

# MISCELLANEOUS COAST GUARD MATTERS

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## HEARING

BEFORE THE

SUBCOMMITTEE ON COAST GUARD  
AND NAVIGATION

OF THE

COMMITTEE ON  
MERCHANT MARINE AND FISHERIES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

**H.R. 2800**

**A BILL TO PERMIT RECORDINGS OF MILITARY BANDS  
TO BE SOLD COMMERCIALY**

**H.R. 4491**

**A BILL TO AMEND THE VESSEL BRIDGE-TO-BRIDGE  
RADIOTELEPHONE ACT**

**AND**

**SPILL COOPERATIVES NOT MEETING THE 75 PERCENT  
UNITED STATES OWNERSHIP OF THE JONES ACT; AND  
A MEASURE DECLARING THE SIDNEY LANIER BRIDGE  
AN OBSTRUCTION TO NAVIGATION**

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JULY 11, 1990  
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## MISCELLANEOUS COAST GUARD MATTERS

WEDNESDAY, JULY 11, 1990

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,  
COMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Washington, DC.*

The Subcommittee met at 2 p.m., in Room 1334 of the Longworth House Office Building, Hon. Billy Tauzin (Chairman of the Subcommittee) presiding.

Members present: Representatives Tauzin, Clement, Laughlin, Hughes, Pickett, Hochbrueckner, Davis, Bateman, Coble, and Lent.

Staff present: Elizabeth Megginson, Rusty Savoie, Marsha Canter, Bill Wright, Duncan Smith, George Pence, Rebecca Dye, Sherry Steele, Sue Waldron, Greg Lambert, and Melanie Barber.

### OPENING STATEMENT OF HON. BILLY TAUZIN, A U.S. REPRESENTATIVE FROM LOUISIANA, AND CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. TAUZIN. The hearing will come to order.

The purpose of this hearing is to receive testimony concerning a number of bills which needs our consideration before the end of the Session.

We are going to hear today from our colleague, Mr. Clay Shaw, who has a Bill 2800 to permit recordings of military bands.

We will also hear from our good friend, John Miller, regarding the issue of Spill Cooperatives not meeting the mandated 75 percent U.S. ownership of the Jones Act.

We also have received a statement from Mr. Glenn Anderson in support of that bill.

And we're also going to hear from my colleague, Lindsay Thomas, of Georgia regarding a measure to declare the Sidney Lanier Bridge an obstruction to navigation.

We'll hear from Captain James MacDonald, Chief of Merchant Vessel Inspection and Documentation Division of the U.S. Coast Guard, regarding H.R. 4491, which amends the Bridge-to-Bridge Radio Telephone Act. This measure has been introduced by Chairman Jones.

We'll also hear from Captain MacDonald on other issues. Particularly, we've received a request from Ms. Helen Bentley to ask the Coast Guard to submit comments regarding a bill she had just introduced regarding several vessels that are non-profit-owned and used only for day trips and a vessel dealing with inspections, that we will ask the Coast Guard to submit written comments on later.

And our last witness will be Allen Dupont, Operations Manager for Gulf Coast Training Company, who will testify regarding the need for Federal pilotage exemption for self-propelled hopper-dredges.

We'll keep the record open. The statements of the other Members, including the statements of Mr. Bob Davis, Ranking Minority Member, and Ms. Helen Bentley are introduced and are of record by unanimous consent.

[The statements of Mr. Davis and Mrs. Bentley follow:]

STATEMENT OF HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN

Thank you, Mr. Chairman. I am glad that we will have the opportunity today to tie up some of the loose ends of Coast Guard management issues. Most of the provisions before us are unrelated, but their passage would improve the Coast Guard's ability to perform its many missions.

The proposed property transfers of excess Coast Guard property will provide an efficient transition from the public to the private sector. Instead of these closed Coast Guard facilities becoming a liability, the surrounding communities have shown ingenuity and dedication to continued use of the property in the tradition of Coast Guard service.

The City of South Haven, MI intends to dedicate the property transferred to it to be used by the local Coast Guard Auxiliary Flotilla. This organization has proven to be an invaluable asset to boating safety efforts in the area and the City is resolved to continue support of the organization by providing docking space along with the use of this facility. The Town of Hempstead, NY intends to use the excess property for law enforcement activities of various state and local officials, and especially to stage oil pollution response equipment for the area.

The portion of the property at the old Muskegon, MI search and rescue station to be transferred to the National Oceanic and Atmospheric Administration (NOAA) will be used as a base for the marine operations of its Great Lakes Environmental Research Laboratory (GLERL). NOAA would otherwise be unable to afford to purchase the property, and it needs the dockage and facilities for its research vessel. Additionally, with the GLERL activities serving as a nucleus, there is great potential for the adjacent property to be acquired by the Institute for Global Affairs of Michigan with the intent to create a world-class Muskegon Water Research Institute.

One other provision we will discuss today would preclude the requirement for unreasonable bid, payment, and performance bonds by the Coast Guard in shipbuilding, conversion, and ship repair contracts. Recently the Coast Guard changed its policy on contract bonding requirements and now requires a bond of 100 percent of the initial contract level for construction of Coast Guard vessels. I am concerned that this requirement is anticompetitive and unnecessary to protect the Government's interest.

In Section 6 of Public Law 101-115, the Act to authorize appropriations for the Maritime Administration for fiscal year 1990, the Secretary of Transportation is prohibited from requiring bonds from contractors who repair, alter, or maintain vessels of the National Defense Reserve Fleet. Unless bonds are required by law, the imposition of the requirements should not preclude any responsible and capable contractor from competing for a National Defense Reserve Fleet contract as a result of a bid, payment, performance, completion, or other bonding requirement imposed by the Maritime Administration. I feel there is no basis to distinguish between the bonding requirement so the Maritime Administration and the Coast Guard.

The recent change in Coast Guard policy on contract bonding requirements now requires a bond of 100 percent of the initial contract level for construction of Coast Guard vessels. I am concerned that high Coast Guard bonding requirements are keeping many small businesses from bidding on Federal contracts, either because the contractors can not afford to purchase bonds or because they do not have the assets to pledge as security for a bond. Under existing law, the Secretary of Transportation may waive these bonding provisions with respect to Coast Guard contracts. Under my provision the Secretary of Transportation would still apply the traditional standards of responsibility contained in the Federal Acquisition Regulations, but he would also be required to make a determination that a Coast Guard bonding requirement will not preclude responsible bidders from competing for a contract. This would strike a balance between the Government's need to ensure suc-

cessful completion of contracts and the public interest in encouraging and supporting small businesses.

Thank you, Mr. Chairman.

STATEMENT OF HON. HELEN DELICH BENTLEY, A U.S. REPRESENTATIVE  
FROM MARYLAND

Thank you, Mr. Chairman. I want to commend you and Mr. Davis for holding this hearing today to review and discuss a variety of Coast Guard issues.

With your permission, I would like to bring up a subject that is not on today's agenda, but, nevertheless, one that I would like to bring to the Committee's attention.

It concerns Coast Guard inspection requirements of two Liberty ships and one Victory ship which serve as living memorials to our merchant mariners and naval armed guards, who served so valiantly during World War II. They are the S.S. *John Brown*, in my homeport of Baltimore, the S.S. *Lane Victory*, in San Pedro, California, and the S.S. *Jeremiah O'Brien*, in San Francisco, California.

Because the *Jeremiah O'Brien* is a public vessel, with the title held by the Maritime Administration, it is able to take on passengers for revenue-generating harbor tours without being subject to stringent Coast Guard inspections.

The *John W. Brown* and the *Lane Victory*, whose titles are held by private, non-profit organizations, are held to the same standards as modern-day passenger vessels. The National Liberty Ship Memorial Inc., which operates the *Jeremiah O'Brien*, anticipates that they may lose their special status and will find themselves in a similar position.

Mr. Chairman, I would like to solicit your support to change legislatively, in a limited fashion, the inspection requirements these ships are subject to.

My language will not jeopardize the safety of the vessels or the day-passengers who will board them for short excursion cruises. The Coast Guard still will retain broad regulatory and inspection control over the vessels.

This legislation is required to assist these very worthy organizations to generate their own annual operating revenue.

In addition to the prohibitive cost of millions of dollars to bring each ship into compliance with today's standards, all three vessels are on the Interior Department's list of National Historic Places, and, as such, they must be maintained in their original state.

Coast Guard officials has reviewed the language I have offered, and have voiced their support. While the Coast Guard witnesses here today may not be aware of this issue and, therefore, not prepared to address it, I would appreciate it if they would furnish comments for inclusion in today's record.

Thank you, Mr. Chairman.

And, since we have a roll call vote in only a few minutes, I'm going to ask my friend, Mr. Lindsay Thomas, who is present now, to give his testimony. We can take Lindsay's and then break for the roll call.

Mr. Thomas.

STATEMENT OF HON. ROBERT LINDSAY THOMAS, A U.S.  
REPRESENTATIVE FROM GEORGIA

Mr. THOMAS. Thank you very much, Mr. Chairman, and I will be very brief here.

Distinguished Subcommittee Members, I appreciate this opportunity to return to my former Subcommittee and appear before so many good friends.

My purpose is to ask your support of my bill to declare the Sidney Lanier Bridge in Brunswick, Georgia—

Mr. TAUZIN. How many good friends do you have, Mr. Thomas?  
[Laughter.]

Mr. THOMAS. Well, I noticed when the good Chairman recognized those who would testify, he referred to the other three Members as good friends and I only as your colleague.

But, Mr. Chairman, I am indeed glad to be here and having given you so many finer points on fishing in Alaska, I then assure you I am considered your friend.

[Laughter.]

The purpose of my bill is to declare the Sidney Lanier Bridge in Brunswick, Georgia, an obstruction to navigation.

The objective of this effort is to enhance the safety of the channel in adapting to the increasing shipping traffic and to accommodate the increasing size of the modern steamships.

This project would be a classic example of state and Federal cooperation in that the State of Georgia is committed to a financial partnership in the project. During a very tight budget year in 1989, the Georgia General Assembly provided \$3 million in state funds to begin design work on the bridge, pending approval of Federal interest.

My bill would declare the Lanier Bridge as meeting the criteria for bridge replacement under the Truman-Hobbs Program.

The Coast Guard's preliminary survey of the bridge in 1989 for eligibility under Truman-Hobbs provided an informal opinion that the bridge was not an obstruction to navigation. It is my view, however, that this was more of an attempt to restrict the Truman-Hobbs Program than to make a detailed judgment on the bridge itself.

As evidence, I would simply note the tragic history of collisions with the bridge. Since 1972, 10 lives have been lost due to ships colliding with the structure. The most recent accident in 1987 resulted in a loss of life to a construction worker; it left the bridge impassable to vehicular traffic for several months and caused literally millions of dollars in economic impact.

It was only chance that prevented a bridge collapse that could have killed many more people and closed one of the major deep water seaports on the East Coast.

And so, with the growing port traffic and the dramatically larger size of ships calling at the Port of Brunswick, I have no doubt there will be more accidents in the future.

Any bar pilot—and I have gone and visited with them personally myself and made this trip—can describe the difficult task of negotiating the approach under the bridge. In this process, he must contend with strong currents, a narrow span between bridge supports and a sharp turn midway through passage under the bridge to avoid grounding. On a windy day, the passage is nearly impossible.

In addition to increasing the safety of the channel, the additional clearance of a new bridge would allow expansion of the Port of Brunswick. The Georgia D.O.T. estimates that the increased shipping would generate each year some \$35 million in sales revenue, \$1.2 million in taxes and hundreds of new jobs.

And further, delays would be reduced for shippers who must wait on tides and ballasting to traverse the channel.

Mr. Chairman and Members of the Subcommittee, this measure makes sound economic sense and will protect human lives. And I urge your favorable consideration.

Thank you very much for the opportunity to come here, Mr. Chairman.

Mr. TAUZIN. Thank you, Mr. Thomas.

We will hear testimony later on from the Coast Guard regarding the bridge. And we do appreciate your testimony and we'll, if you don't mind, now break for purposes of the vote and we'll come back right after that.

Mr. THOMAS. Thank you, Mr. Chairman.

Mr. TAUZIN. Without objection then, the Committee stands in recess.

[Brief recess.]

Mr. TAUZIN. The hearing will please come back to order.

While we're waiting on the Members, why don't we move to our panel, our third panel and—our fourth panel actually—and invite Captain James MacDonald.

Captain, if you'd come forward for the Merchant Vessel Inspection and Documentation Division, United States Coast Guard, to give your testimony regarding the Bridge-to-Bridge Radiotelephone Act.

And, if you will, Captain, your written statement is a part of the record by unanimous consent. So that if you'll summarize for us.

I'll also at this time ask unanimous consent that a statement by Hon. Norman Lent, along with a letter from the Supervisor of the Town of Hempstead, be introduced as part of the record, without objection, and also a statement of Lindsay Thomas, the written statement, as well as the statement of Floyd Hardy, Deputy Commissioner, Georgia Department of Transportation, be introduced as a part of the record. Without objection, so ordered.

[The statement of Mr. Lent follows:]

STATEMENT OF HON. NORMAN F. LENT, A U.S. REPRESENTATIVE FROM NEW YORK

Mr. Chairman, it is a great pleasure for me to appear before you today to speak in support of H.R. 5179, a bill that I introduced, along with our colleague Ray McGrath, to transfer a surplus Coast Guard station located on Reynolds Channel in Atlantic Beach, New York, to the Town of Hempstead in Nassau County.

This station has not been used by the Coast Guard for about 4 years and it is currently providing no public service to the surrounding area. The location of this facility would be ideal for a number of activities by state and local officials for various law enforcement and, most significantly, oil spill response purposes. As you know, the New York harbor area has had over 30 oil spill incidents this year. Several weeks ago, a coastal tanker trying to enter the East Rockaway Inlet—near this station—ran aground. That ship was carrying 412,000 gallons of gasoline. Had it been carrying crude oil and ruptured its hull, we could have had a major oil spill in this area.

The New York State Department of Environmental Conservation, in cooperation with a number of local government entities, is formulating an oil spill response contingency plan for Long Island. This Coast Guard station would make an excellent facility to store oil spill response equipment and supplies locally. As you know, the oil spill legislation that we are currently considering in Conference will mandate the establishment of regional teams capable of responding to oil spills.

In addition to providing a facility for maintaining oil spill response equipment, this station could also be used, in cooperation with other Federal, state, local agencies, for other types of law enforcement or emergency response actions—such as boating safety, fish and wildlife conservation, or drug enforcement programs. I have been assured by local government officials that they are prepared to cooperate with other Federal and state officials to operate and maintain this facility at this location. Because of its strategic location, this facility will provide local officials with access to the waterfront area at a time when this type of access is rapidly disappearing.

H.R. 5179, by its own terms, will provide that all of the costs related to property surveys or other incidental costs of the conveyance of this Coast Guard facility to the Town of Hempstead will be borne by the local governments so there will be no

direct Federal costs to the U.S. Government by transferring this surplus facility to the Town.

I believe this is a classic example of the way that surplus Federal property can be made available to local interests in a manner that will preserve its utility and provide a means of access to the water for a number of important activities.

Mr. Chairman, I appreciate your holding this hearing on this legislation. This bill is important to the people of Nassau County and I am delighted to be here to speak in support of this bill. I hope your Subcommittee will be able to move this bill quickly to assure that the property can be transferred without undue delay.

Thank you very much, Mr. Chairman. I would be delighted to respond to any questions that you or other Members of the Subcommittee might have.

[The letter from Mr. Joseph Mondello and the prepared statement of Mr. Floyd Hardy can be found at the end of the hearing.]

Mr. TAUZIN. Captain MacDonald, if you'll please summarize your statement for us, sir.

**STATEMENT OF CAPTAIN JAMES MACDONALD, CHIEF OF THE  
MERCHANT VESSEL INSPECTION AND DOCUMENTATION DIVISION,  
UNITED STATES COAST GUARD**

Capt. MACDONALD. Thank you very much, Mr. Chairman.

I'm Captain James MacDonald, Chief of the Coast Guard's Merchant Vessel Inspection and Documentation Division.

I'm pleased to appear before you this afternoon to discuss H.R. 4491, a bill which would amend the Bridge-to-Bridge Radiotelephone Act.

Mr. Chairman, H.R. 4491 seeks to reconcile an inconsistency that presently exists between the Vessel Bridge-to-Bridge Radiotelephone Act and the inland navigational rules, otherwise known as the inland rules of the road, regarding the category of vessels which should be radio-equipped while navigating narrow channels.

This legislation proposes to amend Section 4 of the Bridge-to-Bridge Radiotelephone Act to require vessels of 20 meters or more in length to be equipped with bridge-to-bridge radiotelephone. The resulting consistency provided by this proposed legislation is important to maritime safety because it will help prevent confusion among the many vessels which operate under the Bridge-to-Bridge Radiotelephone Act and the inland navigational rules.

The heart of this matter is that the inland navigational rules require that vessels of less than 20 meters in length not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

Conversely, vessels of 20 meters or more in length are entitled to share the available channel with other vessels of similar size. To do so safely, these vessels must be able to communicate effectively. However, the Vessel Bridge-to-Bridge Radiotelephone Act currently has no provision specifically addressing vessels of 20 meters or more in length.

Mr. Chairman, the Coast Guard and the Department of Transportation urge your support in enacting this proposed legislation.

I'll be happy to respond to any questions that you or other Members of the Subcommittee might have at this time.

Thank you.

[The prepared statement of Capt. MacDonald can be found at the end of the hearing.]

Mr. TAUZIN. Thank you, Captain.

As I understand it, the significant difference between the current law and the bill is that current law talks of—speaks of vessels 300 gross tons or more, and this bill would change that number to 20 meters in length instead, so that there would be no gap in coverage of the requirements of bridge-to-bridge radiotelephone; is that correct?

Capt. MACDONALD. Yes, sir, that's essentially correct.

We have vessels right now that certainly are less than 300 gross tons but are more than 20 meters in length. There are other categories of vessels in that Act that remain the same, notably, the requirement for towboats over 26 feet in length because of the barge length they may be pushing and dredges or other floating plants that might be in place.

Mr. TAUZIN. Are you prepared to make any comments about the bill introduced by Hon. Lindsay Thomas of Georgia regarding his particular bridge situation?

Capt. MACDONALD. Yes, sir, we are.

Mr. TAUZIN. Would you please make those for the record.

Capt. MACDONALD. Yes, sir.

The Coast Guard's position on the Sidney Lanier Bridge in Brunswick, Georgia, is that it does not qualify for alteration under the Truman-Hobbs Act.

Our investigation that was done on April 3, 1989, found that the bridge does not unreasonably obstruction to navigation under the provisions of that Act.

Mr. TAUZIN. Regarding that Act, I understand the Act requires a review of the history and the economic impact of the history of shipping being in any way inhibited by the structure.

According to the Georgia Department of Transportation and the statement of the gentleman from Georgia, there were at least two major incidents that left the bridge impassable to vehicle traffic for several months and caused literally millions of dollars of economic impact.

Were those factors considered in the Coast Guard review?

Capt. MACDONALD. Yes, sir, they certainly were.

And our investigation of those two incidents showed that the root cause was not the obstruction to navigation from the bridge but operator error or negligence on the part of the masters or pilots.

Mr. TAUZIN. So that, in both instances, the bridge itself was not a contributing cause to the accident, as an obstruction?

Capt. MACDONALD. Yes, sir. That's correct.

The bridge basically has clearances of 139 feet in vertical dimension when it's open and a 250-foot clear horizontal dimension.

Mr. TAUZIN. The gentleman from Georgia mentioned the strong currents, the narrow span between the bridge supports and a sharp turn midway through passage under the bridge.

Are all those conditions present?

Capt. MACDONALD. Yes, sir, they are.

However, the Coast Guard determination under the Truman-Hobbs Act speaks to the impediment of the bridge itself, and we considered these factors to be factors of the channel and the channel depth itself as opposed to the bridge obstruction.

Mr. TAUZIN. Well, apparently—he talks about the fact that the bridge supports are too narrow for the channel and that the chan-

nel requires a turn under the bridge. It sounds like better bridge construction might cure that problem; would it not?

Capt. MACDONALD. The issue with the bridge supports being too narrow is not so much one of bridge construction, but one where you cannot dredge the channel out without exposing the pile bents supporting the bridge, thus weakening or endangering the bridge. Hence my comment that it's a waterways improvement situation that involves channel deepening, which may also affect the bridge at that time.

But we have determined that there's no obstruction to navigation under the Truman-Hobbs Act, per se, which deals with obstruction of navigation due to the bridge itself.

Mr. TAUZIN. Captain MacDonald, Mrs. Bentley has asked that the Coast Guard respond to questions regarding those vessels for non-profit day use that are referred to in her bill.

Would you be prepared to give us written comments on that bill sometime between now and the time the record is closed?

Capt. MACDONALD. Yes, sir, we will.

As I understand it, the three vessels are the *Jeremiah O'Brien*, the *John Brown* and the *Lane Victory*, which are basically maintained by non-profit organizations. They're seeking to preserve the historic aspects of the vessels and also operate them periodically on excursions for maritime days, for foundation support, things like that.

Mr. TAUZIN. It's foundation support, as I understand it.

Capt. MACDONALD. Yes, sir.

Mr. TAUZIN. And so you will submit some comments to us regarding that legislation?

Capt. MACDONALD. Yes, sir, we will.

Mr. TAUZIN. It may be possible to amend the Coast Guard Authorization Act at some point. So we would appreciate hearing from you on that legislation in case it becomes part of an amendment rather than separate legislation.

Capt. MACDONALD. Our attorneys are working on it right now, sir. So we have that in hand.

Mr. TAUZIN. We appreciate it.

Now, Captain MacDonald, if you will also be available for questions to be answered on some of the other bills we'll discuss today.

Do any other Members have questions at this time?

Mr. Bateman.

Mr. BATEMAN. Real fast.

What are the consequences if we should see fit to make this bridge an obstruction to navigation or declare it so? What then happens?

Capt. MACDONALD. The Coast Guard, sir, will always honor the will of Congress and we will proceed under the Truman-Hobbs Act if it's so deemed that way by the Congress.

Mr. BATEMAN. Well, do you tear down the bridge or replace the bridge or alternative means of getting across from one side of the stream to the other?

Capt. MACDONALD. Yes, sir.

As I understand it, the Truman-Hobbs Act is basically a funding mechanism to allow different methods of Federal and state funding

to reconstruct the bridge, with a larger span perhaps and a higher clearance.

Mr. TAUZIN. Would the gentleman yield?

Mr. BATEMAN. Sure.

Mr. TAUZIN. I think, Captain MacDonald, I'm correct in saying that there's only about \$36 million appropriated each year for Truman-Hobbs; is that correct?

Capt. MACDONALD. I could give you that for the record, sir, but I'm not sure.

Mr. TAUZIN. That's my understanding that it's some small figure like that. So that the Coast Guard makes determinations of those bridges which are in fact hazards to navigation and then can use part of those funds to assist in the state and local effort to replace those bridges; is that correct?

Capt. MACDONALD. Sir, I have Mr. Nick Mpras here to speak for our Bridge Section. If you would permit me to bring him to the table, he perhaps can answer.

Mr. TAUZIN. Yes, of course, would you please, so Mr. Bateman can have a full appreciation of the way the Act works.

Mr. MPRAS. Good afternoon, Mr. Chairman.

My name is Nick Mpras and I'm Bridge Administrator for the Bridge Administration Division in the Coast Guard.

The funding that you referred to is \$36 million. It varies each year depending on the number of projects that are going on. And the funding is provided for each individual project, not funding in general to carry out Truman-Hobbs project.

Mr. TAUZIN. So, if the gentleman would further yield, there actually has to be an appropriation by the Appropriations Committee of Transportation to the specific project that the Coast Guard approves as eligible for Truman-Hobbs?

Mr. MPRAS. Yes, Mr. Chairman.

Mr. TAUZIN. All right.

Mr. Bateman, I apologize.

Mr. BATEMAN. What has been the range of the moneys involved in that fund?

Mr. MPRAS. I'm sorry, sir?

Mr. BATEMAN. What has been the range of the amount of dollars involved in that fund?

Mr. MPRAS. Recently it's been about \$3 million to \$7 million a year.

Mr. BATEMAN. OK.

Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you, Mr. Bateman.

Any other questions by Members of the Committee?

[Brief pause.]

Then, Captain, we'll ask you to stand by in case we have other questions for the other bills.

Capt. MACDONALD. Yes, sir, we will.

Thank you very much.

Mr. TAUZIN. We have our colleague and friend, Mr. Clay Shaw in the audience now who is our Panel I and is here to present his testimony regarding the bill he has introduced, which is H.R. 2800 regarding allowing the U.S. military bands to sell their music recordings commercially.

By the way, Mr. Shaw, before you begin your testimony, I have a written response from Mr. Jason Berman, representing the Recording Industry Association of America, to this Committee's request for comments on your bill.

And, without reading the whole bill—the letter, rather, I'll ask unanimous consent the letter be made a part of the record.

It concludes: "In response to your question, the Recording Industry Association of America does not oppose the enactment of this legislation."

And that will be part of the record.

[The letter submitted by Mr. Berman can be found at the end of the hearing.]

Mr. TAUZIN. Mr. Shaw, for your testimony, sir.

**STATEMENT OF HON. E. CLAY SHAW, JR., A U.S.  
REPRESENTATIVE FROM FLORIDA**

Mr. SHAW. Thank you, Mr. Chairman.

My statement—my complete statement—has been distributed to the Committee and I would ask that it be included as part of the record so that I shall not spend your time by sitting here reading it.

Mr. TAUZIN. Without objection, so ordered.

Mr. SHAW. This matter first came to my attention by a constituent who had been to a band concert performed by one of the branches of the United States Military. And, much to his surprise, on inquiry, he found that there were no recordings available of the band's performance. And he wrote to my office asking why.

We researched it and found that Titles 10 and 14 of the United States Code prohibit the sale of the military bands' recordings. This applies to the Coast Guard as well as to the other branches of the service.

This seemed somewhat absurd, and we did further research and found that, much to our surprise, we're the only country in the world that prohibits it. This makes absolutely no sense to me.

There's wonderful patriotic music that should be made available to those who wish to pay for it, and the funds received from such sales could be made available to help defray the cost of maintaining these wonderful bands.

Because of this, I have filed H.R. 2800. I appreciate your giving me the opportunity to be heard on this. It's a very simple, straightforward bill, which I think everybody on the Committee understands.

And I would not only thank you, Mr. Tauzin, for allowing us to have this hearing today but also request that, at an early convenience, there could be some kind of mark-up on this particular bill.

[The statement of Mr. Shaw follows:]

**STATEMENT OF HON. E. CLAY SHAW, JR., A U.S. REPRESENTATIVE FROM FLORIDA**

Chairman Tauzin, Mr. Davis, and Members of the Subcommittee, thank you for allowing me this opportunity to testify on behalf of my bill, H.R. 2800, which would amend Titles 10 and 14 of the U.S. Code to permit musical recordings of military bands to be sold commercially.

The U.S. Military Services maintain bands for the purpose of assisting in recruiting efforts, internal retention programs, official ceremonies, and contributing to the morale and efficiency of the Armed Forces. These are all good reasons for maintain-

ing military bands. I believe that these qualities can also be enhanced by removing the restrictions on the sale to the American public of military music. My intent with H.R. 2800 is simply to make this patriotic music available to everyday Americans in everyday places. America's taxpayers are paying for these bands, yet the average American will probably never have an opportunity to hear what they're paying for. Any constituent of ours who would like to enjoy the listening experience of hearing what have been called some of the greatest bands in the world usually must live near a military base or attend a performance here in Washington.

Every April 15 the taxpayer is supporting an American military band no matter where it is stationed. It only makes sense that any American should be able to hear this music without having to travel to another state or a foreign country. The majority of the public probably doesn't even know these bands exist. They rarely perform in public, seldom appear on radio or television, and their recordings are, of course, not presently for sale. The simplest way for any individual to be able to enjoy this inspirational music is clearly by allowing these bands to sell their recordings. Personally I would like to see these recordings be given away, but I realize there is a need to cover the cost of production and distribution.

I want to emphasize that H.R. 2800 would not *require* the bands to sell their recordings; it only states that any U.S. military band "may" produce recordings for commercial sale. The bill further stipulates that any proceeds received from the sale of any of the recordings are to be credited to applicable military appropriations for the expenses of the bands. The bill could also be amended to allow other uses of the proceeds, such as service charities or monuments. It would also give the Secretaries of the military service branches the authority to issue regulations governing the accounting of the proceeds.

In 1971, the major service bands each produced a recording to raise funds for building what is now the Kennedy Center. To quote the *Lancer Military Music Catalog*, "Federal regulations, in their great wisdom, provide that military bands cannot participate in any kind of commercial recording. Considering the good that could be done if, for example, the U.S. Marine Corps Band cut a record of their best known music with proceeds to go towards Service-oriented charities, this seems utterly absurd to us." If the bill remains unamended, with revenues returning to the band, there is the possibility the bands could become more self-supporting. The DOD currently spends nearly \$20 million a year maintaining their military bands.

America is the home of the free and the land of democracy, but I am told that we are the only country in the world that prohibits its military bands from selling recordings of military band music. *The only one.* To underscore the point, I am submitting with my testimony today a list of 37 countries whose bands have sold recordings (see Appendix A). There are hundreds of non-military brass bands in Europe, for example, and they haven't been pushed out of the market as a result of competition. I think it absurd that we don't provide recordings of our Nation's service bands for the American people to purchase at a reasonable cost to play at Independence Day and other appropriate celebrations.

You may not be aware of the worldwide interest in this legislation. I have received letters from England, West Germany, Holland, Japan, Canada, and Australia supporting this idea. The International Military Music Society and the Veterans of Foreign Wars of the United States have announced their support for the bill. The U.S. military bands are sought after and have performed around the world at a variety of celebrations. In fact, a U.S. Marine drum and bugle corps will be performing at the 1990 Edinburgh Tattoo, the most famous military band show in the world. I have been told that when a U.S. military band performs overseas it is for standing room only. Actually, you can see the interest in the U.S. military bands by witnessing the crowds right here on the Capitol grounds.

I will bring my testimony to a close by commenting on the primary objection I have heard regarding this legislation. I am informed that the Department of Defense is concerned that, since their bands are Federally funded, they should not be competing with civilian musicians. I must stress that this is only what I have heard through others. The DOD has never responded to my written request for their position, submitted to the Department in July 1989, nor has it responded to the many calls from my office requesting an official comment.

In any case, the rationale behind this argument cannot withstand serious examination. What is wrong with competition? More choices often result in improved products. Seldom is it a good reason for not doing something. The worst you could do by fostering a little more competition is to give Americans an uplifting alternative to some of today's music. I find it hard to believe the Eastern Bloc is recognizing the desirability of America's free market, while at the same time some would

use it as a pretext for opposition to selling inspirational, patriotic music, by extremely talented artists.

Still, the opponents might argue that U.S. military bands are Federally funded and thus should not make a profit. I have no problem with that. I am not committed to any specific formula for determining what price to sell these recordings. I only want to give the public an opportunity to hear what have been called some of the greatest bands in the world.

I hope, Mr. Chairman, that the Subcommittee will agree with me on this issue, and pass H.R. 2800 out of the Subcommittee with a favorable vote at the earliest appropriate opportunity. Let's spread national pride and patriotism. Let us not deny less fortunate Americans the right to hear the U.S. military bands at their will.

Again, I thank you for your time and your consideration of H.R. 2800.

Mr. TAUZIN. Mr. Shaw, in your testimony, you relate to us the only objection you have heard from the Department of Defense concerned that, since the bands are Federally-funded, they could be competing with civilian musicians.

You heard the response from the recording artists association?

Mr. SHAW. That's correct, Mr. Chairman.

We've also asked for formal replies from the Armed Services and yet, to date, have not received any such reply. I think it was a year ago this month that we asked for such a reply.

Mr. TAUZIN. Do you know of any other arguments why this Nation ought not to do this?

Mr. SHAW. I can't find any good reason for the law in the first place, and I think its repeal would be very simple and should be expedited.

Mr. TAUZIN. All right.

Any questions of any other Members at this time?

Mr. Davis.

Mr. DAVIS. Mr. Chairman, just let me say that, unless there's some compelling reason why we should not do this, I would think that it's something that we ought to do. I expect that we'll probably hear from the military.

I can't think of any good reason why we ought not to pass this bill either. If there is not compelling reason or testimony why we shouldn't do it, it would seem to me that we ought to expedite it and do it as soon as we can.

I commend the gentleman for the bill.

Mr. TAUZIN. I thank the gentleman.

Any other--Mr. Laughlin.

Mr. LAUGHLIN. Mr. Chairman, thank you very much.

Mr. Shaw, I commend you for filing this piece of legislation and bringing this information to our attention.

I am a graduate of a military school that has a very famous band, and we enjoy in Texas the music from that band. I agree that the music from the military bands that I have had the privilege to hear, as a Member of Congress, should be available for our citizens who desire to hear that music.

As I thought about the testimony you have given us on writing, I cannot think of any place that citizens around our country can get that music. I do not see where there has been any competition from the civilian musicians. I listen to a great deal of music that I enjoy, and a great deal of music my children enjoy but I do not enjoy, and I do not hear any of that type of military music that many of us enjoy from time to time.

I would request you list me as one of your co-sponsors on this legislation, and any assistance I can give, I would be proud to do it.

Mr. SHAW. Thank you.

Mr. TAUZIN. It's been said Mr. Laughlin that you march to the beat of a different drum and we all realize that.

[Laughter.]

Mr. Hughes.

Mr. HUGHES. Mr. Chairman, I want to thank the distinguished Member from Florida because, given the status of the oil spill compensation bill, the way it's hung up, it might be the only thing we can pass this year.

[Laughter.]

Mr. TAUZIN. That's music to my ears.

Mr. HUGHES. And I'm indebted to the gentleman. Just don't put a handgun amendment on it.

Mr. TAUZIN. Mr. Bateman, did you have any questions?

Mr. BATEMAN. Did I understand you to say you'd asked for a position from the Department of Defense a year ago and had not had a response?

Mr. SHAW. Yes sir, that's correct. Not a formal response, sir.

Mr. BATEMAN. I think we perhaps need to goad them a little bit and, hopefully, they will be aboard this good bill too.

Mr. SHAW. Thank you.

Mr. TAUZIN. We might need an amendment providing you cannot play the recordings at flag burning ceremonies.

Any other comments from any Members?

[Brief pause.]

Mr. Shaw, we thank you for not only your testimony today but for your efforts in this. It's a good example of how a constituent's request can turn into a decent inquiry about the status of our law. And, as many Members here have already stated, I think you've brought a good topic for our consideration.

I thank you for it.

Mr. SHAW. Thank you very much, Mr. Chairman.

Mr. TAUZIN. We've now been blessed with the presence of our dear friend, Mr. John Miller.

We'll be happy to take your testimony now, John, if you will take the witness position.

We will hear now from our colleague, John Miller, regarding the cooperatives that are designed to help in oil spill response and some of the problems they're experiencing, not only on the West Coast—and by the way, we received a similar request for some relief for a cooperative on the East Coast, Mr. Miller—the cooperatives who are experiencing problems with the 75 percent U.S. ownership rule in the Jones Act, as I understand it, regarding those oil spill response vessels.

So, Mr. Miller, we'll appreciate your testimony. Your written testimony is a part of the record and perhaps you'd like to summarize for us.

STATEMENT OF HON. JOHN R. MILLER, A U.S. REPRESENTATIVE  
FROM WASHINGTON

Mr. MILLER. Mr. Chairman, I appreciate your giving me the opportunity to testify and I appreciate your courtesy in fitting me in like this.

I had an amendment I was offering in a Foreign Affairs Committee meeting at the same time or I would have been here earlier.

And, of course, you are familiar with the situation in the Northwest, having seen firsthand what's going on and not going on in the oil spill fighting business. This not only affects my area of the East Coast, Congressman Anderson's district has a similar problem.

I met, a few months ago, Mr. Chairman, with the Clean Sound Oil Spill Response Cooperative. That's a local oil spill cooperative in Puget Sound. It's a not-for-profit organization, consists of oil refiners, marine transporters and oil pipeline companies.

And the purpose of this cooperative, and similar cooperatives, are to respond to oil spills, in this case in Puget Sound, and other inland and coastal waters in the State of Washington. Among Clean Sound's members, among the cooperative members are some non-U.S. citizens companies. Therein lies the problem.

Like similar cooperatives elsewhere, Clean Sound owns a number of U.S. built oil spill cleanup vessels—skimmers, containment boom vessels, other oil recovery vessels—which it keeps on call to respond to oil spill emergencies.

Now, in 1988, Congress enacted Public Law 100-329 to amend the Jones Act, require vessels used to transport sewage sludge and other valueless materials to be constructed and documented in the United States in order to engage in the coastwise trade.

As a consequence of that law, oil recovered from a spill on U.S. waters must be carried to a U.S. disposal site in vessels which meet these new Jones Act requirements, including documentation under the laws of the U.S. and ownership by U.S. citizens.

The required documentation must take the form of a coastwise license, and vessels owned by cooperatives cannot secure such a license, if any member was a non-U.S. citizen prior to the documentation.

The non-citizen interests in Clean Sound—this is the Puget Sound cooperative—currently aggregate about 35 percent; it's a minority. I understand that many other oil spill response cooperatives also have non-citizen interests that are minority interests; do not exceed 50 percent. To allow such cooperatives to qualify for a coastwise license, a minor change is needed in the current law.

Last May, I wrote to Chairman Jones and Congressman Davis asking their assistance in addressing this problem. At that time, I enclosed some draft language. Committee staff has helped improve the language and a copy of this revised language is attached to my testimony.

The proposal would effect the change necessary but would not—would not—I believe, make any serious incursions into the Jones Act or Vessel Documentation laws.

Mr. Chairman, this morning we discovered an error in the text attached to my testimony and, in Section (a)(2), the first line read:

"is owned: (A) subject to subsection (d)," not "subsection (c)." I apologize for this error.

Mr. TAUZIN. We have that information and the correction has been made.

Mr. MILLER. OK.

The language now would, in the case of oil spill cooperatives, change the usual 75 percent ownership rule for a corporation; that's the present rule—75 percent for a corporation engaged in coastwise trading. And the usual rule that to own a documented vessel, all members of an unincorporated association must be U.S. citizens.

The language would not change the requirements for such vessels to have been U.S. built—that stays the same—or U.S. manned, in accordance with manning laws and regulations; that stays the same. Moreover, the legislation would restrict the use of cooperative vessels in coastwise trade to only oil spill response activities.

So, I know of no U.S. interests that would be injured by this language. We've checked around. And I believe that the membership of foreign-affiliated companies in cleanup cooperatives should be regarded as an appropriate burden on those companies, rather than a benefit to them. The suggested amendment would benefit the public by allowing the effective and efficient oil recovery operation of oil spill cooperatives.

I mentioned Clean Coastal Waters, the Long Beach cooperative in California, has the same problem. And, given foreign ownership of several integrated oil companies operating in the United States, I understand that other oil spill cooperatives may find that they share this problem as well.

I want to thank Committee staff for working to improve the language I submitted in May. And I would like you support in getting this very narrowly-drafted legislative solution to the problem included as part of the Comprehensive Oil Spill Conference Agreement.

And thank you, Mr. Chairman, for your time and your courtesy.

[The legislative proposal submitted by Mr. Miller can be found at the end of the hearing.]

Mr. TAUZIN. Thank you, Mr. Miller.

At this point I would like to introduce, for the record, the statement of Congressman Glenn Anderson, who has asked that his statement be made a part of the record in support of Mr. Miller's proposal.

[The statement of Mr. Anderson follows:]

**STATEMENT OF HON. GLENN M. ANDERSON, A U.S. REPRESENTATIVE FROM CALIFORNIA**

Mr. Chairman and Members of the Subcommittee, I wish to thank you for holding this hearing, thereby addressing a potentially serious problem. My statement today is in support of the coastwise operation of oil spill response cooperatives, particularly the Clean Coastal Waters Cooperatives located in my district in Long Beach, California.

Clean Coastal Waters, along with most other oil spill cooperatives, was formed in the early 1970's. At that time, the oil industry realized that there was a need to develop and provide oil spill recovery ability for spills that may result from marine terminal and offshore oil operations. In particular, the oil industry was trying to provide recovery ability beyond that expected of individual company response or independent contractors.

Clean Coastal was formed in 1972 by 14 petroleum industry members, and is one of the oldest such cooperatives in the Nation. It is a not-for-profit cooperative with its office and storage yard in Long Beach, California. Clean Coastal Waters provides equipment and personnel for the protection of the southern California coast, from Point Dume in the north, to the Mexican border in the south. This area includes both public and private properties, beaches, harbors, offshore islands, and waters extending to the outer boundary of the Outer Continental Shelf.

As my colleague from Washington, Mr. John Miller, has alluded to in his testimony before the Subcommittee, the enactment of Public Law 100-329 in mid-1988, required vessels used to transport sewage sludge and other valueless cargo, to be documented and constructed in the U.S. in accordance with the Jones Act. Subsequently, cooperative vessels that recover oil during a spill must comply with the provisions of Public Law 100-329. As I have mentioned earlier, Clean Coastal Waters is owned by 14 oil companies, totaling a 38 percent non-citizen interest, and therefore, cannot be documented as a U.S. vessel under Public Law 100-329.

It is obvious to me that Public Law 100-329 was never intended to preclude these effective and essential oil spill response cooperatives from engaging in their primary mission; protecting the Nation's waters from the environmental devastation of oil spills. However, that is precisely the effect it has.

The solution is quite simple. It has been proposed by Mr. Miller and revised by the Subcommittee staff. In short, the provision would change the current law requiring not less than 75 percent U.S. ownership of a cleanup vessel, to requiring not less than 50 percent U.S. ownership. This would allow cooperatives like Clean Coastal Waters with its 38 percent non-citizen interest, to engage in the coastwise trade with respect to oil spill cleanup response. The language is brief, straightforward and desperately needed. After hearing today's testimony, I hope the Subcommittee will agree.

As a conferee to the oil spill bill, I recognize the many issues that must be addressed in the coming weeks if we are to be successful in developing a comprehensive and acceptable bill.

As Members of the Subcommittee with jurisdiction over the oil spill cooperative vessel documentation issue, I thank you for your willingness to address this issue. Moreover, I hope that the solution will be included in the final conference agreement.

**Mr. TAUZIN.** Mr. Miller, we received correspondence regarding another cooperative from the Delaware Bay and River Cooperative on the East Coast. Apparently, two of their eight owners are foreign and that would put the cooperative over the 25 percent foreign ownership requirement as well. I think the foreign owners are BP and Star.

They are interested in purchasing an offshore supply vessel from MARAD for the purposes of the cooperative's effort and oil spill in that area. They indicate no intention to avoid any U.S. crew requirements and that the existence of the important cooperative will hinge on the membership of all the terminal owners, which includes the two foreign, whether they're subsidiaries of foreign cooperations or not.

They make the same argument for the East Coast cooperatives. Would you have any objection, if we resolve this thing, to include all such cooperatives similarly situated?

**Mr. MILLER.** Absolutely not. Because I think here what we're trying to do is get these—the foreign citizens that are in these cooperatives to meet their burden and not exempt them, and to make sure they're doing their share in oil spill cleanup.

**Mr. TAUZIN.** Have you had any complaints, any problems, from the maritime unions regarding such a proposal?

**Mr. MILLER.** None at all, as far as I know. No. No. This has been widely circulated and I don't believe there's any objection.

Mr. TAUZIN. My understanding is that the requirements of U.S. crews would still be as required by the Jones Act so there wouldn't be any problem in that regard.

Mr. MILLER. That's right. It does not change anything in that regard.

Mr. TAUZIN. Are there any other questions of any of the Members before I move to Mr. William Karas of the Clean Sound Oil Spill Response Cooperative?

[Brief pause.]

Mr. MILLER. Mr. Karas, who's been involved in this can give you far more detailed information than I can.

Mr. TAUZIN. Why don't you bring him up?

Mr. Karas, why don't you come and summarize your statement for us and then we'll conclude with any questions we have for the two of you.

Mr. Karas.

#### STATEMENT OF WILLIAM KARAS ON BEHALF OF CLEAN SOUND OIL SPILL RESPONSE COOPERATIVE, SEATTLE, WASHINGTON

Mr. KARAS. Thank you, Mr. Chairman.

In 1988, the Valueless Material Amendment to the Jones Act seemed to indicate that the activities of oil spill cooperatives' vessels were embraced within the coastwise trade. Such vessels therefore appear to need coastwise documentation.

Since 1971, Clean Sound's response vessels have been state-registered. A technical legislative change is needed in order to allow oil spill response cooperatives with less than 50 percent U.S. citizen ownership to document their vessels for coastwise trading. That coastwise documentation would restrict the operation of these vessels to oil spill response activities.

There is no reason, in the opinion of Clean Sound, why foreign oil interests should not participate in the cleanup efforts and costs of these cooperatives. The cleanup of oil spills is a burden that should be shared by all oil interests operating in a particular coastal region, regardless of citizenship.

The legislation would not change the requirement that the coastwise vessels of cleanup cooperatives must be U.S. built, U.S. manned and must otherwise qualify under the laws of the United States to be employed in the coastwise trade. There would seem to be no U.S. interests that would be adversely affected by this narrow legislative change.

To the contrary, the legislation would confer important environmental benefits by allowing cleanup cooperatives to operate efficiently and effectively through the participation of non-U.S. oil interests in the cleanup efforts.

Finally, Mr. Chairman, I have been authorized to state to the Subcommittee that the following cooperatives agree that the attached legislation is needed for their operations and that they fully support its enactment:

Alaska Clean Seas of Anchorage, Alaska; Alyeska Pipeline Service Company of Valdez, Alaska; Clean Bay of Concord, California; Clean Coastal Waters, Long Beach, California; Clean Gulf Associates, New Orleans, Louisiana; Clean Harbors Cooperative, Perth

Amboy, New Jersey; Clean Island Council, Honolulu, Hawaii; Clean Rivers Cooperative of Portland, Oregon; Clean Seas, Carpinteria, California; the Cook Inlet Response Organization, Kenai, Alaska; and the Delaware Bay and River Cooperative of Lewes, Delaware.

Thank you, Mr. Chairman, for the opportunity to present our views.

[The prepared statement of Mr. Karas can be found at the end of the hearing.]

Mr. TAUZIN. Thank you, Mr. Karas.

Are there any questions by Members of the Committee?

[Brief pause.]

Then, I thank you very much.

John, I might point out that it may be possible for us, in the context of the Oil Spill Conference, to include language in the Oil Spill Conference that would deal with this problem for cooperatives similarly situated, since it does deal with a limited problem of oil spill response cooperatives.

And I would invite your attention to that potential. I have the staff working on such a concept right now to see whether we can't build it into the conference, if that would be helpful.

Mr. MILLER. That would be excellent, Mr. Chairman.

Mr. TAUZIN. I thank you for your testimony.

Any further questions by the Committee?

[Brief pause.]

We'll move right along then.

All right. Captain Anderson, would you please come back and we've got—we do need to hear from the Coast Guard on a couple of questions regarding some bills. One is the Federal pilotage requirement for hopper dredges.

Captain Anderson, would you perhaps summarize the Coast Guard's involvement in requiring Federal pilots here in these self-propelled dredges and give the policy reasons and let us know whether exempting them would in fact affect their safe operation? And, if not, how do daily operations of hopper dredges differ from other vessels operating in the coastwise trade?

Captain Anderson—Captain MacDonald, rather.

**STATEMENT OF JAMES M. MACDONALD, MERCHANT VESSEL INSPECTION AND DOCUMENTATION, UNITED STATES COAST GUARD**

Capt. MACDONALD. Thank you, Mr. Chairman.

I am Captain MacDonald, Division Chief of the U.S. Coast Guard Merchant Vessel Inspection and Documentation.

I brought with me Mr. Jack Hartke of our Merchant Vessel Personnel Division to discuss the hopper dredge situation.

Hopper dredge dredging operations are different from normal ship transits in and out of harbor in that, they stay in a particular harbor or channel and work there for a considerable period of time. They make several transits a day when they are working in the channel taking the dredge spoils out to a disposal site at sea.

It's a more efficient way of dredging so they can widen and deepen the channels easier, faster, but they do make several trips a day with the dredge spoils for disposal at sea.

When they operate at the dredge site, they're basically a stationary object. They're operating in the channel; they're taking spoils from the bottom of the channel. When they move from that dredging site and head to the disposal area, basically they make the channel transit just as if it were a normal vessel.

The proposal before you today is to exempt hopper dredges from Federal pilotage requirements. The Coast Guard's position in that is that there may be some instances where pilotage could be waived but there are other instances where we would want to maintain a pilotage requirement.

So we would request that, if there was going to be some sort of waiving of the pilotage requirements, it be discretionary and that discretion be given to the Coast Guard.

I would like to emphasize that we would envision that these vessels' masters would qualify for a pilotage license on their own. They wouldn't take a pilot from the normal pool of pilots, such as an incoming foreign vessel would or such as a coastwise vessel would.

We would envision that the master on the vessel would become qualified, be very knowledgeable about the harbor and be given a test by the Coast Guard.

Mr. TAUZIN. Do you envision any circumstance where, given the discretion to waive the requirement, the Coast Guard would want to waive it?

Capt. MACDONALD. Yes, sir, we would. We would probably want to waive it in situations where there's a fairly short transit to the disposal area. There may be a situation where there's not a high traffic load in that particular channel.

It would all depend on the navigational area, the navigational circumstance and maintenance of the safety of that navigational channel.

Mr. TAUZIN. And give us an example of the circumstance when you would not want to waive it.

Capt. MACDONALD. Mr. Hartke will do that.

Mr. HARTKE. Mr. Chairman, I'm John Hartke with the Merchant Vessel Personnel Division of the Coast Guard.

Just the reverse of what Captain MacDonald said. A situation where you had dense traffic, maybe some hazardous polluting substances would be part of that traffic, the configuration of the port and that sort of thing.

Mr. TAUZIN. So a blanket waiver, a mandatory waiver, in your opinion, would create some safety problem in those circumstances?

Capt. MACDONALD. Yes, Mr. Chairman, that's correct.

Mr. TAUZIN. Any questions by any other Members?

Mr. Laughlin.

Mr. LAUGHLIN. Captain MacDonald, I understood some part of that testimony that dredges are stationary for a period of time and that is my appreciation, watching them operate down in my coastal area; in fact I never have seen one move. I realize they do, but are you saying that they do not need a Federal pilot on board when they are stationary?

Capt. MACDONALD. Sir, the situation with the dredges in your area may be that they're not hopper dredges; they may be excavating-type dredges or another type of dredge where they pump the effluent ashore. I don't know.

But the proposal, as I understand it today, is to address hopper dredges which transit channels and dispose of spoils at sea.

Mr. LAUGHLIN. Well, I still do not understand. It seems ridiculous to me—and it may not be—but if we are requiring these dredges to have pilots on board when they are stationary, whether they're functioning at that point or not, it seems to be ridiculous.

Capt. MACDONALD. When they're stationary, when they're in the dredging process, that we would consider them navigating in that channel. When they get underway to navigate and transit the channel to dispose of the dredged material, they would also have to have a pilot.

Mr. TAUZIN. Would the gentleman yield?

Mr. LAUGHLIN. Sure.

Mr. TAUZIN. What's the current situation? Are they required to have a Federal pilot when they're just sitting there dredging?

Mr. HARTKE. Yes, sir.

Mr. TAUZIN. That's a problem, isn't it?

Mr. HARTKE. Mr. Chairman, if I could back up, it's my understanding that the hopper dredges don't move out to the spoil site a couple of times a day; it's a matter of hours. So there's considerable navigation involved.

And, yes, the present requirement is for a pilot for hopper dredges.

Mr. TAUZIN. Any other questions?

We will hear in a minute from Allen Dupont, representing the National Association of Dredging Contractors on this very issue. So we'll get the other viewpoint in just a minute.

Mr. LAUGHLIN. OK.

Mr. TAUZIN. Any other questions?

[Brief pause.]

Mr. LAUGHLIN. Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you, sir.

A couple of questions before we leave you again, Captain.

Regarding the vessel tonnage measurement legislation, how long has the Coast Guard used the simplified measurement method? Has it proven to be effective?

Secondly, was the inclusion of inland domestic trade barges in the International Convention measurement system just an oversight?

Third, is it true that barges operating on the Great Lakes already have the choice to use the simplified measurement method? And, if the bill is enacted, what would be the Coast Guard's requirement to carry out this authority? Is the present system costly to the Coast Guard?

If you can run through some answers for us?

Capt. MACDONALD. Yes, Mr. Chairman. Quite a barrage of questions here so I had to flip through my notebook; you've touched a number of issues.

The simplified measurement has been applied since 1965 to pleasure vessels and since 1979 to commercial vessels. It has been

effective, particularly in the case of barges, which we're discussing here, because barges are generally a simplified object. They're squarish, angular, if you will, and they don't have the fine lines of a vessel.

The International Tonnage Convention does apply to barges, however, and that was why it was applied originally to the inland and coastal barges that we're discussing here today. The ITC convention does not apply to Great Lakes' barges, and didn't apply to those Great Lakes' barges originally. The older systems were retained specifically for the Great Lakes.

To implement the simplified tonnage admeasurement on barges again, would simply require the vessel owner to fill out some simple piece of paper giving overall barge dimensions when he came in to document the vessel. The simplified admeasurement process uses vessel overall dimensions plus a coefficient factor, so it's very simple, as opposed to the ITC admeasurement which requires formal tonnage admeasurement that requires the owner to contract a class society to carry out.

Basically, we're substituting an administrative procedure for a technical procedure here. However, the administrative procedure compares quite closely and is very conservative in the tonnage assessment of the vessel. Barges historically are not the "rule-beaters," if you will, that we have problems with elsewhere concerning the tonnage assessment.

The bill also is speaking only to barges on domestic voyages and won't be applied internationally so that we won't be violating our agreements under the International Tonnage Convention.

Mr. TAUZIN. Any questions by Members of the Committee?

[Brief pause.]

Captain, we thank you very much.

We have a 15-minute vote call that we can possibly take up Mr. Dupont at this time. Why don't we try to do that so we can wrap before this vote.

Mr. Allen Dupont, if you'll please come forward, sir.

Mr. Dupont, let me remind you, your statement is a part of the record, so we're again short of time. If you could summarize for us, why is it that self-propelled hopper dredges should be exempted from the Federal pilotage requirement?

#### STATEMENT OF ALLEN J. DUPONT, NATIONAL ASSOCIATION OF DREDGING CONTRACTORS

Mr. DUPONT. Yes, sir. Thank you very much, Mr. Chairman.

My name is Allen Dupont. I'm Operations Manager for Gulf Coast Trailing Company, a subsidiary of T. L. James & Company of Ruston, Louisiana. And I'm testifying for T. L. James on behalf of the National Association of Dredging Contractors on the issue of the Federal pilot requirements under the Jones Act for dredges carrying valueless material. Accompanying me is our Association's counsel, Bob Losch.

At the outset, I'd like to point out to the Committee that the Coast Guard did not, prior to a recent ruling by Commander of the Seventh District of the Coast Guard in Miami, actually require Federal pilots on dredges carrying valuable or valueless materials.

The Miami's District's ruling of April 1990 was the first time the issue of the Federal pilotage of dredges was raised.

The ruling by the Miami District that Federal pilots are required on dredges carrying valueless material is based on the 1988 amendment to the Jones Act, which provided that the term "merchandise" includes transportation of valueless material or any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone to another point or place in the United States or the EEZ.

The Coast Guard ruling incorrectly stated that prior to the 1988 change in the law, a dredge was determined by the U.S. Customs not to be engaged in the coastwise trade and thus pilotage was left up to the states as found in 46 U.S.C. 8501. The fact of the matter is that since 1976 the U.S. Customs Service has ruled that valuable materials carried on a dredge, which is for use in beach nourishment or landfill, was merchandise under the Jones Act and, therefore, such a vessel was engaged in coastwise trade.

The Coast Guard, however, had never imposed the requirement for a Federal pilot on dredges transporting valuable materials.

It's clear from the legislative history of 46 U.S.C. 8502 that Congress did not specifically focus on dredges and was unaware of their unique operational characteristics, such as the numerous times in a 24-hour period that a dredge enters and/or departs a port—

Mr. TAUZIN. Mr. Dupont.

Mr. DUPONT. Yes, sir.

Mr. TAUZIN. We're going to run short on time. So I think it would be extremely important if we got to the questions that we need addressed here.

And it's a policy question: whether or not the Coast Guard made a good ruling or not, we're now being asked to change that ruling.

Mr. DUPONT. Yes, sir.

Mr. TAUZIN. And to say they should be exempted. The Coast Guard says, don't exempt them; just give us the discretion to waive it.

What is the position of your association regarding those two issues? Why should you be totally exempted, as a policy? What's different about hopper dredges, which ought to be exempted, and what's wrong with the Coast Guard's idea of discretionarily waiving it when the circumstances are right?

Mr. DUPONT. Yes, sir. Hopper dredges, in general, are designed to be shallow draft, highly maneuverable vessels. They have been designed to work in ports to deepen the channels and work in the shallower areas. So, consequently, they have a wider area to maneuver in, to safely navigate around the shipping that's involved.

They're in and out of the ports consistently, 20 times a day. They become very familiar with the port. There's an advance party that comes in to survey the area, to assess the area and provide them all this information.

We're constantly surveying the area, taking some sort of analysis of what's going on with the dredging process. And we're familiar with where all the shoals are, what the dangerous currents are.

And we, therefore, have a firsthand knowledge of the changing characteristics of the channel.

The pilots, on the other hand, are quite often asking us for this information. They want to see our maps. They want to know what we're doing. Because we're actually changing the conditions of the port.

So we have a firsthand knowledge that I don't think most other shipping has.

Mr. TAUZIN. What of the Coast Guard's suggestion that the captain of the vessel be qualified as the pilot? Would that work?

Mr. DUPONT. Well, for the captain of the vessel to become qualified as a pilot, he has to go through a detailed study of each port, each and every port, plus have a test performed on his knowledge of the port where he actually has to physically draw every condition—or actually the chart of the area from memory, be knowledgeable of all the rules of the road. It takes a lot of time for these people in advance to become familiar with each port. And we don't have that time on all of these ports.

We have quite a few projects that required quite a rapid response time and we don't have the time, in those cases, to adequately study and test.

Mr. TAUZIN. Well, I don't want to be argumentative. But you made the point at first that the operators of the dredges were intimately knowledgeable about the port; they work in it constantly.

And then you said, well, you don't have the time to really know the port enough to draw it and know the rules of the road in that port. Which is correct?

Mr. DUPONT. No. We are knowledgeable of what the port looks like and the conditions of the port. And they don't know it from memory, but they have all the technological equipment and the features aboard the vessel with surveys and everything at their discretion to look at.

The test requires them to draw the chart from memory and to actually be able to draw depth contours from memory.

Mr. TAUZIN. And you're concerned that the captains might not be able to pass that test?

Mr. DUPONT. I think it just takes a little bit of preparation to make sure that they are able to pass the test.

Mr. TAUZIN. Would that not be in the interest of safety where the Coast Guard felt that there was enough traffic bearing perhaps other dangers cargoes, that the captains know enough to pass such a test?

Mr. DUPONT. I think we're all after the same thing; that we're all looking for safety, I think. Our captains on our vessels always yield in any sort of dangerous situations. Whenever we're in a high traffic area, we always exit the channel prior to any dangerous cargo coming through. We're always looking towards safety.

Mr. TAUZIN. We have just a few minutes before we're going to all have to run. Let me see if there are any other questions of the Members.

Greg, you had a question?

Mr. Laughlin.

Mr. LAUGHLIN. Mr. Dupont, what is the safety record of these vessels that we are talking about—these hopper dredges?

Mr. DUPONT. I think the safety records of the industry dredges has been exemplary. I don't know of—there's been very, very few instances. I can only recall maybe one instance where there's been any sort of an accident between a hopper dredge in the industry and shipping.

Mr. LAUGHLIN. Would that have been prevented—the incident you know about—had there been a Federal pilot on board?

Mr. DUPONT. No, sir, I don't think so.

Mr. LAUGHLIN. Those are all the questions I have.

Thank you, sir.

Mr. TAUZIN. Yes, sir, Mr. Pickett.

Mr. Pickett. Are these dredge operators required to pass any kind of state or Federal examination as a condition of their operating one of these dredges?

Mr. DUPONT. Yes, sir. All the personnel that navigate the vessel are fully-licensed mates or masters.

And, in addition, before they're able to take control of the wheel, part of our own little safety measure is to make sure that these people are given some experience with experienced masters or mates on board the vessels so they become fully knowledgeable of the characteristics of the vessel and the channel before they take the wheel.

Mr. PICKETT. Thank you.

Mr. TAUZIN. All right. Do you want to make any final comments? Yes, sir.

Mr. LOSCH. Yes, Mr. Chairman. For the record, my name is Mr. Losch. I'm Counsel for the National Association of Dredging Contractors.

Mr. TAUZIN. Yes, sir.

Mr. LOSCH. I did want to make a few remarks relative to the questions that were raised. And that is, we do want to point out that the record of the industry, as well as the Corps, in the operation of the hopper dredges has really been exemplary, going back many, many years, that of course have been maintained.

Now, I also want to note that the Corps hopper dredges do not require a Federal pilot because they're public vessels. And I also want to note for the record that the Corps of Engineers strongly supports the exemption from the Federal pilotage requirement for self-propelled hopper dredges.

Mr. TAUZIN. All right. Any other comments, Mr. Dupont?

Mr. DUPONT. No, sir.

[The prepared statement of Mr. Dupont can be found at the end of the hearing.]

Mr. TAUZIN. You've done a good job.

Gentlemen, we thank you all. We've got to move on to a vote now. And I think we have all the questions answered that we needed.

We only need, I think, comments for the records on the vessels regarding Ms. Bentley's non-profit corporations for the record.

Thank you again and, with the appreciation of the Subcommittee, the hearing stands adjourned.

[Whereupon, the hearing was adjourned at 3:20 p.m., and the following was submitted for the record:]

101ST CONGRESS  
1ST SESSION

# H. R. 2800

To amend titles 10 and 14, United States Code, to permit recordings of military bands to be sold commercially.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1989

Mr. SHAW (for himself, Mr. DANNEMEYER, Mr. WELDON, Mr. DELAY, Mr. DORNAN of California, Mr. LAUGHLIN, Mr. HUBBARD, Ms. KAPTUR, and Mr. VISCLOSKY) introduced the following bill; which was referred jointly to the Committees on Armed Services and Merchant Marine and Fisheries

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## A BILL

To amend titles 10 and 14, United States Code, to permit recordings of military bands to be sold commercially.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AUTHORIZATION FOR ARMY BANDS TO PRODUCE**

4 **RECORDINGS FOR COMMERCIAL SALE.**

5 Section 3634 of title 10, United States Code, is  
6 amended—

7 (1) by striking out “No” and inserting in lieu  
8 thereof “(a) Except as provided in subsection (b), no”,  
9 and

1           (2) by adding after subsection (a) the following  
2           new subsection:

3           “(b)(1) Any Army band may produce recordings for  
4           commercial sale.

5           “(2) Amounts received as proceeds from the sale of any  
6           such recordings may be credited to applicable appropriations  
7           of the Department of the Army for expenses of Army bands.

8           “(3) The Secretary of the Army shall prescribe regula-  
9           tions governing the accounting of such proceeds.”.

10 **SEC. 2. AUTHORIZATION FOR NAVY AND MARINE CORPS**  
11                               **BANDS TO PRODUCE RECORDINGS FOR COM-**  
12                               **MERCIAL SALE.**

13           Section 6223 of title 10, United States Code, is amend-  
14           ed by adding after subsection (b) the following new subsec-  
15           tion:

16           “(c)(1) Notwithstanding any limitation contained in sub-  
17           section (a) or (b), any Navy band or Marine Corps band may  
18           produce recordings for commercial sale.

19           “(2) Amounts received as proceeds from the sale of any  
20           such recordings may be credited to applicable appropriations  
21           of the Department of the Navy for expenses of Navy and  
22           Marine Corps bands.

23           “(3) The Secretary of the Navy shall prescribe regula-  
24           tions governing the accounting of such proceeds.”.

1 **SEC. 3. AUTHORIZATION FOR AIR FORCE BANDS TO PRODUCE**  
2 **RECORDINGS FOR COMMERCIAL SALE.**

3 Section 8634 of title 10, United States Code, is  
4 amended—

5 (1) by striking out “No” and inserting in lieu  
6 thereof “(a) Except as provided in subsection (b), no”,  
7 and

8 (2) by adding after subsection (a) the following  
9 new subsection:

10 “(b)(1) Any Air Force band may produce recordings for  
11 commercial sale.

12 “(2) Amounts received as proceeds from the sale of any  
13 such recordings may be credited to applicable appropriations  
14 of the Department of the Air Force for expenses of Air Force  
15 bands.

16 “(3) The Secretary of the Air Force shall prescribe reg-  
17 ulations governing the accounting of such proceeds.”.

18 **SEC. 4. AUTHORIZATION FOR COAST GUARD BANDS TO**  
19 **PRODUCE RECORDINGS FOR COMMERCIAL**  
20 **SALE.**

21 (a) **AUTHORIZATION TO PRODUCE RECORDINGS FOR**  
22 **COMMERCIAL SALE.**—Chapter 17 of title 14, United States  
23 Code, is amended by inserting after section 639 the following  
24 new section:

1 **"§ 640. Coast Guard band recordings for commercial sale**

2       “(a) Any Coast Guard band may produce recordings for  
3 commercial sale.

4       “(b) Amounts received as proceeds from the sale of any  
5 such recordings may be credited to applicable appropriations  
6 of the Coast Guard for expenses of Coast Guard bands.

7       “(c) The Secretary shall prescribe regulations governing  
8 the accounting of such proceeds.”.

9       (b) **CLERICAL AMENDMENT.**—The table of sections at  
10 the beginning of such chapter is amended by inserting after  
11 the item relating to section 639 the following new item:

“640. Coast Guard band recordings for commercial sale.”.

12 **SEC. 5. CONFORMING AMENDMENT.**

13       Section 974 of title 10, United States Code, is amended  
14 by striking out “section 6223 of this title” and inserting in  
15 lieu thereof “sections 3634, 6223, and 3634 of this title and  
16 section 640 of title 14,”.

101ST CONGRESS  
2D SESSION

# H. R. 4491

To amend the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203).

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 1990

Mr. JONES of North Carolina introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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## A BILL

To amend the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203).

- 1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That section 4 of the Vessel Bridge-to-Bridge Radiotele-  
4 phone Act of 1971 (33 U.S.C. 1203) is amended by striking  
5 paragraph (1) of subsection (a) and inserting:  
6           “(1) every power-driven vessel of twenty meters  
7       or over in length while navigating;”.

US Department  
of Transportation  
United States  
Coast Guard



Commandant  
United States Coast Guard

Washington, D.C. 20593-0001  
Staff Symbol  
Phone

DEPARTMENT OF TRANSPORTATION  
U.S. COAST GUARD

STATEMENT OF CAPTAIN JAMES M. MACDONALD

ON

H.R. 4491,

A BILL TO AMEND THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT

BEFORE THE COMMITTEE ON MERCHANT MARINE AND FISHERIES  
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION  
U.S. HOUSE OF REPRESENTATIVES

11 JULY 1990

## BIOGRAPHICAL SKETCH

## CAPTAIN JAMES M. MACDONALD

Captain James M. MacDonald has been Division Chief of the Coast Guard Merchant Vessel Inspection and Documentation Division at Coast Guard Headquarters since 12 August 1988.

Following his graduation from the Coast Guard Academy in 1968, Captain MacDonald's early assignments included duty aboard the Polar Ice Breaker EDISTO and as Coast Guard Liaison Officer and Instructor at the Naval Damage Control Training Center at Philadelphia.

Captain MacDonald has served as Executive Officer of MIO Kobe, Japan from 1981 to 1982; as Chief, Inspection Department and Executive Officer of MSO Honolulu, Hawaii from 1982 to 1985; as Chief Commercial Vessel Safety Branch Fourteenth Coast Guard District from 1985 to 1986 and as Commanding Officer of Coast Guard Section Marianas from 1986 to 1988.

Other assignments include Assistant Marine Environmental Protection Branch Chief in the Twelfth District and Marine Inspection at Marine Inspection Office, Los Angeles-Long Beach.

In addition to his Bachelor of Science Degree in Engineering from the Coast Guard Academy, Captain MacDonald holds a Master of Science Degree in Management from Rensselaer Polytechnic Institute, Troy, New York.

Captain MacDonald's decorations include the Meritorious Service Medal, two Coast Guard Commendation Medals, two Coast Guard Achievement Medals, the Navy Achievement Medal and two Coast Guard Meritorious Unit Commendations.

Captain MacDonald is married to the former Jean L. Kahoe of Shrewsbury, Massachusetts, a Connecticut College graduate. They have two sons, Jason and Greg.

GOOD AFTERNOON, MR. CHAIRMAN. I AM CAPTAIN JAMES M. MACDONALD, CHIEF OF THE COAST GUARD'S MERCHANT VESSEL INSPECTION AND DOCUMENTATION DIVISION. I AM PLEASED TO APPEAR BEFORE THIS DISTINGUISHED SUBCOMMITTEE TO DISCUSS H.R. 4491, A BILL WHICH WOULD AMEND THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

MR. CHAIRMAN, H.R. 4491 SEEKS TO RECONCILE AN INCONSISTENCY THAT PRESENTLY EXISTS BETWEEN THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT AND THE INLAND NAVIGATIONAL RULES, OTHERWISE KNOWN AS THE INLAND RULES OF THE ROAD, REGARDING THE CATEGORY OF VESSELS WHICH SHOULD BE RADIO-EQUIPPED WHILE NAVIGATING NARROW CHANNELS. THIS LEGISLATION PROPOSES TO AMEND SECTION 4 OF THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT TO REQUIRE VESSELS OF 20 METERS OR MORE IN LENGTH TO BE EQUIPPED WITH BRIDGE-TO-BRIDGE RADIOTELEPHONES. THE RESULTING CONSISTENCY PROVIDED BY THIS PROPOSED LEGISLATION IS IMPORTANT TO MARITIME SAFETY BECAUSE IT WILL HELP PREVENT CONFUSION AMONG THE MANY VESSELS WHICH OPERATE UNDER THE BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT AND THE INLAND NAVIGATIONAL RULES.

THE HEART OF THIS MATTER IS THAT THE INLAND NAVIGATIONAL RULES REQUIRE THAT VESSELS OF LESS THAN 20 METERS IN LENGTH NOT IMPEDE THE PASSAGE OF A VESSEL THAN CAN SAFELY NAVIGATE ONLY WITHIN A NARROW CHANNEL OR FAIRWAY (RULE 9(B)). CONVERSELY, VESSELS OF 20 METERS OR MORE IN LENGTH ARE ENTITLED TO SHARE THE AVAILABLE CHANNEL WITH OTHER VESSELS OF SIMILIAR SIZE. TO DO SO SAFELY, THESE VESSELS MUST BE ABLE TO COMMUNICATE EFFECTIVELY. HOWEVER,

THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT CURRENTLY HAS NO PROVISION SPECIFICALLY ADDRESSING VESSELS OF 20 METERS OR MORE IN LENGTH.

THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT DESCRIBES FOUR CLASSES OF VESSELS THAT ARE REQUIRED TO BE EQUIPPED WITH BRIDGE-TO-BRIDGE RADIOTELEPHONES. THE CLASS THAT MOST CLOSELY APPROXIMATES THE 20 METER REQUIREMENT OF THE INLAND RULES PROVIDES THAT "EVERY POWER-DRIVEN VESSEL OF THREE HUNDRED GROSS TONS AND UPWARD WHILE NAVIGATING" BE EQUIPPED WITH BRIDGE-TO-BRIDGE RADIOTELEPHONE EQUIPMENT. A SIGNIFICANT NUMBER OF VESSELS GREATER THAN 20 METERS IN LENGTH ARE LESS THAN THREE HUNDRED GROSS TONS, AND THUS ARE ENTITLED TO NAVIGATE IN A NARROW CHANNEL OR FAIRWAY WITHOUT ANY REQUIREMENT TO BE RADIO-EQUIPPED. H.R. 4491 WOULD REMEDY THIS SITUATION BY CHANGING THE THREE HUNDRED GROSS TON BENCHMARK TO 20 METERS IN LENGTH. THE OTHER THREE CLASSES OF VESSELS TO WHICH THE BRIDGE-TO-BRIDGE ACT APPLIES REMAIN UNCHANGED.

MR. CHAIRMAN, THE COAST GUARD AND THE DEPARTMENT OF TRANSPORTATION URGE YOUR SUPPORT IN ENACTING THIS PROPOSED LEGISLATION.

I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS THAT YOU OR THE OTHER MEMBERS OF THE SUBCOMMITTEE MIGHT HAVE.

TESTIMONY

OF

WILLIAM KARAS

ON BEHALF OF

CLEAN SOUND OIL SPILL RESPONSE COOPERATIVE

BEFORE THE

COAST GUARD AND NAVIGATION SUBCOMMITTEE,  
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

ON THE COASTWISE OPERATION OF OIL SPILL RESPONSE COOPERATIVES

JULY 11, 1990

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE. MY NAME IS WILLIAM KARAS. I AM A MEMBER OF THE WASHINGTON, D.C. LAW FIRM OF STEPTOE & JOHNSON AND COUNSEL TO THE CLEAN SOUND OIL SPILL RESPONSE COOPERATIVE ("CLEAN SOUND") WHICH IS HEADQUARTERED IN SEATTLE, WASHINGTON. I TESTIFY TODAY IN SUPPORT OF TECHNICAL LEGISLATION INTENDED TO CURE CERTAIN DOCUMENTATION PROBLEMS SHARED BY CLEAN SOUND AND OTHER SIMILARLY-SITUATED OIL SPILL RESPONSE COOPERATIVES.

CLEAN SOUND IS AN UNINCORPORATED ASSOCIATION FORMED IN 1971 TO FUND THE ACQUISITION AND MAINTENANCE OF OIL SPILL RESPONSE EQUIPMENT USED TO RESPOND TO OIL SPILLS THAT MAY OCCUR ON PUGET SOUND AND OTHER INLAND AND COASTAL WATERS OF THE STATE OF WASHINGTON. IN COMMON WITH A NUMBER OF SIMILAR COOPERATIVES OPERATING ELSEWHERE IN U.S. WATERS, CLEAN SOUND IS A NOT-FOR-PROFIT ORGANIZATION THAT CONSISTS OF OIL PRODUCERS AND REFINERS, MARINE TRANSPORTERS AND OIL PIPELINES, SOME OF WHICH ARE OWNED OR CONTROLLED BY CANADIAN, MULTI-NATIONAL OR OTHER FOREIGN INTERESTS. TYPICALLY, MEMBERS OF OIL SPILL RESPONSE COOPERATIVES JOINTLY OWN A NUMBER OF U.S.-BUILT OIL SPILL CLEANUP VESSELS -- SKIMMERS, CONTAINMENT BOOM VESSELS AND OTHER OIL RECOVERY VESSELS. BY KEEPING CLEANUP VESSELS ON CALL TO RESPOND TO ANY SPILL EMERGENCIES, THESE COOPERATIVES PERFORM A VERY VALUABLE AND NECESSARY SERVICE.

THE ENACTMENT OF PUBLIC LAW 100-329 IN MID-1988 HAS RAISED CERTAIN ISSUES REGARDING DOCUMENTATION OF THE CLEAN SOUND AND OTHER COOPERATIVES' CLEANUP VESSELS WHICH GENERALLY ARE NOT

NOW FEDERALLY DOCUMENTED (MOST HAVE STATE REGISTRATIONS). P.L. 100-329 AMENDED THE JONES ACT (SECTION 27 OF THE MERCHANT MARINE ACT, 1920, 46 U.S.C. § 883) TO MAKE THE JONES ACT APPLICABLE "TO THE TRANSPORTATION OF VALUELESS MATERIAL...." OIL RECOVERED FROM A SPILL ON U.S. WATERS THEREFORE SHOULD BE CARRIED TO A U.S. DISPOSAL SITE IN VESSELS WHICH MEET THE REQUIREMENTS OF THE JONES ACT: THAT THEY BE U.S. BUILT, DOCUMENTED UNDER THE LAWS OF THE U.S., AND OWNED BY U.S. CITIZENS. TO THE EXTENT THE CARRIAGE OF RECOVERED OIL AND RELATED OIL SPILL RESPONSE ACTIVITIES ARE DEEMED TO BE WITHIN THE COASTWISE TRADE, THE DOCUMENTATION MUST TAKE THE FORM OF A COASTWISE LICENSE AND THE VESSELS OWNED BY COOPERATIVE MEMBERS CANNOT SECURE SUCH LICENSE IF ANY MEMBER WAS A NON-U.S. CITIZEN PRIOR TO THE DOCUMENTATION.

IN THE CASE OF CLEAN SOUND, THE NON-CITIZEN INTERESTS CURRENTLY AGGREGATE TO ABOUT 35%. OTHER OIL SPILL RESPONSE COOPERATIVES EXPERIENCE DIFFERENT AGGREGATE PERCENTAGES OF NON-CITIZEN INTERESTS (DEPENDING ON PARTICIPATION FORMULAS THAT ARE LARGELY GEARED TO THE OIL TRANSFER ACTIVITIES OF THE MEMBERS), BUT THE PERCENTAGES DO NOT EXCEED 50%. WHILE THE SERVICES PERFORMED BY CLEAN SOUND AND OTHER COOPERATIVES ARE VITAL TO SAFEGUARD THE ENVIRONMENT AND ECOSYSTEMS IN THEIR AREAS OF INTEREST, THESE SERVICES CANNOT BE PERFORMED BY THE CONSTITUENT MEMBERS' VESSELS UNLESS CERTAIN NARROW AND TECHNICAL CHANGES ARE MADE TO EXISTING DOCUMENTATION LAWS, WHICH ONLY BECAME APPLICABLE TO THE COOPERATIVES BECAUSE OF P.L. 100-329 (ESSENTIALLY LEGISLATION CONCERNING SEWAGE SLUDGE AND DREDGED MATERIAL).

THE NECESSARY CHANGES RELATE TO THE CITIZENSHIP OF THE OWNERS OF THE COOPERATIVES' VESSELS, I.E., THE MEMBERS. SPECIFICALLY, LEGISLATION IS REQUIRED UNDER WHICH U.S.-BUILT OIL CLEANUP VESSELS OWNED BY MEMBERS OF AN OIL SPILL RESPONSE COOPERATIVE (OR IF THE COOPERATIVE IS A CORPORATION, BY SUCH CORPORATION) CAN BE DOCUMENTED FOR COASTWISE TRADE IF MORE THAN HALF OF THE OWNERSHIP OF THE VESSEL IS HELD BY U.S. CITIZEN INTERESTS. THAT IS THE HEART OF THE MATTER. THE ATTACHED DRAFT LANGUAGE WOULD EFFECT THE CHANGE NECESSARY.

IN CLEAN SOUND'S VIEW, THE DRAFT LEGISLATION WOULD NOT MAKE ANY MATERIAL POLICY INCURSIONS ON THE JONES ACT OR THE DOCUMENTATION LAWS. THE VESSELS HAVE TO BE U.S.-BUILT AND U.S.-MANNED IN ACCORDANCE WITH MANNING LAWS AND REGULATIONS. THE MAJORITY OF THEIR OWNERSHIP WOULD STILL BE IN THE HANDS OF U.S. CITIZENS. WHILE IT IS TRUE THAT THE LEGISLATION WOULD, IN THE CASE OF OIL SPILL RESPONSE COOPERATIVES, CHANGE THE USUAL 75% U.S. OWNERSHIP RULE FOR A CORPORATION ENGAGED IN COASTWISE TRADING (AND THE USUAL RULE THAT IN ORDER TO OWN A DOCUMENTED VESSEL ALL THE MEMBERS OF AN ASSOCIATION MUST BE U.S. CITIZENS), IT SEEMS TO CLEAN SOUND THAT PRUDENT PUBLIC POLICY SHOULD ENCOURAGE RATHER THAN DISCOURAGE THE PARTICIPATION OF FOREIGN OIL INDUSTRY INTERESTS IN THE CLEANUP OF U.S. COASTAL WATERS. CLEAN SOUND KNOWS OF NO PRIVATE U.S. INTERESTS THAT WOULD BE INJURED BY SUCH LEGISLATION. INDEED, IT SERVES NO ONE'S INTERESTS TO PREVENT A MINORITY OF FOREIGN INTERESTS IN A COOPERATIVE FROM SHARING THE SIGNIFICANT COST OF CLEANUP VESSEL OWNERSHIP, MAINTENANCE AND OPERATION.

IT SHOULD BE EMPHASIZED THAT THE OPERATIONS OF THESE CLEANUP COOPERATIVES ARE NOT PROFIT-MAKING OR ENTREPRENEURIAL IN NATURE. THEIR FUNCTION IS TO RESPOND TO SPILL EMERGENCIES AND TO SHARE THE COSTS OF THESE OPERATIONS EQUITABLY AMONG THEIR OIL INDUSTRY MEMBERS, SOME OF WHOM HAPPEN TO BE NON-U.S. CITIZENS. THE MEMBERSHIP OF FOREIGN-AFFILIATED COMPANIES IN CLEANUP COOPERATIVES, AND THEIR MINORITY OWNERSHIP OF CLEANUP VESSELS, SHOULD BE VIEWED AS A BENEFIT TO U.S. OIL INDUSTRY INTERESTS WHO WOULD NOT HAVE TO BEAR THE TOTAL COST OF CLEANUP OPERATIONS THEMSELVES, AND TO THE GENERAL PUBLIC WHICH IS WELL-SERVED BY THE CONTINUED EXISTENCE AND OPERATION OF THESE COOPERATIVE CLEANUP ENDEAVORS.

FINALLY, I HAVE BEEN AUTHORIZED TO STATE TO THE SUBCOMMITTEE THAT THE FOLLOWING COOPERATIVES AGREE THAT THE ATTACHED LEGISLATION IS NEEDED AND THAT THEY FULLY SUPPORT ITS ENACTMENT: ALASKA CLEAN SEAS (ANCHORAGE, ALASKA); ALYESKA PIPELINE SERVICE COMPANY (VALDEZ, ALASKA); CLEAN BAY (CONCORD, CALIFORNIA); CLEAN COASTAL WATERS (LONG BEACH, CALIFORNIA); CLEAN GULF ASSOCIATES (NEW ORLEANS, LOUISIANA); CLEAN HARBORS COOPERATIVE (PERTH AMBOY, NEW JERSEY); CLEAN ISLANDS COUNCIL (HONOLULU, HAWAII); CLEAN RIVERS COOPERATIVE (PORTLAND, OREGON); CLEAN SEAS (CARPINTERIA, CALIFORNIA); COOK INLET RESPONSE ORGANIZATION (KENAI, ALASKA); AND DELAWARE BAY & RIVER COOPERATIVE (LEWES, DELAWARE).

THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR VIEWS. I WILL BE HAPPY TO ANSWER ANY QUESTIONS.

## LEGISLATIVE PROPOSAL

Section \_\_\_\_.(a) Notwithstanding any contrary provision of Title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 or section 12107, as appropriate, of Title 46, United States Code, to a vessel that --

- (1) is engaged, or acquired to be engaged, in oil spill response activities;
- (2) is owned: (A) subject to subsection (c), by an oil spill response cooperative which is a citizen of the United States eligible to own a documented vessel under section 12102 of Title 46, United States Code, notwithstanding that the vessel may have been previously owned partly, but less than fifty percent in the aggregate, by a member or members, or shareholder or shareholders, of an oil spill response cooperative who was not, or were not, so eligible, or (B) at least fifty percent by members of an unincorporated oil spill response cooperative who are so eligible; and
- (3) was built in the United States;

except that such certificate of documentation shall be endorsed to restrict the use of such vessel in coastwise trade to oil spill response activities.

(b) "Oil spill response activities" means the deployment of equipment, supplies and personnel for the purpose of recovering and containing oil discharged onto the navigable waters of the United States, transport of recovered oil and associated material to a point or place in the United States, and training exercises held to enhance preparedness for a spill.

(c) "Oil spill response cooperative" means an organization (i) whose members or shareholders are producers, refiners or transporters of petroleum or petroleum products, or marine contractors, and (ii) whose principal purpose is to conduct oil spill response activities on behalf of its members or shareholders on a non-profit basis.

(d) A vessel owned by an oil spill response cooperative which is a corporation is not eligible for documentation under this section unless the controlling interest (as measured by a majority of the voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

(e) The Secretary may also issue a certificate of documentation under section 12105 of Title 46, United States Code, to such vessel for employment permitted under that section.

NATIONAL ASSOCIATION OF DREDGING CONTRACTORS

STATEMENT OF ALLEN J. DUPONT

BEFORE THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

JULY 11, 1990

Mr. Chairman, and members of the Subcommittee, my name is Allen J. Dupont. I am Operations Manager for Gulf Coast Trailing Company, a subsidiary of T.L. James & Company, Inc., Ruston, Louisiana. I am testifying for T.L. James on behalf of the National Association of Dredging Contractors. Accompanying me is our Association's counsel, Bob Losch.

The Commander of the Seventh Coast Guard District for the United States Coast Guard (Miami) issued a ruling on April 12, 1990 which requires self-propelled hopper dredges carrying valueless dredged materials to be manned by a Federally licensed pilot pursuant to 46 U.S.C. 8502 when the vessel enters and/or departs a port. This decision was premised on P.L. 100-329, enacted on June 7, 1988, which amended 46 App. U.S.C. 883 to provide that this section, often called the Jones Act, applies to the transportation of valueless dredged material or any dredged material regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone (EEZ), to another point or place in the United States or within the EEZ.

The Coast Guard ruling incorrectly stated that prior to the 1988 change in the law, a dredge "was determined by U.S. Customs not to be engaged in the 'coastwise' trade and thus

pilotage was left up to the states as found in 46 U.S.C. 8501". The U.S. Customs Service ruled in 1976 that dredged material of value, such as materials used for beach nourishment or land fill, when transported by a dredge, was merchandise within the meaning of the coastwise trade laws (VES-10-02-R:CD:C 102446 CR/102173, Dec 7, 1976). Notwithstanding Customs' ruling, the Coast Guard did not require Federal pilots on industry's self-propelled hopper dredges when transporting valuable dredged material. The Seventh Coast Guard District's letter of April 12, 1990 was the first time the issue of Federal pilotage for dredges was raised.

The dredging industry has been operating self-propelled hopper dredges since 1977. Currently, industry has 13 self-propelled hopper dredges. Prior to 1977, the U.S. Army Corps of Engineers exclusively operated 15 self-propelled hopper dredges in the navigable waters of the United States. In 1978, Congress decided that the private sector should be encouraged to invest in new hopper dredges in lieu of using Federal funds for construction of Government-owned hopper dredges. This objective was accomplished by P.L. 95-269, enacted on April 26, 1978. As a result of this legislation, the Corps is currently limited to four (4) hopper dredges in its minimum fleet. The Corps' hopper dredges are not subject to Federal pilotage because of the exemption for public vessels (46 U.S.C. 2109).

The Coast Guard's interpretation is apparently based on 46 U.S.C. 8502(a)(4)(A) which requires Federal pilots on coastwise seagoing vessels propelled by machinery where the vessels are subject to inspection under 46 U.S.C. Chapter 33, Section 3301. This section contains twelve categories of vessels subject to inspection including "seagoing motor vessels". 46 U.S.C. 2101 defines seagoing motor vessels as a motor vessel of at least 300 gross tons making voyages beyond the Boundary Line, or the mean inland waterline (46 CFR Ch. 1, Part 7). This section of the Shipping code is a codification of prior laws. Seagoing vessels propelled by internal-combustion engines have been subject to inspection since 1936. See 46 U.S.C. 367, repealed by P.L. 98-89.

It is clear from the legislative history of Section 8502 that Congress did not specifically focus on self-propelled hopper dredges and was unaware of the unique operations of these dredges, such as the numerous times in a 24-hour period that the dredge enters and/or departs a port in dredging a harbor and transporting the dredged material to sea. The dredging and/or disposal of dredged material at sea with the consequent continuing departures and re-entries of the dredge from and to the port would, in effect, require having a Federal pilot aboard the vessel at all times. Dredges work on a 24 hours a day, 7 days a week schedule. The cost of performing Corps of Engineers' dredging

contracts could be increased by 10 to 15 percent with manning requirements for a Federal pilot.

Industry and the Corps have had an extremely safe record over the many years that this Nation's ports have been maintained. This exemplary record is attributable to the fact that hopper dredges utilize many navigational tools which are vastly superior to those available to normal shipping. In addition, hopper dredges are much more adept at close quarter navigation and maneuvering than most vessels which predominantly ply open waters or the high seas.

Hopper dredges are designed as shallow draft vessels to allow them to navigate a variety of port environments. This shallow draft capacity affords dredges an advantage over normal shipping, for which the various channel depths have been designed, in that they have much more area in which to maneuver. Hopper dredges are highly maneuverable thereby enabling them to work safely in areas that shipping must avoid. When entering a port through the normal deepwater part of the channel, hopper dredges have a much larger safety corridor in which to maneuver. In addition, hopper dredges have a vast array of electronic positioning equipment which precisely monitors their position in all weather conditions. The latest subsurface hydrographic

surveys provide first hand knowledge of the exact position of any dangerous shoals or navigational hazard. These surveys are at the dredge's disposal for operation and navigation purposes and are continuously updated in an effort to accurately reflect the current bottom condition.

No one places navigational safety in any higher regard nor takes more care to emphasize navigational safety than do operators of industry hopper dredges. When our skilled personnel are coupled with the state-of-the-art equipment we employ, they constitute a leading edge among other marine navigational interests. In fact, it is more often the rule than the exception that local pilots and other vessel operators will query our masters or mates as to the latest channel conditions and seek advice as to how to navigate through a particular port.

To overturn the Miami District's ruling, we urge the Committee to amend Section 8502 as follows:

After subsection (g) insert the following provision:

(h) A seagoing hopper dredge is exempted from this section.

Subsection (a) of this section is amended by inserting after the words "subsection (g)" the words "and (h)".

Mr. Chairman, we appreciate the opportunity to testify before the Committee. If you have any questions, we will be pleased to respond.

STATEMENT OF  
FLOYD E. HARDY, DEPUTY COMMISSIONER  
GEORGIA DEPARTMENT OF TRANSPORTATION

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES  
U. S. HOUSE OF REPRESENTATIVES

ON THE

HAZARD TO NAVIGATION; SIDNEY LANIER BRIDGE  
BRUNSWICK, GEORGIA

JULY 11, 1990

STATEMENT OF FLOYD E. HARDY, DEPUTY COMMISSIONER, GEORGIA DEPARTMENT OF TRANSPORTATION BEFORE THE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U. S. HOUSE OF REPRESENTATIVES, REGARDING THE HAZARD TO NAVIGATION: SIDNEY LANIER BRIDGE, JULY 11, 1990

HAZARD TO NAVIGATION: SIDNEY LANIER BRIDGE  
BRUNSWICK, GEORGIA

SINCE CONSTRUCTION IN 1957, THE SIDNEY LANIER BRIDGE AT BRUNSWICK, GEORGIA HAS EXPERIENCED SIGNIFICANT SHIP-BRIDGE COLLISIONS IN 1972 AND 1987. THE COLLISIONS RESULTED IN 10 DEATHS AND AN AVERAGE STRUCTURAL REPAIR COST OF \$2.39 MILLION PER ACCIDENT.

VESSEL CALLS TO THE PORT OF BRUNSWICK HAVE INCREASED FROM 72 IN 1960 TO 294 IN 1987 WITH THE MAJORITY OF INCREASE SINCE 1985. BASED ON THE AVERAGE CARGO PER VESSEL AND TOTAL TONNAGE PROJECTIONS, THE NUMBER OF VESSELS CALLING ON BRUNSWICK WILL INCREASE TO 600 RESULTING IN 1200 ANNUAL TRANSITS OF THE BRIDGE BY YEAR 2010.

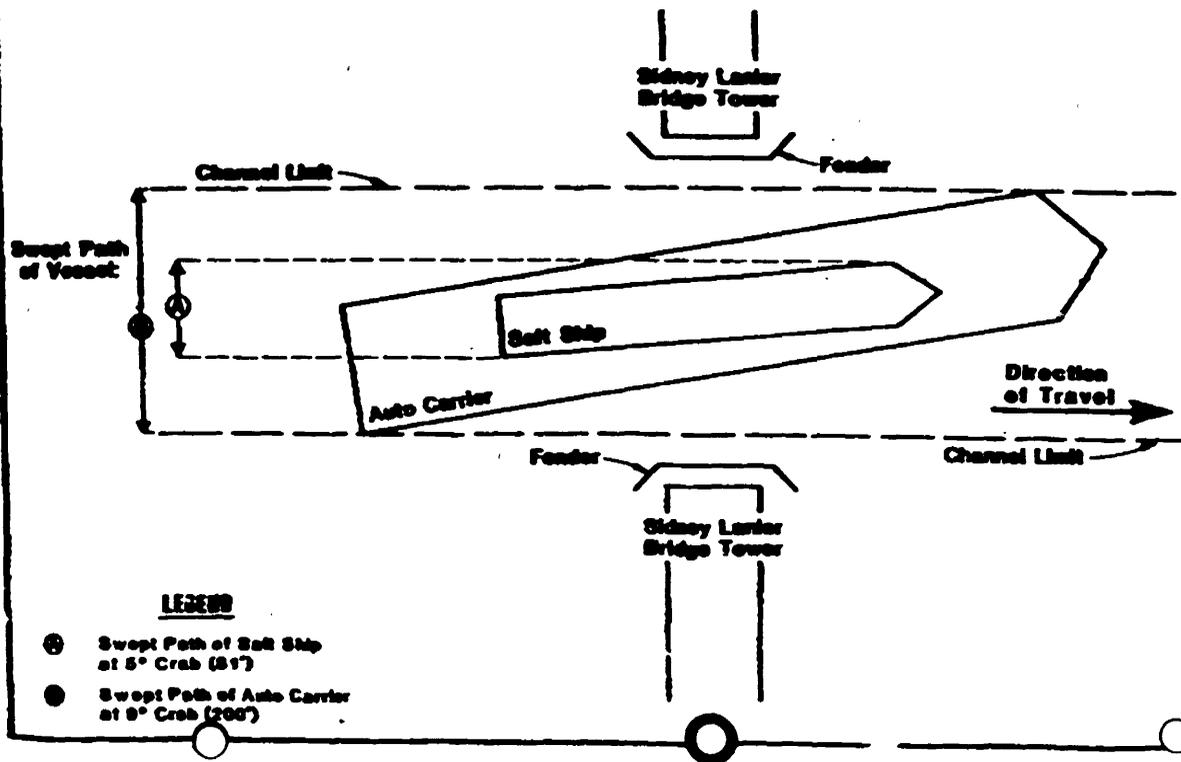
SINCE 1985 THERE HAS BEEN A DRAMATIC INCREASE IN THE SIZE OF VESSELS CALLING ON BRUNSWICK ATTRIBUTABLE TO THE AVERAGE INCREASE IN SIZE OF THE MERCHANT FLEET AND THE EVOLUTION OF BRUNSWICK AS A MAJOR PORT OF CALL FOR LARGE AUTO CARRYING VESSELS.

THE LARGER AND MORE FREQUENTLY TRANSITING SHIPS HAVE DRAMATICALLY INCREASED THE POTENTIAL FREQUENCY AND MAGNITUDE OF FUTURE SHIP-BRIDGE ACCIDENTS. THE ATTACHMENT CONTRASTS THE PATH OF A RELATIVELY SMALL SALT SHIP AND AN AUTO CARRIER IN PASSING THROUGH THE SIDNEY LANIER BRIDGE OPENING DURING PERIODS OF HIGH WIND AND/OR STRONG CURRENTS.

BASED ON PREVIOUS ACCIDENTS IN 1972 AND 1987, AND FACTORED FOR THE NUMBER OF FORECAST SHIP TRANSITS THE PROBABILITY OF A SHIP-BRIDGE COLLISION INCREASES FROM AN ACCIDENT EACH 15 YEARS TO ONE EACH THREE YEARS BY THE YEAR 2010.

WITHOUT REPLACEMENT, THE EXISTING SIDNEY LANIER BRIDGE MAY RESULT IN SEVERE OPERATING CONSTRAINTS BEING PLACED ON BRUNSWICK HARBOR, SUBSTANTIAL NEGATIVE IMPACTS ON THE COMPETITIVE POSITION AND THE ECONOMIC IMPACT OF THE PORT; AND A HIGH PROBABILITY OF THE LOSS OF LIFE AND SUBSTANTIAL PROPERTY DAMAGE SHOULD ANOTHER ACCIDENT OCCUR.

**COMPARISON OF DIMENSIONS AND  
SWEEP PATH OF VESSELS CALLING NEWBICK  
DURING HIGH WIND CONDITIONS**



~~JOSEPH N. MONDELLO~~  
PRESIDING SUPERVISOR



OFFICE OF THE  
PRESIDING SUPERVISOR  
TOWN OF HEMPSTEAD  
TOWN HALL PLAZA HEMPSTEAD, N. Y. 11550  
IV 9.5000

July 10, 1980

Hon. W. J. Tauzin, Chairman  
Subcommittee on Coast Guard & Navigation  
2342 Rayburn House Office Building  
Washington, D.C. 20515-1803

Dear Congressman Tauzin,

I am writing in support of a Bill introduced by Congressman Lent and Congressman McGrath, HR8179, which would authorize the transfer of the Coast Guard property located in Atlantic Beach, New York, to the Town of Hempstead, Nassau County, New York.

The reasons and purpose behind such a request are based upon the dedication and performance of the Town's Department of Conservation and Waterways over the last 35 years, in the areas of surveillance and enforcement, oil spill containment, water pollution control, emergency response, and general cooperation with other federal, state and local agencies.

Acquisition of the Atlantic Beach Coast Guard Station would greatly enhance the Department's ability to patrol, respond and enforce local and State laws regarding illegal harvest of fish and shellfish navigation, marine biological and hydrographic surveys, boating accidents, and rescue of injured civilians by having a convenient access point on such a busy inlet waterway.

The facility would enable the Department to locate a sub-regional oil spill response site which would be able to house sufficient containment equipment and supplies for use in the event of a major spill situation. The reason for this is the fact that the western third of the Town of Hempstead estuary, has located within it the eighth largest oil terminal facility in the metropolitan area, with daily coastal tanker traffic entering and exiting the East Rockaway Inlet. This fact, coupled with the ongoing oil spills occurring in and around Staten Island and New York Harbor, have made it apparent to us at the Town level, that we must continue and expand our 18 year record of spill containment capability in this important area of our township.

This facility, as in all our marine facilities, would be made available to federal, state, and county agencies for any special project they may be working on, whether separately, or in conjunction with our Enforcement Division.

....

Hon. W. J. Tauzin

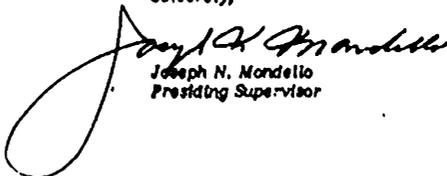
- 2 -

July 10, 1990

For nearly two decades our marine facilities located in Point Lookout, at the opposite end of the barrier beach, have provided logistical support to the agencies and contractors working for the U.S. Army Corps of Engineers in dredging the navigational channels of Jones Inlet. The station at Atlantic Beach would lend itself well for similar navigational maintenance and hydrographic project support performed in East Rockaway Inlet.

I respectfully request that the Bill introduced by Congressman Lent and Congressman McGrath receive favorable consideration by your committee.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Joseph N. Mondello". The signature is written over the typed name and title.

Joseph N. Mondello  
Presiding Supervisor

JNM:nh

JASON S. BERMAN  
President



July 10, 1990

The Honorable W.J. Tauzin  
2342 Rayburn House Office Building  
Washington, DC 20515-1803

Dear Chairman Tauzin:

Thank you for soliciting our views on House Resolution 2800. I am pleased to be of assistance to you.

It is our understanding that H.R. 2800 amends Titles 10 and 14 of the United States Code to permit recordings of military bands to be sold commercially. Amounts received as proceeds from the sale of any such recordings may be credited to the applicable appropriations of the Department of each respective band to offset expenses.

In response to your question, the Recording Industry Association of America does not oppose the enactment of this legislation. Again, we appreciate your concern in requesting our comments.

Sincerely,

Jason S. Berman

JSB/mww

**RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.**

1020 Nineteenth Street, N.W. ■ Suite 200 ■ Washington, D.C. 20036 ■ Phone. (202) 775-0101 ■ Fax. (202) 775-7253

Appendix A to Statement by the Honorable E. Clay Shaw, Jr.  
on H.R. 2800  
Subcommittee on Coast Guard and Navigation

July 11, 1990

Great Britain: Scots Guards; Royal Marines; Royal Air Force  
Belgium: Musique Des Guides  
Turkey: Mehterhane  
Holland: Koninklijke Militaire Kapel  
India: Indian Army Band  
Luxembourg: Luxembourg Army Band  
Austria: Militarmusick Salzburg  
USSR: USSR Defense Ministry Band  
Israel: Israel Army Band  
Canada: Princess Patricia's Canadian Light Infantry Band  
West Germany: Luftwaffen Musikkorps 4; Panzerbrigade 28  
East Germany: Nationalen Volksarmee  
Switzerland: Geb. Infantry Regt.  
Denmark: Royal Danish Life Guard  
France: Le Garde Republicaine; 57eme Regt. D'Infanterie  
Japan: Maritime Self Defense Force Band  
China: Chinese People's Army Band  
Spain: Banda De Aviacion de Madrid  
Czechoslovakia: Prague Castle Guard Band  
Australia: Royal Australian Navy Band  
Papua New Guinea: Pacific Island Regiment; R.P.N.G. Constabulary  
Fiji: Royal Fiji Military Forces Band  
Brazil: Banda Da Forca De Sao Paulo  
Portugal: Portuguese Air Force Band  
Barbados: Royal Barbados Police Force Band  
Bahamas: Royal Bahamas Police Band  
Bermuda: Bermuda Regiment Band  
Surinam: Door De Tris Kapel  
Norway: King's Guard Band  
Romania: Fanfara Armatei  
Italy: Fanfara Bersaglieri; Carabinieri Band  
Finland: Helsinki Garrison Band  
Sweden: Royal Swedish Army Band  
Vatican: Swiss Guards Band  
Mexico: Mexican Band of Artillery  
Greece: Greek Army Band  
New Zealand: New Zealand Army Band

US Department  
of Transportation

United States  
Coast Guard



Commandant  
United States Coast Guard

Washington, D.C. 20593-0001  
Staff Symbol G-CC/104  
Phone (202) 366-4280

5730

JUL 25 1990

The Honorable Billy Tauzin  
Chairman, Subcommittee on Coast Guard  
and Navigation  
Committee on Merchant Marine  
and Fisheries  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This letter is in response to Congresswoman Helen Delich Bentley's request made at the Subcommittee on Coast Guard and Navigation on July 11, 1990. Congresswoman Bentley proposed limited legislation to change the inspection requirements for the following three vessels: S.S. JOHN W. BROWN (O.N. 242209), S.S. LANE VICTORY (O.N. 248094), and S.S. JEREMIAH O'BRIEN (O.N. 243822). Congresswoman Bentley's proposed bill would exempt these vessels from the inspection requirements of Title 46, United States Code, Section 3301 except for the permit requirements as outlined in section 3302(1)(3) of the same title.

We recognize and appreciate that these vessels are being maintained by nonprofit organizations whose sole purpose concerning these vessels is their historic preservation. We further note that since these vessels are on the Interior Department's list of National Historic Places, major modification to these vessels would destroy their "original state."

After reviewing the proposed language of the offered bill, the Coast Guard has no objections to it. Our understanding of the application of the permit is as follows:

- a. That the permit will be requested only on an infrequent basis for limited inland routes.
- b. In executing the issuance of the permit as proposed by the bill the Officer-In-Charge, Marine Inspection (OCMI) will ensure that the subject vessel's sea worthiness is satisfactory for the requested limited route.
- c. The OCMI will ensure lifesaving, firefighting, and navigational equipment requirements, manning level, and passenger limits are safe for the intended operation.
- d. The OCMI may impose additional operational requirements such as tug escorts or standby vessels, or daytime fair-weather operation.

Subj: Response to The Honorable Billy Tauzin concerning Congresswoman Bentley's request made at the Subcommittee on Coast Guard Navigation on July 11, 1990

Our vessel records which show that the S.S. JEREMIAH O'BRIEN is owned by the Department of Interior instead of the Maritime Administration.

A copy of this letter has been sent to Congresswoman Bentley.

Sincerely,

A handwritten signature in black ink, appearing to be 'T. J. Josiah', with a long horizontal stroke extending to the right.

T. J. Josiah  
Captain U.S. Coast Guard  
Deputy Chief, Congressional Affairs Staff