful improvements in security. The individuals we represent may very well be among the first casualties in the event of an attack on an American port or an American-flag vessel. However, the flag-of-convenience system that dominates international shipping, the secretive nature of international shipping, and the clandestine behavior of nations that view their ship registry as a business enterprise and not as a regulatory activity, makes their ships and their crews the real threat to the security of the United States. While we commend the United States Coast Guard for the steps it has taken in recent years to regulate foreign-flag vessels, far more regulation is needed in this area rather than against United States-flag ships.

With respect to deep-sea ves-

sels, the vessels posing the least risk to the security of the United States are U.S.-flag ships crewed by U.S.-citizen, licensed and unlicensed merchant mariners. American deep-sea merchant mariners undergo background checks and are subject to stringent MMD requirements and procedures to a degree unmatched in flag-of-convenience nations or in other maritime sector operations. Yet, the Interim Rule only applies to U.S.-citizen, deep-sea mariners working aboard U.S.-flag vessels who represent a very small proportion of the total number of mariners arriving and departing on vessels in American ports. U.S.-flag vessels carry only approximately three percent of America's total export and import trade and on average, more than ninety percent of the mariners in any American port on any given day are foreign nationals. Similarly, neither the Interim Rule nor, in fact, any of the MMD requirements apply to the majority of individuals employed on tugs and tows plying the inland rivers of the United States who escape the security screening required of their fellow U.S.-citizen, blue-water mariners. Surely, the opportunity for potential terrorism exists equally in all maritime sector operations and on all types of vessels. Nevertheless, as we stated, the Interim Rule requires extensive security screening for deepwater mariners, but remains silent with regard to those mariners employed on inland tugs and tows that push and pull enumerable barges carrying dangerous cargoes.

Despite this, the Interim Rule simply further regulates the

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West Coast Sailors

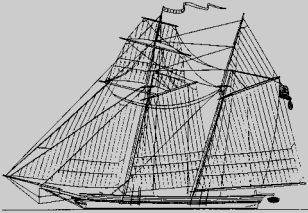
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SUP Meetings

These are the dates for the regularly scheduled SUP meetings in 2004:

	Hdqs.	Branch
May	10	17
June	14	21
July	12	19
August	9	16
September	13	20
October	12*	18
November	8	15
December	13	20

*Tuesday

Tougher alcohol limits for British mariners

The United Kingdom introduced stricter alcohol limits for seafarers effective April 1, in line with road users. The new limits, which also apply to aviation personnel, come in the wake of high-profile cases in both sectors. On March 14, the master of the dredger *Donald Redford*, which ploughed into a Hythe pier near Southampton soon after a ferry had landed 235 passengers, was given a custodial sentence. After the accident, Andrew Bartlett had been found to be 2.5 times over the alcohol limit permitted to road vehicle drivers.

The new limits will now mirror those on the road and put professionals mariners over the limit if they have more than 80 milligrams of alcohol in 100 milliliters of blood. Marine officials have also been given powers to detain vessels although the police will continue to conduct the tests. The law will apply to professional seafarers on UK registered vessels around the globe and to those serving on foreign vessels in UK waters.

Final Departures

Donald A. Gonzales, Book No. 2951. Born in Colorado in 1934. Joined SUP in 1953. Died in San Francisco, California, March 11, 2004. (Pensioner)

Clifford R. Thornhill, Book No. 3232. Born in Oregon in 1924. Joined SUP in 1952. Died in Chico, California, March 15, 2004. (Pensioner)

Eugene Shultz, Book No. 6902. Born in Oregon in 1927. Joined SUP in 1946. Died in Washington, March 12, 2004. (Pensioner)

Captain Carl G. “Scottie” Holmes, Book No. 5174. Born in California in 1927. Joined SUP in 1945. Died in Santa Rosa, California, March 6, 2004. (Pensioner)

Samuel Joseph Stewart, Jr., Book No. 7366. Born in California in 1934. Joined SUP in 1954. Died in California, March 21, 2004.

Louis Foletta, Book No. 2097. Born in California in 1906. Joined SUP in 1943. Died in Monterey, California, February 14, 2004. (Pensioner)

Bernard Arkin, Book No. 3309. Born in Vermont in 1916. Joined SUP in 1943. Died in Baltimore, Maryland, March 21, 2004. (Pensioner)

“Sir” Charles A. Taylor, Book No. 3027. Born in California in 1919. Joined SUP in 1946. Died in Benicia, California, March 9, 2004. (Pensioner)

Richard George Williams, Book No. 3442. Born in Oklahoma in 1927. Joined SUP in 1948. Died in Ventura, California, March 28, 2004. (Pensioner)

William Wood, Book No. 3312. Born in Missouri in 1927. Joined SUP in 1945. Died in Clearlake, California, March 30, 2004. (Pensioner)

Edward Ferreira, Book No. 2224. Born in California in 1944. Joined SUP in 1962. Died in Bremerton, Washington, April 3, 2004. (Pensioner)

U.S. Justice bags another foreign polluter

The U.S. Department of Justice (DOJ) continues its growing streak of pollution prosecutions in the Pacific Northwest. The DOJ confirmed that Piraeus-based Marmaras Navigation struck a plea agreement on April 14, in Tacoma, Washington and admitted to improper handling of waste oil and inaccurate oil record bookkeeping. Felony charges stemmed from a U.S. Coast Guard inspection in April 2003 of the bulker *Agia Eirini* while in the port of Kalama, Washington. According to the DOJ, Marmaras has agreed to pay a fine of \$200,000, and to put \$50,000 in escrow to pay for a new waste-oil management plan. Final sentencing, when the judge will determine whether the plea agreement is acceptable to the court, is set for July 9. The Marmaras prosecution is reportedly the ninth criminal case against shipping interests in the last 18 months in the Seattle/Tacoma jurisdiction.

Link between gout and alcohol is verified

For the first time, scientists have documented the age-old belief that alcohol intake strongly increases the risk of developing gout and that the risk is related to the type of alcoholic beverage consumed.

Beer is more likely to lead to gout than spirits, but moderate wine consumption does not raise the risk, according to a study being reported in *The Lancet* on April 17.

People have long suspected a link between alcohol and gout. But the study’s authors, all from Harvard-affiliated institutions, said it was the first to document the link systematically and to assess the risk according to the types of alcohol ingested.

The findings suggest that unidentified nonalcoholic components in beer and spirits may play an important role in precipitating attacks of the disease, a form of arthritis, said the head of the team, Dr. Hyon K. Choi of Massachusetts General Hospital.

Gout can affect any joint, but it usually affects a big toe. Pain and inflammation result from deposits of uric acid crystals in a joint or tendon.

Drinking two or more 12-ounce cans or bottles of any kind of beer a day was found to increase the risk of gout 2.5 times compared with drinking no beer. Consuming two drinks each containing a shot of liquor increased the risk 1.6 times compared with consuming no liquor. Drinking two or more four-ounce glasses of wine a day was not found to be associated with an increased risk.

Whether beer contains a factor that promotes gout or wine a protective factor, or both, is not known.

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Gunnar Lundeberg,
President/Secretary-Treasurer
Teresa Anibale, Editor

BRANCH OFFICES

Seattle, WA 98106
2414 SW Andover St. (206) 467-7944
Bldg. F, Ste. 105 FAX: (206) 467-8119

Wilmington, CA 90744
533 N. Marine Ave. (310) 835-6617
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ILO backs biometric ID cards for mariners

The International Labor Organization has backed the introduction of biometric identification documents for 1.2 million seafarers worldwide.

The deal should facilitate shore leave for many seafarers, particularly from Muslim countries, which has sometimes been restricted since the September 11 terrorist attacks. After a long-running battle over technical standards, the ILO on March 26, came down in favor of a so-called minutiae-based fingerprint barcode, which translates a fingerprint into a barcode.

Seafarer unions and some third world countries preferred cheaper technology. However, Western diplomats have promised financial assistance. ILO director Cleopatra Doumbia-Henry said: "This new measure brings the most modern technology to the high seas." But some specialists in this field are skeptical about just how foolproof fingerprint ID system can be considered in any form.

The ILO's choice will now be submitted to the International Standards Organization for immediate specification. The pact will enter into force after two coun-

tries have ratified it. Both the French National Assembly and Senate have ratified the new convention and more ratifications are expected in the next few weeks in light of the technology decision, ILO officials said. Nevertheless, shipowner representatives feel the deal—dubbed ILO Convention 185—will be meaningless unless widely backed. That would take several years, as many governments will have to introduce primary legislation.

Getting both the world's leading labor supply and port state countries on side is now the main priority for owners. "There's no point having a settlement if most governments won't ratify," said one source. "We won't be happy until this gets moving." John Whitlow, seafarers' section secretary of the International Transport Workers' Federation, said: "This was an important step forward, and we are happy that the shipping industry stood together in the face of attempts to delay the decision on which system to use. The last political hurdle has been overcome now, which is good news for seafarers."

Coast Guard to board all inbound ships at U.S. ports

The U.S. Coast Guard will board every ship on its first call at a U.S. harbor on or after July 1, to check on compliance with the International Ship and Port Facility Security Code and the U.S. Maritime Transportation Security Act.

U.S. Coast Guard spokesman Jolie Shifflet said the boardings would be either at sea or at quayside. The decision on when to board would be based on "intelligence" on the ship and on its 96-hour advance notice.

"The Coast Guard will take additional security precautions or deny entry for non-compliant vessels," Shifflet said. "It will track vessels coming from non-compliant ports and may subject such vessels to delays while their security status is verified," the official statement said.

Shifflet said the Coast Guard had re-

cruited and trained an extra 150 reservists at ports around the United States to implement this initiative. These officials would assist the usual contingent, which would continue to perform port state control and safety and environmental inspections. She said in 2003, 7,673 ships called at U.S. harbors making 61,322 individual calls. The Coast Guard made 11,955 boardings to verify safety and environmental compliance.

Shifflet was unsure whether in this process all the 7,673 ships were boarded, but she said not all ships called on the first day of the year and going by this experience, the ISPS boardings should not pose a major obstacle. Still, she said the Coast Guard could not guarantee that there would be no delays for normal commerce.

Tax reform legislation to benefit U.S. merchant mariners introduced in Senate

This month Senators John Breaux (D-LA) and Trent Lott (R-MS) offered an amendment to S.1637, regarding corporate and international tax legislation that is pending before the Senate Finance Committee, that would benefit U.S. merchant mariners and U.S. shipping companies.

Specifically the Breaux-Lott amendment would: establish a tonnage-based tax system for U.S.-flag vessels operating in the foreign commerce of the United States; extend the Internal Revenue Code exclusive of portions of foreign-earned income to cover American-citizen merchant mariners working aboard U.S.-flag vessels operating in the U.S. foreign trades; and amend the Internal Revenue Code to allow U.S. companies to defer taxes on their foreign shipping operations provided they maintain a fleet of at least two U.S.-flag and U.S.-crewed commercial vessels.

Committee passes Maritime Transportation Security bill

The Committee on Commerce, Science, and Transportation, adopted on April 13, by voice vote S.2279, the Maritime Transportation Security Act of 2004. Senators Ernest Hollings (D-SC), John McCain (R-AZ) and John Breaux (D-LA) introduced this bill on April 1, 2004.

This bill would require the Department of Homeland Security (DHS) to complete planning on several major security initiatives and require standards be set to improve other port security efforts. The measure also would require the DHS to

establish a user fee to help defray the cost of port security mandates required under the original port security bill which was signed into law over a year ago.

The bill also would require the Secretary of DHS to report on recommendations for conducting background checks for individuals engaged in transportation or transportation-related activities. It contains specific new improvements to benefit port security and further defines the parameters established in 2002 for DHS to follow.

Pentagon seeks to use foreign airlines

The April 10 issue of the *New York Times* reported that the Defense Department is asking Congress for authority to use foreign-flag airlines to move U.S. troops and equipment. This business has always been reserved for U.S.-based carriers.

The proposal, in the Defense Department's budget request for fiscal year 2005, could have its greatest impact on the Civil Reserve Air Fleet, a group of 24 passenger and cargo carriers that sign contracts with the Pentagon each year. These airlines were instrumental in transporting military personnel and equipment to the Middle East last year before and during the Iraq war.

In all, American passenger and cargo carriers were paid \$1.2 billion to fly nearly 500,000 troops to and from the war zone during the formal Iraq conflict. The cargo companies carried more than 161,000 tons of equipment, according to a Pentagon report last fall.

But they may not have a lock on the Pentagon's business for long. In its 2005 appropriations request, submitted last month, the Pentagon asked Congress to repeal a law that bars foreign-owned airlines from bidding on its contracts.

Specifically, the Defense Department is seeking to repeal Section 2710 of the Emergency Wartime Supplemental Appropriations Act of 2003. That section requires that contracts be awarded to air carriers with American ownership of 50 percent or more. That is the level that is required for airlines to be certified as domestic carriers by the Transportation Department.

In an analysis that accompanied its appropriations bill, the Defense Department said the limit, "while laudable in intent," presents significant difficulties in practice. Before awarding contracts, the analysis said, Defense Department officials must determine whether 50 percent of an air carrier's operating revenue came from American or foreign-based interests.

"To determine an air carrier's controlling interest is questionable since detailed data regarding source of operating revenues is usually not available. Such information is not readily available or transparent, so contracting officers are forced to assume the risk of unknowingly violating the law," the analysis said.

The analysis did not mention the reserve fleet, but industry officials said the request, if approved by Congress, could lead to competition from foreign carriers.

Participants in the reserve fleet sign up for government contracts to transport troops around the world in peacetime. In return, they agree to turn over their planes on short notice, for 30 days at a time, to move soldiers and gear during

emergency wartime mobilizations.

Two such mobilizations have been declared since President Harry S. Truman authorized the program in 1951. The first occurred in 1991, during the Persian Gulf war, and the second in 2003 when war began in Iraq.

Last year's mobilization proved a lifeline for participating airlines, which had been battered by a drop in traffic because of fears over the outbreak of war, a weakened economy and the SARS virus. The \$1.2 billion paid to the airlines during the mobilization, which lasted from February to June, was part of an overall budget of \$2.4 billion in 2003 for the reserve fleet. The same amount has been allocated for 2004.

The biggest passenger carriers participating in the reserve fleet last year were ATA Airlines, United Airlines, Delta Air Lines, Continental Airlines, and the charter airline World Airways, according to the Pentagon. The biggest cargo carriers taking part were Atlas, Evergreen, Polar, Gemini and World, which handled cargo as well as passengers.

Officials at the Air Transport Association, which represents domestic airlines, did not return calls seeking comment.

By allowing foreign carriers to bid on contracts against domestic rivals for contracts, the Pentagon could benefit in two ways, said Robert W. Mann Jr., an industry consultant based in Port Washington, New York.

Competition could bring down the price that the military pays to transport troops, he said. American carriers transport soldiers and equipment from bases in the United States, like Dover, Delaware, to military installations overseas. The planes do not fly to conflict zones.

The Pentagon pays a flat 8.5 cents a seat mile for a round-trip flight. The cost of a typical flight between Dover Air Force Base and Kuwait City was \$379,965, according to the Pentagon report last year. That was for a 13,546-mile, round-trip flight using a McDonnell Douglas DC-10 with 330 seats.

But Mann said foreign airlines, especially charter companies, have been known to seek as little as five cents a seat mile for equivalent trips. The Pentagon "may feel they can get better pricing from other suppliers," he said. It was not clear which foreign airlines would participate. But industry experts noted that competition in Europe between low-fare carriers and major airlines has led to excess capacity there. Meanwhile, a decline in flights in the Middle East because of the Iraq conflict could cause carriers based there to become interested in bidding for Pentagon contracts.

ILA and United States Maritime Alliance reach agreement on six-year pact

The International Longshoremen's Association, AFL-CIO (ILA) and representatives from United States Maritime Alliance, LTD (USMX), reached agreement on a new six-year pact, according to a joint announcement, last month, by ILA President John Bowers and James Capo, Chairman and CEO for USMX. The new agreement, historic in terms of length, is subject to ratification by ILA rank-and-file members following local port negotiations some time around June 1.

"We are happy to announce settlement on a new Master Contract, that benefits both ILA members and employers," said Bowers and Capo at the conclusion of the negotiations in Tampa. The new package includes pay raises for ILA members, guaranteed funds for local plans and resolves the issue of the project deficit in the industry's national health care plan, called MILA. Plus with the agreement being reached six months prior to the expiration of the current pact, it affords shippers the assurance that their cargo flow will not be disrupted.

The ILA represents waterfront workers at major port areas on the Atlantic and gulf coasts. USMX is an alliance of container carriers, direct employers and port associations serving these East and Gulf Coasts.

Maritime labor objects to USCG proposals on MMDs

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group of people in the maritime industry who are already the most regulated. Adding to the complexity of merchant mariner documentation does not itself enhance the security interests of the United States. Our country needs more, not less, U.S.-flag ships and more, not fewer, U.S.-citizen crews if the United States wants to seriously address the threats to our ports, our economy and to our citizens posed by flag-of-convenience vessels and their foreign citizen crews.

Consider for example that merchant mariners’ documents already validate information in a number of ways, including the verification of two forms of identification with photographs. It is counterproductive to our nation’s security objectives for the Coast Guard or any federal agency to take unnecessary action that decreases the number of American mariners and increases the number of foreign mariners over whom our government has significantly less control.

The privately-owned U.S.-flag commercial shipping industry and their U.S.-citizen crews played a critical role during Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF), and our industry and American mariners continue to this day to provide logistical support to our nation in these efforts and in the war on terrorism. American civilian mariners and the privately-owned U.S.-flag merchant marine have performed in an exemplary fashion and have been repeatedly singled out for praise and thanks by the Department of Defense.

Nevertheless, despite our industry’s performance to date, there is growing concern within the defense community that absent affirmative action on the part of our government, DOD may not have the number of civilian mariners it may need in the future. In a joint statement submitted to the Seapower Subcommittee of the Senate Committee on Armed Services, on March 10, 2004, General John W. Handy, USAF, Commander, United States Transportation Command (USTRANSCOM), Vice Admiral David L. Brewer, III, USN, Commander, Military Sealift Command (MSC), and Major General Ann E. Dunwoody, USA, Commanding General, Surface Deployment and Distribution Command (SDDC), stated that:

“[Another] USTRANSCOM area of concern is the availability of a sufficient number of qualified civilian mariners willing and available to fulfill the additional requirements created by the activation and long-term operation of MSC and MarAd [Maritime Administration] surge sealift vessels... Volunteer commercial mariners crew the surge vessels...

“USTRANSCOM, MSC, SDDC, and MarAd support the maintenance of a viable U.S. mariner pool... We continue to urge the Administration and the Congress to support programs to promote the expansion of the the U.S. merchant mariner pool.”

Adding extra and vague encumbrances to the already burdensome requirements of the job of being a licensed and unlicensed American merchant mariner, as will be done through the Interim Rule, will only serve to drive more people away from a career in our industry. Our nation drives away U.S.-citizen merchant mariners at its own peril. In this context, and with the intent of ensuring that procedural requirements do not have the effect of decreasing the number of qualified, available civilian mariners and of preventing new entrants into our industry, we submit the following comments and suggestions:

THE “CHARACTER AND HABITS OF LIFE” STANDARD SHOULD BE ELIMINATED

The Interim Rule provides that the “character and habits of life” of the applicant, and whether the applicant is determined to be a “safe and suitable person”, shall be considered by the Coast Guard when deciding whether or not to issue or renew a merchant mariners’ document. These terms are not defined, but rather will, according to the Interim Rule, be left to the “appropriate Coast Guard official” to decide.

We understand that prior to the promulgation of this Interim Rule, 33 CFR section 6.10-1 permitted the Coast Guard to grant MMDs only if “the Commandant is satisfied that the character and habits of life of such person are such as to authorize the belief that the presence of the individual on board would not be inimical to the security of the United States.” However, we know of no instance in the last twenty years when this rule was used to deny the issuance of an MMD. In fact, this rule has all but been struck down by the United States Supreme Court, and the Coast Guard’s attempt to resurrect it and to make it part of the regular MMD

application process cannot succeed.

1. The “Character and Habits of Life” Standard is Void for Vagueness

The “standard” is “void for vagueness” and as such, violates the Due Process Clause of the United States Constitution. As explained by the United States Supreme Court in Grayned v. City of Rockford, 408 U.S. 104, 108-109 (1972):

Vague laws often offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory applications.

The Interim Rule’s “character and habits of life” standard fails each element of the Grayned test. No person of ordinary intelligence could reasonably be expected to determine what is and what is not prohibited by the standard. In addition, the language of the Interim Rule provides no direction at all to determine whether a person’s “character” and “habits of life” may be adverse to the security of the United States. Consequently, a decision-maker’s subjective assessment is the only possible basis upon which a determination could be made. We believe that if the Interim Rule is not changed by deleting this standard, it will be altered if not struck down in its entirety by the courts.

2. The “Character and Habits of Life” Standard Ignores the Supreme Court’s Limiting Construction

The Supreme Court has previously interpreted 33 CFR section 6.10-1, which contains language virtually identical to that in the Interim Rule. The Supreme Court has given this language an extremely limiting construction which is not apparently reflected in the Interim Rule.

In Schneider v. Smith, 390 U.S. 17 (1968), the Supreme Court addressed a First Amendment challenge to 33 CFR section 6.10-1, permitting the Coast Guard to deny MMDs to a mariner based on his or her “character and habits of life.” This regulation, like the Interim Rule, derives from the Magnuson Act of 1950 which gives the President the authority “to ‘safeguard’ vessels and waterfront facilities against ‘sabotage or other subversive acts.’” The Supreme Court held that the relevant provisions of the Magnuson Act only permit the Coast Guard to regulate “actions, not ideas or beliefs or reading habits or social, educational or political associations.” Thus, “character and habits of life” in the Interim Rule can and should only apply to actions but, given the lack of guidance and specificity in the Interim Rule, it is possible if not probable that the standard will be applied far more broadly.

3. The “Character and Habits of Life” Standard Will Infringe on Mariners’ First Amendment Rights

We understand that the intent of this standard is to thwart terrorism and terrorist activities. However, we are greatly concerned that as written, the undefined “character and habits of life” criteria could be used as a catch-all excuse to deny individuals an opportunity to work aboard U.S.-flag vessels based not on their qualifications or on-the-job performance, but rather on their unpopular but legitimate and legal politics; personal habits and lifestyle; or other equally irrelevant, non-terrorist related matters. Without clear definition and specific criteria, United States citizens are in the position where they may lose their right to work in the profession of their choice based on purely subjective determinations by an agency of the United States government.

In fact, this is precisely how 33 CFR section 6.10-1, containing the same “character and habits of life” language was historically applied. In the 1960’s mariners seeking MMDs were required to divulge their membership in political organizations, a practice struck down by the Supreme Court in Schneider v. Smith. There is nothing in the Interim Rule as written that would prevent its “character and habits of life” standard from being historically applied in the same or similar unconstitutional manner.

FURTHER SAFETY AND SECURITY CHECKS ARE UNNECESSARY

Prior to the publication of the Interim Rule, American mariners already underwent a criminal record review that

required them to disclose not only felonies but also misdemeanors and contained a National Driver Record (NDR) review. Regulations in effect prior to the Interim Rule created a presumption of adequacy or inadequacy for service based on the date of occurrence and the severity of any convictions, while at the same time giving the Coast Guard the discretion to reject applicants notwithstanding these presumptions. In other words, the existing process is sufficient to give the Coast Guard the information it needs to determine a potential security risk and the authority to respond to such risks. Any questionable actions would certainly be revealed by the existing background check and/or NDR requirements.

THE APPEALS PROCESS IS UNCLEAR AND INSUFFICIENT

The interim rule provides that if an application for a merchant mariners’ document is denied, the applicant will be notified in writing of the reason or reasons for the disapproval, “unless the Coast Guard determines that such disclosure of information is prohibited by law, regulation, or agency policy...”

We strongly oppose such an exception to the requirement that an applicant be informed in writing of the reasons why his or her application has been rejected. In fact, we cannot envision a situation in which a trained, qualified and eligible United States citizen should not be informed, in writing, of the reason why he or she is refused the opportunity to begin or continue employment aboard a U.S.-flag commercial vessel. To do otherwise, in our opinion, is to make it virtually impossible for a U.S.-citizen merchant mariner to have the chance to respond fully and effectively to whatever “evidence” is being used to justify the disapproval of an MMD application. We firmly believe that the basic requirements of due process and fairness demand that an individual be given all the information necessary to mount an effective defense against what may very well be the arbitrary and capricious denial of his or her application by the U.S. government.

Despite the importance of MMDs to mariners, it is unclear from the Interim Rule what the appeal process will be when a mariner is denied MMDs based on “character and habits of life.” Prior to the issuance of the Interim Rule, the regulations provided that denials for reasons relating to “character and habits of life” were reviewed by a board comprised of “one Coast Guard officer, one member drawn from management, and one drawn from labor.” However, the Interim Rule indicates that the applicable appeal procedure is 46 CFR section 1.03, under which the Commandant or Commanding Officer, National Maritime Center, conducts the final agency review.

Regardless of which appeal process applies, the procedures are insufficient and grossly unfair to mariners. Consistent with the principles of Due Process and fundamental fairness, the Coast Guard must be required to give reasons for the rejection of an application, without exception. Secondly, the regulations should provide a mariner with the right to obtain and review his or her application file. In addition, the appeal and review process must also provide for the protection of all confidential information, and rules must be promulgated to that effect. Finally, the final decision to deny MMDs should be made by a neutral Administrative Law Judge (ALJ) following a hearing on the record. A process as envisioned by the Interim Rule in which the Coast Guard reviews its own decision is patently insufficient. In contrast, ALJ decisions would establish case precedent that would better define what constitutes a “safe and suitable person” or someone who “cannot be entrusted with the duties and responsibilities of the merchant mariner’s document.”

THE COST OF THE INTERIM RULE TO MARINERS IS VASTLY UNDER-ESTIMATED

We believe that the Interim Rule falls far short in its estimate of the time and cost to the mariner of complying with the new requirements and procedures. For example, the rule calculates costs based on a 100-mile average of the proximity of a mariner to the nearest Regional Examination Center (REC). We believe that this is unrealistic because there are only 17 RECs in the country, located in port cities and because mariners live throughout the country, not just in or near a port community. We believe, for example, that mariners should be allowed to be fingerprinted at any one of the 42 Marine Safety Offices or at a local FBI office, in addition to one of the 17 Regional Exam Centers. Similarly, for the same reason, we believe it is unrealistic to assume that only 30 percent of mariners

continued on next page

Fears al Qaeda could infiltrate ships crew

Lax security and widespread fraud mean that the al Qaeda network could easily infiltrate ranks of seafarers, a researcher at the Institute of Southeast Asian Studies warns.

Commercial shipping employs around 1.2 million seafarers and most are recruited from manpower agencies. But security is lax and fraud widespread, Reuters Singapore reports.

“It will be relatively easy for al Qaeda to have their agents pose as seafarers and at some point take command of a ship,” Institute spokesperson Michael Richardson told participants at a maritime seminar.

Fake papers for crew members can be bought and sold easily as demonstrated by the International Transport Workers’ Federation. The ITF bought a First Officer’s certificate from Panama in 2001 for its General Secretary David Cockroft. Cockroft has no shipboard training or experience.

Indian sailors held for captain’s murder

Three Indian seamen were handed over to Delhi police on April 18 on suspicion of killing the master of a Japanese-operated bulk carrier in the Atlantic.

Captain Rajan Agarwal, commanding the Panamanian-flagged bulker *Crimson Galaxy*, is believed to have refused to carry contraband aboard ship and was subsequently murdered, 600 nautical miles off the South American coast. His body is believed to have been dumped at sea.

The *Crimson Galaxy* reportedly sailed from Argentina on March 27, reportedly carrying 36,000 tons of logs bound for Egypt and a 24-member all Indian crew.

Richardson said modern ships are highly automated and can be operated by crews of under 20. This means it would take a small number of well-trained terrorists to seize command of a big ship.

Over a quarter of world trade and half its oil pass through the narrow Malacca Straits and the seas near Singapore and Indonesia, where the International Maritime Bureau has said armed pirate attacks are on the rise.

Singapore has warned that recent piracy attacks have been conducted with almost military precision and fears links have already been developed between pirates and terrorists operating in the region. A commercial vessel or cruise liner could easily be hijacked and turned into a floating bomb.

“If there is maritime terrorism involving ships and cargo containers, then East Asian nations are among the most vulnerable,” Richardson said.

On April 5, Captain Agrawal’s family was notified of his disappearance. The ship was asked to stop at Las Palmas, Spain, where it was re-crewed and anew master appointed. The suspects were repatriated to India by Spanish investigation authorities. Though the motive behind the murder is still unknown, shipping circles hinted at the involvement of a Latin American drug cartel. Mumbai-based manning agent Univan Shipping has filed a case with the Mumbai crime investigating department while Captain Agarwal’s family has filed a case with Delhi police.

New York senator fears fingerprinting failure

New York Senator Charles Schumer has raised fears that the lack of biometric identity checking at the New York City Passenger Ship Terminal represents a security breach for this summer’s Republican National Convention. That event will be held August 30 through September 2, at Madison Square Garden, blocks away from the cruise facility, which Schumer estimates will handle 25,000 passengers and crew during the period of concern.

“It’s great that foreign visitors get checked at [airports] JFK and Newark, but if terrorists know they can walk down the gangplank and right over to the Convention without getting a security scan, we’ve left a gaping hole here on the Hudson,” Schumer said in a press release. He claims that his office had been informed that U.S. Customs and Border Protection “have no intention of installing the technology” in New York. But according to a spokesman for the Department of Homeland Defense, the Senator is mistaken. While the department does not disclose specific startup dates for individual ports, fingerprinting technology is due to be in place at all U.S. seaports by the end of 2004.

India calls for seafarer convention

India is urging the drafting of an international convention to protect the interests of seafarers and officers charged with offences on foreign soil or in international waters.

The move comes with the backdrop of a proposed trial of the crew of the *Erika*. Its Indian master, Captain Karun Mathur, who has been advised not to travel, has sought the help of Indian authorities. Shipping Secretary D.T. Joseph recently told the IMO council that matters relating to the arrest of shipmasters and placing crews in jail for offences connected with shipping are currently not covered under any relevant international convention. He said the detention of the *Tasman Spirit* crew and the salvage master should emphasize the need for a convention on the treatment of seafarers caught up in such unfortunate incidents. India’s directorate general of shipping has now taken up the cause and asked for input from all industry stakeholders to formulate a convention.

The *Erika* trial is expected to take place next year following the end of more than four years of investigations. The Maltese

registered tanker sank off Brittany in December 1999, causing one of France’s worst oil spills. Nineteen people have been charged for “maritime pollution, complicity in maritime pollution, endangering life and complicity in endangering life.”

The indicted include the ship’s master, Karun Mathur, its owner, Giuseppe Savarese, the Italian ship-management company Panship, the classification society RINA, four officers of the French navy and the vessel’s charterer TotalFinaElf, together with five of its executives. Also among the indicted is Malta Maritime Authority, which has asked the Paris Court of Appeal to cancel charges that blame it for accepting a sub-standard vessel in its registry. Meanwhile, TotalFinaElf’s lawyers have stressed that as a time charterer the company cannot be held responsible for the ship’s condition. No official date has been set yet for the trial but it is expected to take place in the second half of 2005.


The *Erika* sank on December 12, 1999, polluting 400 km of coastline and killing more than 100,000 birds.

BOB FILNER
51ST DISTRICT, CALIFORNIA

3428 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TEL: (202) 225-8045
FAX: (202) 225-9073

333 F STREET, SUITE A
CHULA VISTA, CALIFORNIA 91910
TEL: (619) 422-5963
FAX: (619) 422-7290

1101 AIRPORT ROAD, SUITE D
IMPERIAL, CALIFORNIA 92251
TEL: (760) 355-8800
FAX: (760) 355-8802



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TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE

SUBCOMMITTEES
COAST GUARD AND MARITIME TRANSPORTATION
RAILROADS
AVIATION

VETERANS' AFFAIRS COMMITTEE

SUBCOMMITTEE
VETERANS' HEALTH

website: www.house.gov/filner

April 9, 2004

Gunnar Lundeberg
President/Secretary-Treasurer
Sailors' Union of the Pacific
450 Harrison Street
San Francisco, CA 94105


Dear Gunnar:

Thank you for sending me a copy of your letter to other Members of Congress, urging support of my bill, the Belated Thank You to the Merchant Mariners of World War II Act” (H.R. 3729).

While I cannot promise, I am very hopeful that we will be able to pass H.R. 3729 during this session of Congress. Already, I am receiving calls from other Members who wish to support H.R. 3729. I will be working with my colleagues on the House of Representatives Committee on Veterans Affairs to schedule a hearing as quickly as possible.

I am enclosing a copy of my remarks on this bill in the House of Representatives. I appreciate your interest in H.R. 3729.

Sincerely,



BOB FILNER
Member of Congress

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U.S. unveils ocean policy overhaul

The first comprehensive review of United States’ ocean policy in 30 years says major changes are urgently needed. The long-awaited U.S. Commission on Ocean Policy report, released on April 20, unveiled far-reaching recommendations to Congress and the Bush Administration. Among them the Clean Water Act should be amended to set up a “new national regime for managing wastewater discharges from large passenger ships,” including uniform discharge standards, testing, and monitoring. It also put forward regulations requiring new marine sanitation devices that meet “more stringent pathogen-reduction standards.”

Urging greater international cooperation, the Commission also recommended that the United States ratify Annex VI of the International Convention on the Prevention of Pollution from Ships, push for “adoption by the IMO of even stricter air emission standards,” harmonize port state control programs “under the auspices of the IMO,” and “accede to” the U.N. Convention on the Law of the Sea.

After a 30-day review period, the Bush-appointed commission will submit its report, after which it will “hopefully” translate into an overhaul of U.S. ocean regulations.

USCG proposals on MMDs *continued from page 4*

will need to make an overnight trip to a REC in order to have sufficient time to complete and comply with the MMD requirements. Lastly, and despite the claims made in conjunction with the Interim Rule, there will be a significant cost impact on the individual mariner, given the multiple renewals required during the course of a normal career, the travel and travel-related expenses, and the costs associated with delays in the process.

For example, the estimate considers only a five-year period and therefore fails to consider the inevitable costs mariners will incur after that period when they have to renew their MMDs again. Indeed, a mariner who stays in the industry will have to renew his or her documents four or more times during the course of his or her career. Similarly, the estimate is based on a one-hour process once a mariner reaches the REC, a figure that is grossly understated. Even before the issuance of the Interim Rule the process took more than one hour. Now, with the added screening requirements called for in the Interim Rule, a one-hour process is even more unlikely. We conservatively estimate that at most, 25 percent of the mariners would experience a one-hour process, and the rest a

longer and, in some cases, a far longer process. Without government assistance, the added complexity and cost of obtaining merchant mariner documentation contemplated under the Interim Rule imposes a unilateral and unfair burden on U.S. merchant mariners.

REQUEST FOR PUBLIC HEARING

We request a public hearing in order to develop a complete and accurate record regarding the provisions and consequences of the Interim Rule.

In conclusion, we would strongly urge the Coast Guard to reconsider these aspects of the Interim Rule and to work with us and other affected parties to ensure that the rules and procedures governing the issuance and renewal of merchant mariners’ documents do not have the unintended consequences of decreasing the number of American citizens available to work aboard U.S.-flag vessels and weakening America’s commercial sealift capability and national security. We look forward to the opportunity to expand upon these issues and our comments at the requested public hearing.

Editor’s Note: The Unions’ response was compiled by C. James Patti, president of Maritime Institute of Technology and Graduate Studies (MITAGS).

ESU Office Assignments

For the month of May, Jerry Patterson will be in the Seabrook office and Tommy Thompson will be in the Benicia office.



APRIL 2004

Official Publication of the Exxon Seamen's Union

S/R Charleston Finished with Engines for SeaRiver

On March 16, 2004, SeaRiver and U.S. Shipping Acquisition LLC, a subsidiary of United States Chemical Shipping, entered into an agreement for the sale and subsequent purchase of the *S/R Charleston*. The vessel will be formally turned over to the new owner in Galveston, Texas, on April 29, 2004, marking the final log entry of this vessel's twenty-one years of service with SeaRiver and its predecessor organizations.

The *S/R Charleston* was christened on October 15, 1983, at Avondale Shipyard near New Orleans, Louisiana and was the first of three vessels delivered by the Shipyard to Exxon Shipping Company in 1983.

The Exxon Seamen's Union salutes the hundreds of mariners who sailed on the *S/R Charleston*, during her many years of proud service. She will be sorely missed and fondly remembered. May she continue her proud service in the tradition and spirit instilled in her by her former crewmembers. We wish her fair winds and following seas.

Below is an article as it was published in Exxon Shipping Company's January/February 1984 issue of *Underway*, as well as the crew list for the first and last Voyage of the *SeaRiver Charleston*.

On First Voyage

Exxon Charleston maneuvers well

"It's a very maneuverable ship," says Captain John Mazza, following the first voyage of the *Exxon Charleston*.

Mazza says the crew performed well on the trip, in large part because they spent much time at the shipyard during construction, even assisting the Exxon inspectors.

"Being aboard the ship early was invaluable," he says. "We couldn't have done it without that early experience."

The *Charleston* was christened on October 15, 1983, near New Orleans and left the shipyard on November 11, 1983.

When the ship arrived at Baton Rouge, it anchored in the Mississippi River for about four days, while the crew finished up last-minute details and tested the cargo system.

On November 18, the *Charleston* left Baton Rouge and made a first stop at Port Everglades, Florida, on November 22, 1983. After discharging part of its cargo, the ship departed for New York on November 24, 1983. Two days later, it unloaded at Constable Hook in New York Harbor.

On the return trip, the *Charleston* encountered a cold front with 10-foot seas and 35-knot winds. Captain Mazza says, "The ship handled well, even under those conditions."

On December 3, 1983, the ship made its first arrival at Baytown, where Captain Dave Whitty relieved Captain Mazza. The *Charleston* then was loaded with solvents and lube oils at Baytown, before heading to Baton Rouge to pick up more cargo for a second trip to New York. The vessel continues in full operation.

Exxon Charleston

Crew List for first voyage:

John Mazza, Master, William Skahan, Chief Mate, Gary Ferrone, Second Mate, Tom Blanchard, Third Mate, David Rodrigues, Third Mate, Leon Hall, Chief Engineer Thomas St. Pierre, First Assistant Engineer, Jerry Kastner, Second



The *Exxon Charleston* glides under the Verrazano Narrows Bridge as it enters New York Harbor for the first time.

Assistant Engineer, Thomas Osborne, Third Assistant Engineer, David Gonzales, Radio Electronics Officer, Wayne Birdsong, A.B., Jose Silva, A.B., Dwight Willis, A.B., Lawrence Cummings, Maintenance/A.B., Joaquim Fortes Maintenance/A.B., Carl Jones, Maintenance/A.B., Reuben Perry, Cargo Maintenance Specialist (CMS), Robert Ross, CMS Marcelino Gomes, Maintenance & Operations Assistant (MOA), Carlos Castro, MOA, Robert Kurtzke Jr., MOA, Valry Kinchen, Fleet Chef, Kenneth Nash, Ship's Cook and Frederick Parady, Mess/Utility.

Extra Assigned Personnel: Nils Knutstad, Chief Mate John Drufner, Third Mate, Scott Bailey, Third Assistant Engineer and Ervin Parker, Mess/Utility.

S/R Charleston

Crew List for Last Voyage:

Robert Shinn, Master, Darron Biddle, Chief Mate, Wylie Smith, Second Mate, Carlos Royo, Third Mate, Thomas Baer, Third Mate, Bruce Minnette, Chief Engineer, Ronald Siegmann, First Assistant Engineer, Joseph Cox, Second Assistant Engineer, Craig Leduc, Third Assistant Engineer, Ray Parchmon, Pumpman, James Hollmann, Pumpman, Peter Flaherty, A.B., John McCarthy, A.B., Ed Stoeckel, A.B., John Moses, A.B., Albert Curtis A.B., Michael Gore, A.B., Melvin Barnes, QMED/Oiler, Allen Cooper, QMED/Oiler, Johnny Navarro, Fleet Chef, Stephen Baugh, Cook, and Marlon Quidilig, Maintenance Seamen. Extra Assigned Personnel: Jesse Senkel, Third Assistant Engineer.

PENSION FUNDING EQUITY ACT OF 2003 SIGNED BY PRESIDENT

Presently Lump Sum Payouts not affected

On April 8, 2004, Congress passed the controversial Pension Funding Equity Act of 2003. President George W. Bush signed the bill into law on April 10, 2004.

Most rank and file American workers are unaware of how interest rates are used to calculate their pension benefits. Any change in the calculation of the interest rate on lump-sum payouts can have a significant impact on the amount of money you receive, especially if you're about to retire or change jobs, and you're expecting a nice fat lump-sum pension payment to enlarge your nest egg.

Even a small change in interest rates can make a big difference in the size of your lump-sum payment as opposed to an annuity. For many years federal law required pension plans to calculate their obligations and lump-sum payments to workers using interest rates based on 30-year bonds sold by the U.S. Treasury Department. Since 2001, the 30-year bond rate has reached historic lows. Pension plans have suffered because of this. The drop in interest rates has forced companies to make bigger contributions to their pension plans and in some cases, to pay higher premiums for pension insur-

ance to cover long-term obligations to current and future retirees. However, the government has now stopped selling 30-year bonds, forcing Congress to find a way to enact a new interest rate standard for pensions.

Beset by huge pension liabilities, employers pressured Congress in 2003 to introduce a bill that would address using a higher interest rate for calculating future pension obligations (H. R. 3108), a change that would reduce their pension costs by changing the methodology of calculating contributions to certain plans. With the passage of H.R.3108 the method of using the 30-year treasury securities will be replaced through December 31, 2005 with the rate of interest on amounts conservatively invested in long-term corporate bonds. The law, as currently written, allows companies to use the corporate bond index rate for funding purposes for the next three years, but would continue the current Treasury rate for figuring lump sum calculations for another two years. In 2006, if Congress takes no further action, this interest rate will revert back to the 30-year Treasury bond rate starting with the 2006 plan year.

Will the assault continue on our pension retirements? It is almost a certainty that they will. Before the ink was even dry when the President signed the bill, there were some Congressmen complaining that the bill didn't go far enough. There were others vowing to introduce new legislation for pension reforms.

As helpful as the higher rate is to employers, it would have a devastating impact on the value of lump-sum pension payments to workers if they change the methodology of calculating lump-sum payouts away from the 30-year Treasury securities. The slightest hike in the interest rate can be harmful and with certainty will impact lump sum payments. For example a two percent increase in the rate could result in a 25 percent reduction in your benefit. A \$100,000 lump-sum payment based on the 30-year Treasury rate would, for example, shrink to about \$75,000.

Companies have every reason to be concerned about how the impact of low interest rates and a weak stock market has wreaked havoc on their pension funding obligations, but working men and women, too, are feeling the pressure of falling interest rates and a weak stock market. The

burden of replenishing the pension coffers should not be borne on the backs of the workers. In considering future legislation, Congress must recognize the legitimate funding concerns of employers as well as the needs of employees.

There is never a good time to cut pension benefits, but the absolute worst thing that Congress could do is to enact such legislation when employees have suffered major declines in their 401(k) and IRA balances and when the returns they can expect from investing pension distributions are so low.

Vessel security plans

On March 19, 2004, the ESU sent the Company a formal request to bargain work rules changes that may apply to unlicensed personnel pertaining to the Company's proposed Vessel Security Plan.

The Union considers this to be a subject of mandatory bargaining and we asked that they delay implementation until we complete bargaining on the issue. We have requested to set a bargaining session as soon as possible in order that we can conclude bargaining before the federally mandated implementation date of July 1, 2004.

ESU News

Union/Management settle Unfair Labor Practice Charges

During the latter part of March, the Union and Company reached an understanding that settled several Unfair Labor Practice Charges (ULPs) that have been filed by the Union over the last few months. As was previously reported in the *ESU NEWS*, these charges were all similar in nature, relating to management not providing all information (employee personnel files) that was requested by the Union to investigate several grievances.

Historically, in all termination and promotion grievances, the Union has always requested a complete copy of the employee's personnel file to aid our investigation. Until recently, there were no problems with management providing this information but late last year the company decided to pick and choose what information it wanted to provide or the Union officer in the Seabrook office could come to the company offices to review files and pay for any copies made for the Union. The ESU Board felt these demands were unreasonable and subsequently charges were filed.

In resolution of this issue, the Company will provide the Union, upon request, a copy of an unlicensed crewmember's personnel file with the exception of benefit information. In the event that an unlicensed crewmember's benefit information becomes relevant, the Union may also request such information and it will be copied and provided to the Union. This resolution addresses the Union's concern and we are glad that we could resolve this issue amicably.

Steward Department promotions announced

The ESU congratulates the following members on their recent promotions effective as of April 1, 2004: to Fleet Chef: David Franklin; to Cook: Sean King.

Ship reports

S/R American Progress

Executive Board Officer visited the ship on April 7, in Beaumont, Texas, at the ExxonMobil Dock. Temporary Ship Representative, Edward Caldwell reports everything is going reasonably well. There was some concern over the accuracy of paid leave reporting on the team work sheet. Additionally, one crewmember experienced an O.T. glitch and that is being investigated. The vessel continues in the Gulf, running between Texas and Florida.

S/R Baytown

Executive Board Officer boarded the vessel on April 10, in Port Angeles, Washington. Vessel was at anchor for a couple of day to complete routine mechanical repairs. Ship Representative Mark Myser on board. Everything going well on board.

S/R Charleston

Sadly, the *SeaRiver Charleston* is completing the last leg of her final voyage under the SeaRiver flag. She is on her way up from the Panama Canal where she will discharge in Texas and then prepare to be turned over to her new owners toward the end of April. Temporary Ship Representative Mike Gore is aboard for the transition. The ESU commends the crew for a job well done over the many years of service on this vessel. And thanks to Ship Representative Bob Knight for his dedicated service to the ESU and membership.

S/R Columbia Bay

Executive Board Officer visited the vessel on April 1, at Valero Dock in Benicia, California. Regular Ship Representative Thor Floreen on board and reports all going well. Vessel recently completed a partial discharge at El Segundo. Mooring operations went smoothly.

S/R Galena Bay

Executive Board Officer boarded visited the vessel on April 2 and 5, at Amorco Dock in Martinez, California. Mike Harrison continues to fill in as Ship Representative here. Vessel making preparations for upcoming shipyard period. Chief Mate Rob Stalzer had many words of praise for the crew's profes-

sionalism when the ship was reactivated during late February. Job well done!

S/R Hinchinbrook

Executive Board Officer boarded visited the vessel on April 11, in Port Angeles, Washington. Vessel will be completing shipyard repairs, tank rafting, etc. Waverly Moore filling in as Temporary Ship Representative and doing a good job for the members here.

S/R Long Beach

Executive Board Officer visited the vessel on April 14, at Valero Dock, Benicia, California. Nick Wise relieved Wen Shie Tai as Temporary Ship Representative. Thanks Wen for your frequent calls to conduct Union business. Vessel continues to trade between Valdez/Long Beach and San Francisco Bay Area.

S/R Mediterranean

The ship is still trading in the Far and Middle East. Regular Ship Representative Frank O'Malia is on board presently, but will soon be relieved to attend the Ship Representative Conference. Frank reported in via E-mail, sent in his April ESU meeting minutes and reports that everything is going well. It appears that the *Mediterranean* should be running under the SeaRiver flag until July 2004.

S/R Puget Sound

Vessel continues in the Gulf/Florida gasoline trade between Corpus Christi, Texas and Tampa Bay, Florida. Board Member visited the ship on March 23, at the Valero dock in Corpus Christi Texas. Temporary Ship Representative George Ruark reported in on April 11, from Corpus Christi and reported that all was well.

S/R Wilmington

Vessel was visited at the ExxonMobil Dock, Baytown, Texas on April 11, and 12. Marvin Marcum is still aboard filling in as Temporary Ship Representative and reports everything going well. There was some discussion about the vessel security plan. The ship continues its regular route; the crew is anxiously waiting for the final word on the location of the upcoming shipyard period in July.

An appreciative crew lauds Martins



Pictured above, retiring Fleet Chef John Martins is surrounded by an appreciative crew that presented him with a ship's clock on a plaque with a nautical knot board. From left to right are: QMED: Leonides Lumongsud, AB: Walfredo Dompas, AB: Chuck Bell (Ship Representative), Cook: Kevin Linden, 3AE: Kelley Baughman, AB: Patrick Campbell, Guest of honor Fleet Chef: John Martins, 3M: Craig Bowden, 1AE: Emelio Melione, 3AE: Julie Maggart, PM: Bill Davis, AB: Edward Caldwell, QMED: John Valle, 3AE: Luke Fanuelle, and MS: Samuel Smith

Fleet Chef John Martins retires

Fleet Chef John Martins has elected to retire after twenty-eight years of company service. John's last ship was the *SeaRiver American Progress* and the crew threw him a gigantic going away party. He was presented with a ship's clock mounted on a wood plaque with nautical knots surrounding it. Captain John Hooper made the presentation and thanked him for his many culinary creations over the years.

John started his career on the Exxon Boston as Messman in 1976 and moved up quickly to Cook and then Fleet Chef. John indicated that he has had many fond memories while sailing, but one that stands out among all the others is the 1981 voyage on the *Exxon Houston* around Thanksgiving and Christmas when it went to the shipyard in South Korea. He said, "That was a unique time when everything seemed exactly right and it was one of the most pleasant tours I can remember."

When asked about retiring, he said, "I am looking forward to retirement but I will miss all my friends." We will miss him also, and we wish him a long and happy retirement.

Another payroll glitch

The ESU was informed on April 15, 2004, of yet another SHARP payroll glitch. Reportedly, 44 unlicensed employees are affected this time around. An unknown number of officers were also affected.

The problem this time around is in regard to cash advances made on the vessel. The duration of this problem extends as far back as July 2002, until December 2003.

In the cases of the individuals affected by this problem, the money was never taken out of their pay. For a few of the individuals there is more than one instance of this occurrence. The dollar

ranges are as low as \$28.00 and go as high as \$900.00.

The company has sent out letters to those employees that again, have been victimized by the Un-SHARP payroll debacle. The company has assured the ESU that the money will be deducted in the same manner as it was paid out, that means if you have more than one advance that wasn't deducted it will be taken out over two pay periods.

The ESU regrets that its members are subjected to a payroll system that hasn't worked correctly since its inception and we intend to keep complaining until they fix it.

New Hire Orientation

On April 13, 2004, a new group of unlicensed employees began new hire training in Vallejo, California. Human Resources interviewed more than a dozen potential candidates for employment with the intentions of hiring around 10 but only seven met all the standards to be hired. All have unlimited Able Seamen endorsements and should help alleviate the current shortage of reliefs. The completion date for this course is April 23, and we expect all new employees to be assigned to a vessel immediately or shortly thereafter.

The ESU will be meeting with these potential new members during the orientation and we hope they will recognize the clear benefits of membership. The ESU welcomes the following new employees to the bargaining unit: Proceso Castillo, John Detwiler, Julio Lima, Roger Olivierre, Randall Sweitzer, Joseph Villarta and Joseph Wolff. If a new employee is sailing on your vessel in the near future, please take the time to provide operational input and make them feel welcome.

EXXON SEAMEN'S UNION

Founded March 28, 1941

Affiliated with the Sailors' Union of the Pacific

1320 5th Street, Suite A
Seabrook, TX 77586
Tel (281) 474-2430
Fax (281) 474-2463
E-Mail: esubay@msn.com

P.O. Box 792
Benicia, CA 94510
Tel (707) 746-5713
Fax (707) 746-7859
E-Mail: esuben@sbcglobal.net

President Jerry Patterson

Vice President John Straley
Secretary/Treasurer Leo DeCastro
Recording Secretary Thomas Thompson III

Deck Trustee Patrick Campbell
Engine Trustee William Ackley
Steward Trustee Gerard Nelson

Sailors' Union of the Pacific/
Training Resources, Ltd.

Schedule of Course Offerings for 2003/04

STCW 95 Basic Safety Training

• Basic Fire Fighting		• Basic First Aid	
• Personal Survival		• Personal Safety and Social Responsibility	
Apr 19-23	Jun 23-27	Aug 23-27	Nov 1-5
May 3-7	Jul 12-16	Sep 6-10	Nov 15-19
May 26-30	Jul 26-30	Sep 27-Oct 1	Dec 6-10
Jun 7-11	Aug 2-6	Oct 18-22	Dec 13-17

LMSR Vessel Training (MSC approved)

May 11-21	Jul 20-30	Sep 14-24	Nov 2-12
Jun 15-25	Aug 10-20	Oct 12-22	Nov 30-Dec 10

Small Arms Training (MSC approved)

Apr 19-21	Jun 28-30	Sep 27-29	Nov 15-17
May 24-26	Aug 23-25	Oct 25-27	Dec 13-15

Able Seaman (AB)

May 17-29	Aug 9-21	Oct 11-23	Nov 29-Dec 11
Jun 7-19	Sep 13-25	Nov 1-13	

Survival Craft (Lifeboatman)

Apr 19-22	Aug 23-26	Oct 25-28	Dec 13-16
May 31-Jun 3	Sep 27-30	Nov 15-18	

Training Information and Enrollment

Contacts

Rich Reed, SUP Welfare Plan Rep	Dave Connolly, SUP Vice President
SUP Welfare Plan	c/o Andrew Furuseth School of Seamanship
450 Harrison St., San Francisco, CA 94105	450 Harrison St., San Francisco, CA 94105
Tel: (415) 778-5490	Tel: (415) 777-3400
Fax: (415) 778-5494	Fax: (415) 777-5088
E-mail: supwelfarerep@hotmail.com	E-mail: daveconnolly@msn.com

Workers on dockside casinos aren't seamen

The U.S. Court of Appeals for the Seventh Circuit ruled that, for purposes of the Jones Act, a permanently moored dockside casino is not a vessel in navigation and its employees are not seamen entitled to protection under the Act.

In the instant case, the casino vessel was documented and inspected by the U.S. Coast Guard, but only got underway once each year for engine and maneuvering tests. The court held that the vessel was not engaged in the transportation of passengers or cargo and was thus not a vessel in navigation under the Jones Act. Personal injury claims asserted by employees under the Jones Act were therefore dismissed.

Editor's Note: For those who want to receive the *West Coast Sailors* in a more timely manner, subscriptions **via first-class mail** are now available (one-year intervals only) for \$25 per year.

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Welfare Notes

April 2001

The medical and dental fields are becoming evermore involved and complicated. With rising medical costs, and more red tape and paperwork it is making the participants become more proactive and hands on in making their medical coverage decisions. The SUP Welfare Plan is not immune to this. We are being subjected to rapidly escalating price increases from medical and dental carriers. In addition to this the carriers are requiring more work from our participants. The Welfare Plan receives phone calls and e-mails asking to describe certain medical and insurance terms. Listed below are some of the terms you may find, as well as the definitions of terms.

Allowable Charge: The maximum fee that a health plan will reimburse a provider for a given service.

Appeals: The process used by a member to request that the health plan reconsider a previous authorization or denial decision.

Brand Name Drug: A prescription drug that has been patented and is only available through one manufacturer.

Claim: A request for payment for benefits received or services rendered.

Co-payment: A way in which the enrollee shares in the cost of health care. The benefit plan requires the enrollee to pay a flat dollar amount per unit of service. An example of a common co-pay is \$10 per doctors visit.

COBRA: Consolidated Omnibus Budget Reconciliation Act: This is a federal law that requires most employers and plans to provide continuation of coverage for members as prescribed by current federal laws.

Deductible: An amount the insured person must pay for covered services during a calendar year, January 1 to December 31, before health benefit payments begin.

Explanation of Benefits (EOB): A form sent to the enrollee after a claim for payment has been processed by the health plan. The form explains the action taken on that claim. The explanation usually includes the amount paid, the benefits available, reasons for denying payment, and the claims appeal process.

Generic Drug: A drug, which is the pharmaceutical equivalent to one or more brand name drugs. The Food and Drug Administration have approved such generic drugs as meeting the same standards of safety, purity, strength and effectiveness as the brand drug.

Health Maintenance Organization (HMO): A type of health care plan under which the enrollees receive all the medical services under a health benefit plan through a specific group of participating doctors and hospitals.

Non-Participating Provider: A medical provider who is not contracted with a health plan.

Participating Provider: A doctor, hospital pharmacy, laboratory, or appropriately licensed facility or provider of health care services that has entered into an agreement with a managed care entity, or HMO, to provide services to enrolled members.

Preferred Provider Organization (PPO): A type of health benefit plan designated to give enrollees incentives to use health care providers designated as "preferred providers", but that also gives coverage for services received from other health care providers. PPO plans can also be distinguished from HMO plans by the ability of PPO members to see any specialty physician without referral from a Primary Care Physician. Although some HMOs may allow this.

Primary Care Physician: A doctor selected by the enrollee to be the first physician contacted for any medical problem. The doctor acts as the patient's regular physician and coordinates any other care the patient needs, such as seeing a specialist or hospitalization.

SUP Welfare Plan

450 Harrison Street, San Francisco CA 94105

Telephone Numbers:

Main	(415) 778-5490
Eligibility active members/dependents	(415) 778-5491
SUP Money Purchase Plan, SUP 401(k) Plan,	
Pensioner Medical Benefits	(415) 778-5493
Toll Free Number	(800) 796-8003

SUP LMSR graduates



From left to right:
Steve Campbell,
Mike Durnam, Jill
Hilleman, Angelito
Mendoza, Josh
Walker, and
Clifton Steven.
Pictured at
Training
Resources, Ltd.
facility in San
Diego.

General Handy underscores need for cargo preferences, MSP, to expand American mariner base

Support for U.S. cargo preference laws, the new Maritime Security Program (MSP), and maritime training and education programs are required to maintain and expand the number of U.S.-citizen merchant mariners needed to crew U.S. sealift ships during wars or other national emergencies, General John W. Handy, USAF, Commander of the U.S. Transportation Command (USTRANSCOM), told a Congressional hearing in March.

Along with USTRANSCOM, the Navy's Military Sealift Command (MSC), the Army's Surface Deployment and Distribution Command (SDDC), and the Maritime Administration (MarAd) all "support the maintenance of a viable U.S. mariner pool through enforcement of cargo preference requirements, support for MSP, and vigorous maritime training and education," to stave off any potential shortfall in the number of U.S. merchant mariners needed during future sealift operations, Handy said in testimony delivered March 17, before the House Armed Services Committee's Projection Forces Subcommittee hearing on the current and future state of U.S. sealift and airlift transportation forces.

Evaluations show potential shortfalls in the number of merchant mariners needed during "worst-case" scenarios, Handy told the Subcommittee. "As a result, we continue to urge the Administration and Congress to support programs to promote the expansion of the U.S. merchant mariner pool."

MSP, which "provides assured access to sealift/intermodal capacity and a readily available, highly trained and qualified work force of merchant mariners employed in U.S.-flag shipping," and the government's Voluntary Intermodal Sealift Agreement (VISA) program, which gives the Defense Department access to commercial U.S.-flag sealift capacity along with U.S.-flag carriers intermodal infrastructure, are critical elements of DOD's commercial sealift program, Handy said.

"Because pre-negotiated contracts with the carriers [under VISA] permit early access to additional lift capacity, the time required to close forces for the counter attack phase of war operations can be significantly shortened," Handy explained.

The new MSP which increases the number of U.S.-flag ships in the MSP fleet from 47 to 60, provides an opportunity "to better assure access to U.S.-flag, 'low density-high demand' assets" such as roll-on/roll-off and heavy lift vessels, Handy pointed out.

MSP also helps to guarantee a U.S.-flag fleet operating in international commerce and the fleet's ability to provide sustainment sealift capability during wars or other national emergencies, Handy said. "This guarantee is particularly critical should the U.S. find itself in a position where it must act alone. Additionally, this increase in fleet size should play a critical role in expanding the U.S. mariner base."

As the hearing drew to a close, Handy paid tribute to U.S. merchant mariners in response to a query from Subcommittee Chairman Roscoe Bartlett (R-MD). "Every time we call down to the Union Hall, they roll up their sleeves... and go to work. They're great Americans who perform magnificently for their country," Handy said.

Source: AMC Washington Letter

Carriers take evasive action as Iraq becomes more dangerous

As international shipping lines review services and foreign workers flee the war-torn country of Iraq, transport and distribution networks could be thrown into chaos. At least one carrier has decided to suspend inland haulage for awhile and unload containers at Umm Qasr, posing a potential nightmare for the port's operator. Other lines said they were still reviewing the situation.

Inchcape Shipping Services (ISS), however, has moved a number of employees to Kuwait, and told the rest to leave the country if they feel in danger. "The recent turn of events is causing us a great deal of concern," said chief executive Simon Morse. Most of the ISS personnel still in Iraq are based in the military compound at Umm Qasr, where there has been less trouble, and they could easily be evacuated to Kuwait, should conditions deteriorate, said Morse.

CMA CGM, which runs a dedicated feeder service between Khor Fakkan and Umm Qasr, decided to stop onward deliveries for now and to unpack boxes in Umm Qasr. Anotehr line with its own feeder service to Iraq in P&O Nedlloyd whose ship, the *San Lorenzo*, is due to arrive and the situation is being monitored on a daily basis.

Umm Qasr is now run by Seattle-based SSA Marine, formerly Stevedoring Services of America, which won the \$14.3million contract a little over a year ago, and was renewed last month until the end of June.

SSA Marine has 12 operatives at the port handling commercial, reconstruction and humanitarian cargo, as well as supervising the current ferry service between Iraq and Dubai. As of March 16, more than 300 vessels carrying 1.2 million tons of cargo and more than 8,000 ferry passengers had called at the port since SSA Marine assumed control

U.S. to fingerprint all foreign arrivals

By September 30, all foreign cruise passengers arriving in the United States will be photographed and electronically fingerprinted, including visitors from the 27 so-called 'visa waiver' countries in Europe and Asia. The extension of the US-VISIT program to cover all foreigners (except Mexicans and Canadians) was prompted by heightened security fears. Travel Industry Association of America president William Norman, said he was "very disappointed and very concerned about potential negative reactions in key inbound tourism markets" such as Western Europe and Japan.

This view was echoed by Cruise Lines International Association president Mark Conroy, who said: "Anything that makes it harder for people to visit the United States is obviously a concern, and there is also the issue of retaliatory moves by other countries."

Conroy noted that U.S. cruise passengers arriving in Brazil now confront "several hours spent getting fingerprinted on an ink pad and having their pictures taken with a Polaroid, all of which [Brazilian authorities] probably throw in the garbage can at the end of the day".

Nevertheless, Conroy does see a security rationale behind the new U.S. move. "There's probably more al-Qaeda in the EU than in Brazil," he said.



Bosun John Svane and delegate Hank Barrett on the stern of Colorado Voyager at Richmond Long Wharf this month.

Photo by Dave Connolly.

Matson to raise rates in Guam/Marinana Islands Service

Matson Navigation Company, Inc. announced April 20, that it will raise its rates for the company's Guam/CNMI (Commonwealth of Northern Mariana Islands) service by \$125 per container, effective June 6, 2004. The increase will be filed with the Surface Transportation Board. In addition, the company will increase its West Coast terminal handling charge by \$25 per container, also effective June 6, 2004. "This rate increase will help offset rises in contractual operating costs and support a number of investments in our Guam/CNMI service that will deliver value and provide the territory with modern, reliable ocean transportation services in the future," said James Andrasick, Matson president and CEO.

"This rate increase marks only the second time Matson has taken any rate action, other than terminal handling fees and fuel surcharges, in its Guam/CNMI service since it was inaugurated in 1996. Given the essential role ocean transportation has in supporting Guam's economic activities, Matson's primary business objective remains focused on ensuring the company's services are among the best in the world." Andrasick further noted that international container rates in the Pacific rose by \$700 per container in 2003 and are expected to increase another \$450 per container in May 2004.

Historically, Matson has taken across-the-board percent rate increases. The flat fee per container rate increase recognizes that increases in costs and investments tend to be on a per container basis regardless of the commodity that is in a container. Percent increases result in customers shipping higher rated commodities to bear the greatest cost burdens.

"While we understand that this new charge will affect some businesses more than others, we feel that one uniform increase per container is the most equitable overall approach to address our cost and reinvestment issues," said Andrasick.

In addition to the per container rate increase, rates for moving vehicles will increase by \$25.

Matson will also increase its West Coast terminal handling charge, which is a separate line item that appears at the bottom of the company's freight bills, by \$25 per container. The charge helps Matson recover a portion of its terminal handling costs, which comprise about 40 percent of Matson's total operating expenses. The current West Coast terminal handling charge is \$100 per container. The terminal handling charge for vehicles will increase from \$30 to \$35 per vehicle.

Matson is a wholly owned subsidiary of Alexander & Baldwin, Inc.

Wrongful discharge case of mariner tossed by appeals court

The U.S. Court of Appeals for the Eighth Circuit ruled that a crewmember who, at the direction of his supervisor, violates a Coast Guard regulation and later quits his employment has no cause of action against his employer for wrongful discharge.

In the instant case, plaintiff was employed on defendant's casino vessel as a licensed assistant engineer. He asserted that when there were not enough engine utilitymen working to comply with the vessel's Coast Guard certificate of inspection, his supervisors ordered him to enter the name of an employee even though that employee was not actually present. After almost two years of making such false record entries

and allegedly experiencing a hostile work environment, plaintiff quit his employment. He later filed this action against his employer.

The court found that there is no private right of action under general maritime law for retaliatory discharge in this situation. Further, the court noted that plaintiff made the false log book entries for an extended period before voluntarily leaving his employment. In those circumstances, the appellate court affirmed the district court's grant of summary judgment in favor of defendant employer. *Zbylut v. Harvey's Iowa Managment Company, Inc.*, No. 03-1752 (8th Circuit, March 25, 2004).

California’s labor institutes face elimination by Schwarzenegger

Of the hundreds of research institutes in California’s public university system, Governor Arnold Schwarzenegger has targeted just one for elimination: a think tank dedicated to organized labor.

It is the scourge of conservatives and industry groups. They call it “Union U” and charge that the institute has been used to train union “thugs” to beat up political opponents.

But to founders, the Institute for Labor and Employment, based at UCLA and UC Berkeley is a place where union leaders and academics can come together to explore workforce issues and trends.

The fate of the small institute is taking a prominent role in a high-stakes budget battle in Sacramento and a national debate over the place of organized labor in university classrooms, fueled by charges that the programs are merely a training ground for union activists.

On his own authority in December, Schwarzenegger cut \$2 million from the institute—what remained of its allocation through the current fiscal year, which ends in June. He has proposed eliminating it entirely next year. And even if the Legislature includes it in the budget, he can take out the \$4-million program before signing the spending plan.

John J. Sweeney, president of the AFL-CIO, calls Schwarzenegger’s proposal part of a “conservative attack to cut labor studies programs.”

The state’s labor center, created under former Governor Gray Davis in 2001 and well-liked by Democratic legislative leaders, holds workshops on how to increase union membership, get more at the bargaining table and fight globalization. It sponsors interdisciplinary research on a range of workplace topics, from gender discrimination and family leave to the role of unions in the new economy. Former U.S. Secretary of Labor Robert Reich says “the information they provide has been extremely useful. They look at the entire labor market and ask hard questions about why the labor market looks the way it does, how it is evolving and how it could evolve.”

Officials at the institute say their close connections with unions are no less appropriate than the relationships between corporations and the state’s business schools. An associate director openly calls it “a small beachhead for organized labor” in academia. Senate leader John Burton (D-San Francisco) sits on the institute’s advisory board and Assembly Speaker Fabian Nunez (D-Los Angeles), a former union organizer himself, has vowed to protect it, so the relatively tiny state allocation will test the will of the governor and legislative Democrats to fight for their core constituencies. “It’s something we are very concerned about,” said Burton, who suggested the cut is “a gratuitous philosophic whack at labor.”

The labor institute describes its mission as “advancing knowledge, research and understanding of labor and workplace issues and the preeminent role of labor as a trendsetter in California and the nation.” It has provided scores of research grants to explore such issues as the challenges of organizing day laborers and the value of city living-wage laws, and it produces a widely used annual report on state labor trends and issues. At a leadership school and conferences the institute runs with unions, labor leaders discuss tactics for strengthening union clout.

Within a year after it was formed, the program drew the ire of a major construction industry group. Officials with the Associated Builders and Contractors of California, which represents open shop construction firms, say they were offended by the institute’s favorable report on construction project labor agreements. To the frustration of many contractors, those employment contracts between local unions and developers give organized labor a toehold in what would otherwise be nonunion jobs. They typically include baseline salary agreements and restrictions on hiring nonunion workers in return for assurances that there will be no walkouts or strikes. At the time, labor leaders were lobbying for such an agreement to be put in place for the construction of UC Merced, and they used the institute’s study as evidence of the contracts’ effectiveness.

“We looked into this further and realized we as taxpayers were the ones paying for this,” legislative director Matt Tennis said. “That didn’t agree with us, that our tax dollars were going to fund biased, anti-merit shop, pro-union propaganda.”

Conservative activists across the country soon joined the association’s drive to eliminate the program. In articles, newsletters and web postings, they warned that it was political correctness run amok—activism cloaked as academia. At taxpayers’ expense. Steve Malanga, a senior fellow at the Manhattan Institute, a libertarian think tank based in New York, published an opinion piece in the *Wall Street Journal* characterizing the institute as a partisan training ground for labor activists, set on turning “the classroom into a soapbox, from which professors rail against what labor considers its biggest threats.”

Peter Olney, associate director of the institute, points out the National Labor Relations Act of 1935 made “encouraging the practice and procedure of collective bargaining” official government policy. “Given the corporate offense against unions, some folks forget this is the law of the land,” he said. “Is anyone talking about eliminating the business school for balance? They receive a lot more funding than we do.”

Labor leaders and academics across the country are weighing in on the institute’s fate, and expressing concern that they could be next. “There is no question there has been a growing attack nationally by some conservative organizations on labor studies and the idea that this kind of education is available for unions and workers at universities,” said Susan Schurman, president of the George Meany Center for Labor Studies-National Labor College in Silver Spring, Maryland, the official college of the AFL-CIO. Some academics question whether the UC system’s labor studies program is being held to a different standard from other publicly funded institutes.

Cozy relationships between private organizations and public universities, they say, are not uncommon at all. UCLA’s business school in June, for example, will hold a workshop for corporate executives on managerial negotiations, with a breakout session on “tough bargaining” on salaries. And research from the UC system is routinely used to benefit pharmaceutical, agricultural and other companies.

Outsourcing robs U.S. jobs

By John Sweeney, president of the AFL-CIO

America’s jobs crisis affects all of us—from university Ph.D.s to recent high school graduates. Every month produces additional pink slips for autoworkers, radiologists and computer engineers.

In three years, we have lost nearly three million private-sector jobs. Manufacturers have slashed payrolls for 43 straight months. We have shed half a million information jobs since December 2000, nearly as many as we added the preceding three years. The so-called recovery began more than two years ago, but still there are three unemployed workers for every job opening, and thousands have abandoned the workforce.

The jobs crisis is real—and one real reason for it is that American companies are shipping jobs overseas. Economy.com, an independent research group, estimates one million of the nearly three million jobs lost have been sent abroad since 2001. Analysts at the Haas School of Business at the University of California-Berkeley say 14 million white-collar jobs are at risk.

The consequences of sending jobs overseas devastate workers such as California mom Natasha Humphries, laid off by her high-tech firm after it flew her to India to train her replacement. Now, she

has joined individuals from every state on a bus tour through the heartland to shine a light on the jobs crisis. Other riders include people such as 53-year-old Dan Pechek from Minnesota, unemployed and fearful 12 months after losing his paper-mill job, and Dawn Teo from Arizona, working to save U.S. jobs after past employers made her reorganize work and lay off workers to move jobs overseas.

The riders will tell you that solving the jobs crisis requires changing policies and priorities—and the occupant of the White House. For even as the export of good jobs accelerates, President Bush pushes tax breaks for companies producing overseas. As our manufacturing sector reels, he is negotiating dozens of flawed trade agreements, threatening even more jobs. As solid middle-class jobs slip away, Bush seeks more tax cuts for the superrich.

Solutions to our jobs crisis are not simple. Education and training matter, but only in combination with effective policies to create and keep good jobs in America. Above all, we need leaders who believe, as the bus riders do, that their job is to work for our jobs.

Labor unions UNITE and HERE merge

The executive boards of the Hotel Employees and Restaurant Employees International Union (HERE) and UNITE, the clothing, textiles and laundry union, have unanimously agreed in principle to merge the two unions. The new Union will represent 440,000 active members and more than 400,000 retirees throughout North America. The tentative agreement is expected to be ratified with a vote by rank-and-file members at a special joint convention in Chicago in July.

The new union will be called UNITE HERE. Bruce Raynor of UNITE will serve as General President, and HERE’s

John Wilhelm will be President/Hospitality Industries. The two presidents will share executive, budgetary and personnel authority.

“This merger substantially increases our ability to fight for the rights of our members and the tens of thousands of new members that we will represent in the future and to make sure that America’s working families share in the success of the world’s richest nation. We are stronger together at the bargaining table, at shop floors, in city halls, state capitals and in Washington, D.C.,” says President Raynor.

MEBA signs agreement with Norwegian Cruise Lines

The Marine Engineers’ Beneficial Association’s *Telex Times* reported in its April 16 edition that the Union has signed an agreement with Norwegian Cruise Lines (NCL) covering all licensed deck and engine officers aboard the company’s U.S.-flag passenger vessels. The agreement becomes effective May 1. MEBA anticipates that there will be approximately 27 officer jobs per vessel.

MEBA president Ron Davis stated: “Currently, there are many MEBA officers aboard the *Norwegian Sky* a supernumerary/observer officers learning the NCL operation. In the near future, the *Norwegian Sky* will be reflagged and named the *Pride of Aloha*. Those officers working aboard the *Norwegian Sky* from May 1, will be covered under this agreement. The NCL vessel *Pride of America*, which is under construction, is

scheduled to enter the American-flag passenger trade later this year or early next year. NCL’s long-term plan is to eventually have five vessels under the American-flag. We still have some logistics to discuss with NCL and once those details are finalized, I will present the membership with further information.”

SUP members join pension ranks

The following SUP members join the rank of pensioner, bringing the total number of SUP members to 858:

Jerry Ah Sam, 71, Book No. 3775, joined SUP in 1959.

Junior Hart, 60, Book No. 5270, joined SUP in 1967, 31 years seetime.

John Stasko, 64, Book No. 7430, joined SUP in 1963, 36 years seetime.

Record of SUP Shipping						
March 2004						
	Hdqs	Seattle	Wilm	Hono	Total	
Bosun	4	0	2	2	8	
Maint. Man	5	0	0	0	5	
A.B. Dayworker	0	0	6	0	6	
A.B.	12	13	8	10	43	
O.S.	2	1	0	0	3	
Standby	20	23	74	23	140	
TOTALS	43	37	90	3	205	



SUP President's Report

April 12, 2004

FOSS MARITIME COMPANY

Negotiations with Foss Maritime Company began earlier than expected when the company, on short notice, requested a meeting on March 23, to submit a proposal on the utilization of its tugboats on San Francisco Bay. In attendance for Foss were Scott Merritt, San Francisco Regional Director; Ern Russell, Marine Operations Director; Walt Partika, Tank Barge Superintendent; and Greg Poettgen, Operations Administrator. The Union was represented by Mel Jackson, Mike Potenti, Carl Turner, Mike Worth, Vice President Dave Connolly, and your secretary.

As previously reported in the January *West Coast Sailors*, Foss —although the dominant company in bunkering and ship assist/tug escort work on San Francisco Bay— expressed its concern about potential competition from Starlight Marine Services, a division of Harley Marine. Starlight is an SIU-A&G-contracted company. The San Francisco Foss operation is split between the SUP and the IBU. The SUP represents deckhands, engineers and tankermen employed in the company's bunkering service, while the IBU represents deckhands and engineers in the ship assist and tug escort operation.

The company strongly suggested that one way to reduce or eliminate "competitive inefficiency" is for the SUP, IBU and Foss to resolve jurisdictional issues regarding the use of the company's tugs on the Bay. While the SUP agreement stipulates that SUP-crewed tugboats shall be used to move bunker barges, Foss has on occasion used IBU-crewed tugs for this work which has resulted in the SUP claiming and collecting for misassignment of our work.

At the March 23 meeting, Foss submitted a comprehensive document which proposed to resolve the jurisdictional issues involving the use of its tugs to allow the company to utilize the vessels assigned to San Francisco Bay in the most efficient manner possible. Among other things, the company proposed a joint SUP/IBU seniority list for deckhands and engineers and significant changes to the work rules for those job ratings. Foss also proposed that "productive hours" needed to be increased and that the new collective bargaining agreement have "clear and unambiguous language for all clauses of the contract" to "minimize administrative work for both the company and the Union." It should be noted that the identical document was submitted to the IBU which is also in bargaining with Foss.

To gain membership input on the Foss proposal, caucuses were held on March 29 and 30 to formulate a

response. In attendance were Alex Castillo, Steve Cushman, Ed Chilbert, Tom Farola, Chris Fuller, Mike Higa, Mel Jackson, Peter Leo, Rick Nickerson, Tracy Pearson, Mike Potenti, Walter Price, Carl Turner, Tom Tynan, Eric Weintraub, Mike Worth, Paul Wuestewald, Vice President Connolly and your secretary.

After much discussion, it was unanimously agreed that the SUP was not interested in a merged (SUP and IBU) seniority list for deckhands and engineers as proposed, nor was the Union interested in wholesale changes to the work rules. However, the caucus did formulate a counter proposal that addressed the operational concerns for the company regarding the utilization of its vessels but without ceding jurisdiction or negatively impacting SUP work rules.

The SUP Negotiating Committee (Mel Jackson, Rick Nickerson, Stu Putzke, Tom Tynan, Mike Worth plus Vice President Connolly and your secretary) met with the company on April 9, and walked their representatives (which included Industrial Relations Vice President Warner Nelson) through the Union proposal. Foss indicated that it would respond at the next bargaining session. When questioned, the company indicated that it had other proposals regarding tankermen, but at this point in negotiations, it was focused on the optimum utilization of its tugs.

The SUP Negotiating Committee continues to draft comprehensive proposals with much input from the other SUP members working for Foss.

As of today's meeting bargaining sessions are scheduled for April 13, 15, 23, 24, 25, 26, 27, 28, 29 and 30. The SUP agreement, as well as the IBU agreement, with Foss expires at midnight April 30.

PATRIOT CONTRACT SERVICES

Patriot Contract Services, a division of Patriot Holdings/American Ship Management, notified the Union last month that the Military Sealift Command rated the company's performance in operating the Large Medium-Speed Roll-On/Roll-Off (LMSR) vessels as "exceptional" for Year 4 (August 1, 2002-July 31, 2003) of the five-year contract.

As a result of its performance, the company was awarded 100 percent of the Award Fee Bonus for all eleven LMSRs eligible in Year 4.

The total Award Fee Bonus for the period allocated to crew members, top to bottom, was \$439,979.08. Of that amount, 163 SUP members were awarded bonuses totaling \$60,896.78.

Patriot's process of determining which mariners were eligible to receive an Award Fee Bonus was modified from previous years to expand the bonus pool with dis-

cretionary awards to include mariners who were not otherwise eligible but exhibited commitment and dedication to the program. These included those who were relieved due to medical reasons or who had quit prior to completing their assignment but were otherwise eligible for the bonus. In addition, those crew members who were recognized for their individual performance, commitment and participation in the LMSR program received additional discretionary bonus.

The Award Fee Bonus is not a contractual provision under the collective bargaining agreement with Patriot but strictly an MSC award for the purpose of attracting and retaining qualified crew members.

MARLYN STEWART

The estate of the late Marlyn Stewart notified the SUP last month that the Union was named a beneficiary of Brother Stewart's will. The bequest in the amount of \$40,000 was deposited in the General Fund.

Born in Iowa on April 3, 1927, Brother Stewart joined the SUP in Seattle in 1945. After serving in the U.S. Armed Forces from 1946-1947, Brother Stewart resumed going to sea in the SUP black gang in the coast-wise tanker fleet. Brother Stewart, a staunch Union man, was well respected by his shipmates and all that knew him. He retired on June 1, 1989 and made his final departure on November 4, 2001.

QUARTERLY FINANCE COMMITTEE

In accordance with Article XVII, Section 2, of the SUP Constitution, a Quarterly Finance Committee shall be elected at today's Headquarters' meeting to review the finances of the Union for the first quarter of 2004, and report back to the membership at the May coast-wise meetings.

In the event the Committee cannot be filled today, recommend that when the quarterly audit is completed, which will be in about three weeks, necessary Committee members be shipped off the hiring hall deck as per past practice. The Quarterly Finance Committee will turn-to on Friday, May 7, at 9:00 A.M.

ACTION TAKEN

Quarterly Finance Committee: Romaine Dudley, Sonny Cooper, Allen Gonzales, and Randy Runyan.

M/S to accept the balance of the President's report. Carried unanimously. *Gunnar Lundberg*

Vice President's Report

April 2004

National Personnel Security System

The Department of Defense (DoD) recently rolled out its interpretation of new regulations passed in the National Defense Authorization Act of 2004. Called the National Personnel Security System, the legislation was supposed to document and make more secure the more than 700,000 strong civilian defense workforce. When it was asking for authorization before Congress, the Pentagon testified that it would not use such a system to eliminate employees' rights to bargain collectively, and the law that Congress passed states that DoD is required to bargain with its federal unions. However, now in the rulemaking process, the Pentagon is attempting to redefine the term "bargaining" as "consultation." In their definition, DoD will present its ideas for changes to federal labor unions and listen to their input, but if the unions do not agree with the changes within 60 days, the Pentagon can impose them unilaterally. The rules will also create a Defense Labor Relations Board, comprised mostly of Pentagon appointed officials, making the appeals and dispute resolution process weighted in favor of management. Whether or not the rules will affect SUP members sailing in government-owned ships is still uncertain, but the letter of the law is not encouraging:

"(8) The labor relations system developed or adjusted under this subsection shall be binding on all bargaining units within the Department of Defense, all employee representatives of such units, and the Department of Defense and its subcomponents, and shall supersede all other collective bargaining agreements for bargaining units in the Department of Defense, including collective bargaining agreements negotiated with employee representatives at the level of recognition, except as otherwise determined by the Secretary."

The Union will continue to monitor this rulemaking, express our concerns to elected officials, and look for openings to take the political action that defends our right to bargain collectively.

Ships checked

President Grant: delegate Jack Lott. No beefs.

APL China: delegate Ted Ochoa. No problems.

APL Philippines: delegate Tim Thomas. Clarification on washdown and paint locker jurisdiction.

Lurline: delegate James Bailey. Running smooth. Ordinary seamen must upgrade when they have the time.

Kauai: delegate Tom Gustin. In at Oakland inner harbor. No problems.

Gilliland: delegate Michael Orton. Clarification on reliefs and shifting to dock. Awaiting orders in the Indian Ocean.

USNS Brittin: delegate Kevin Sheen. Brought in a clean ship from the mid-east. Loading and sailing.

USNS Mendonca: delegate William Neumiller. Finally underway from foreign port for a load and return to the states. Clarifications on cargo watches and reliefs.

USNS Pilliaau: delegate William Sullivan. Clarification on garbage rate. There is no garbage rate. If it's done on straight time hours, it's paid at the straight time rate.

USNS Fisher: delegate Ryan Bowron. Clarification on reliefs. Gang is hanging tough on a long voyage.

USNS Bob Hope: delegate Kirby Jamison. Clarification on transportation. Company/Capt. pays cab fare to the ship from the airport.

USNS Benavidez: delegate John Sulujian. Underway for continental U.S. Clarifications on restriction to base in Greece (they can do it), on garbage rate (there is none), and on penalty meal hours (paid at the overtime rate).

USNS Gordon: delegate Charles Martin. Departed U.S. then returned as orders were cancelled.

USNS Shughart: delegate Mike English. Lodging problem in the shipyard taken up with the Company. Definition of hot water debated with the Company. New hot water heaters now installed.

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SUP Branch Reports

Seattle

March 15, 2004

During the period, shipped 1 Boat-swain relief filled by a B-card; 11 Able Seamen berths shipped to 3 A-cards, 6 B-cards, and 2 C-cards, three of these jobs were to USNS ships; 1 Ordinary Seaman to USNS ship, filled by a B-card; 16 standby's shipped to 10 A-cards, 5 B-cards and 1 D-card.

Registered during the period: 11 A-cards for a total of 24; 4 B-cards for a total of 26; 1 C-cards for a total of 16.

Ships checked

President Adams, President Polk and President Truman back from the Far East with no problems. Maui and Kauai in twice and running smoothly. MFOW Agent Mike Carr and SUP's Jesper Pfeil took care of routine business in and around the Union hall while I was out of the office for a few weeks.

Rich Reed along with Joan Steel of Columbia Funds Management Company attended the March meeting here in Seattle and answered all questions regarding the membership's Money Purchase Plan and 401(k) Plan.

Pensioner Dick Price stopped by on his way back to Sand Point, Idaho, where he now lives. He says the fishing is great and said to say hello to all his former shipmates.

Seamen calling in Canadian ports need to be aware that if they have any transgressions with the law in their past they may be taken off of their ship and deported out of the country. The U.S. and Canada recently started sharing information on the criminal backgrounds of its citizens and Canada's laws are different from the U.S. As an example a "driving under the influence" offense is considered a felony in Canada and would prohibit you from entering Canada regardless that the offense and charge occurred in the United States. People with background problems may petition the Canadian Embassy for a review of their case where they then may be allowed to travel into the country. The process can take several weeks so it is important to start the paper work right away.

Vince O'Halloran
Branch Agent

Wilmington

March 15, 2004

Shipped the following during the period: Bosun 1, AB 8, AB Maint. 6, and standbys 56. Total Jobs Shipped: 71.

Registration is at: A: 52, B: 34, C: 10, D: 6 for a total of 102 registered.

Ships checked

President Jackson, APL Singapore, Ewa, John Rose Delegate; Mokihana, Matsonia, Rob Morgan delegate; APL Korea, Manukai, Frank Faraola delegate; Manoa, President Adams, Kris Skorodynski delegate, OK; R.J. Pfeiffer, APL Philippines: Got restriction to ship beef paid for guys with visas, food beef putting out enough fruit and juice out at all times, garbage cleanup clarification. President Polk OK Bosun John McNeil relieved by John Hamann. Ewa, Matsonia, Mike Soper delegate, OK; Mahimahi, delayed sailing clarification.

February 20, attended MTD lunch meeting aboard the SS Lane Victory with Denise Moehlman, candidate for L.A. District Attorney's Office; Katarina Davis Del Valle, L.A. Trade Tech, Labor Studies Instructor; Shannon Donato, Director of Harry Bridges Institute, and John Pitts, President of American Merchant Marine Memorial Committee.

March 4, attended agents' lunch at Tranis in San Pedro with Mark Hurley, Dave Boatner MMP Agent, John Pitts, American Merchant Marine Memorial President; Bob Bugarin MFOW Agent, vacation relief for Bill O'Brien, and Marshall Novak, SIU Patrolman. We talked about not moving The Wall of Honor to some obscure location. This is a maritime monument on the waterfront for everyone to see. As Mark Hurley said, this is a gravesite headstone for wartime merchant mariners, who are buried at sea, who lost their lives for us. They would not move the Vietnam Vets Memorial in Washington to an empty warehouse in Newark! There's even talk about getting together the Labor Solidarity Cruise on the Lane Victory, funding, T-shirts, etc.

March 12, attended MTD executive board meeting and talked about upcoming local MTD elections and the Lane Victory Cruise.

Remember if your BST is five years old or more, then you have to carry one-year discharges with you, so check it out before you ship. Also, remember, if the ship calls in Canada, and you have any criminal record that goes back 10 years, they will fine the ship and yank you off.

Thanks especially to Mark Hurley for training me. His knowledge; diligence, professionalism and patience are above and beyond excellence.

Keith Miller
Branch Agent

Honolulu

March 15, 2004

During the month of February 2004, dispatched the following: 2 AB maint., 3 ABs, 1 AB return, 4 ABD, 2 ABD reliefs, and 2 OS. These jobs were filled by 3 A members, 8 B members, and 3 C members. Also shipped 45 standby jobs filled by 1 A member, 11 B members, 19 C members, 11 D registrants and 3 MFOW members for a total of 59 jobs shipped.

During the period registered 5 A members, 3 B members, 5 C members, and 3 D registrants. To date now registered are 11 A members, 8 B members, 9 C members, and 7 D Registrants for a total of 35 registered.

Ships checked

Maui, Lurline, Chief Gadao, Matsonia, Kauai, Ewa, R.J. Pfeiffer and Manukai. All with few or no beefs.

Paint and rigging gang checked daily. Keith Kamana bosun. Gang made a nice contribution to the Teamsters Sand Island picket line.

On March 17, attended the Hawai'i Ports Council meeting. Discussion on new security background checks for seamen and harbor workers.

On April 3, was saddened to hear of the death of Union Brother and good friend Eddie Ferreira. One of the last "colorful characters".

Mike Duvall
Branch Agent

Dispatcher's Report

Headquarters—March 2004

Deck	
Bosun	4
Carpenter	0
MM	5
AB	12
OS	2
Standby	20
Total Deck Jobs Shipped	43
Total Deck B, C, D Shipped	12
Engine/Steward	
QMED	0
Pumpman	0
Oiler	0
Wiper	0
Steward	0
Cook	0
Messman	0
Total E&S Jobs Shipped	0
Total E&S B, C, D Shipped	0
Total Jobs Shipped - All Depts. ...	43
Total B, C, D Shipped-All Depts. .	12
Total Registered "A"	77
Total Registered "B"	70
Total Registered "C"	14
Total Registered "D"	13

Chinese sailor saved by meter-long turtle

Zhu Yuan, rescued seafarer from the Genius Star VI, which sank 300 kilometers from the Indian port of Haldia, April 12, had a providential escape, thanks to a meter-long turtle. Yuan, currently undergoing treatment in a Kolkata hospital, told local press that he held onto the back of a turtle for 30-32 hours when he was spotted by the Indian coast guard.

Zhu said that when the ship sank, he dived into water wearing a life jacket. He remained afloat for two days but rough conditions made it difficult for him to swim any longer. He spotted the turtle and latched onto its shell while it kept swimming, thankfully on the surface of the water. Third officer Gao Fu Ling held onto a buoy while another shipmate Wuxun Yuan, hugged a floating log.

Officials have now given up hope of rescuing Captain Hwang Hung, who remained on board. According to the crew, the captain and the third engineer Xu Dong were lost in the whirlpool of wagger when the ship went down. Fifteen of the 17-member crew have now been saved.

San Francisco Business Agent

Kauai— John Savage, delegate: Island run; no disputes.

Lurline— Jim Bailey, delegate: Island run; no disputes.

Manoa— John Gabourel, delegate: Voyage pay off, no disputes.

Maui— Chuck Mariner, delegate: No disputes, good shape.

Moku Pahu— Teo Rojas, delegate: Back from a trip to Costa Rico; will make three Island runs. Running smoothly, no beefs.

R.J. Pfeiffer— Norman Kurtz, delegate: No disputes, wash down squared away.

President Grant— Dave Connolly made her.

President Wilson— David Kapiko, delegate: Voyage pay off. Will replace motor on starboard capstan this trip.

APL China— Joe Moitoso, delegate: Question on split wages, otherwise in good shape. Singapore Sid bosun.

APL Korea— Rich Williams, delegate: voyage pay off; no disputes.

APL Thailand— Lee Dancer, delegate: voyage pay off; no disputes.

ASM Shore Gang— All going well.

Washington Voyager— Mike Fox, delegate: Richmond Long Wharf, OK.

Also worked in the front office during the month.

Bill Berger

Vice President report continued

Colorado Voyager: delegate Hank Barrett. In at Richmond Long Wharf. Discussion on all aspects of new contract. New steward and member Gerry Ann Jurva doing a great job.

Washington Voyager: delegate James Serrell. Clarification on 4-hour weekend shift minimum. It's only payable to those off-watch, and now more likely to apply due to the elimination of the "inland waters" restriction in recent bargaining.

Dave Connolly

Support the Political Fund



Recently elected Wilmington Branch Agent Keith Miller is flanked by former Agent Mark Hurley and MFOW Port Agent Bill O'Brien.