



# U.S. Coast Guard Headquarters PUBLIC AFFAIRS NEWS BREAK

Date: 10 Apr 91

Commandant (G-CP), 2100 Second St. SW, Washington, D.C. 20563-0001 — Tel.: 202-267-2304

## Arctic Alaska and Rep. John Miller Face Scrutiny Over 1990 Sinking of Fishing Ship in Bering Sea

By JEFFREY H. BIRNBAUM

Staff Reporter of THE WALL STREET JOURNAL

For a March afternoon in the Bering Sea, the sky was clear and the seas were calm. The 31 crew members of the 162-foot Aleutian Enterprise were bringing aboard one last, huge haul of cod and pollock.

Suddenly, the net broke, spewing tons of flopping fish onto the deck and causing the vessel to list noticeably to port. Water shot through several uncovered openings in the side of the hull—drains and a chute used to dispose of fish guts. In just minutes, the ship capsized and sank, killing nine people.

Coast Guard investigators say the 1990 tragedy might have been averted had the ship's owner, Seattle-based Arctic Alaska Fisheries Corp., complied with a federal safety statute called the "load line" law that requires rigorous testing and sets stiff standards for stability and watertightness.

But the ship hadn't complied with the law. A major reason: a concerted campaign by Republican Rep. John Miller of Washington to block enforcement of the law against the company, whose employees had given thousands of dollars to his campaigns.

Now the actions of both Arctic Alaska and Rep. Miller are coming under scrutiny. The Coast Guard's Seattle office has referred the matter to the Justice Department for possible criminal prosecution of the New York Stock Exchange-listed company.

Rep. Miller, who has been known as a champion of fishing-ship safety legislation, doesn't see any connection between his actions and the sinking of the Aleutian Enterprise. He says his intervention dealt only with one of its sister ships, which didn't sink. "If it turns out that in some way this [his actions] had an impact" on the sinking, he says, "of course I'm going to be



John Miller

apologetic and have regrets." For now, though, he adds, "we should reserve judgment" on what he calls his "little intercession."

But several relatives of the crew members who perished have already reached their judgment, and it is a harsh one. "He helped prevent the law from being enforced, and that particular law, if it had been enforced, would have saved that ship and my son," asserts Robert W. Davis, an engineer from East Lyme, Conn., whose son, Robert Jr., was killed in the accident.

Arctic Alaska denies any wrongdoing. Company officials say they had a strong

case that a load line—actually a series of marks on a hull indicating how low in the water the vessel can safely float—was unnecessary in the case Rep. Miller helped them on. They add that their ships have always been safe, and since the Aleutian Enterprise accident, they have become even safer; the company is moving to bring all of its affected vessels into compliance with load-line safety standards.

But company executives admit to having at least some second thoughts. "I guess, like any operator, we certainly have regrets," says Terry J. Baker, who has since retired as the company's chief executive officer. "There are always things you could do better and more of," he adds. "The Aleutian Enterprise certainly demonstrated that."

Arctic Alaska has a fleet of 29 vessels, many of which do more than just trawl for fish. They are, in effect, floating factories: In cramped quarters below decks, workers process the catch into fillets or into a fish paste called surimi, from which artificial crab legs are made.

### Sister Ship

The extra crew members and machinery required for the processing posed what the Coast Guard saw as a potential safety problem. In 1988, it began to try to force Arctic Alaska to get a load line for the U.S. Enterprise, a slightly larger sister ship of the Aleutian Enterprise, as the first step toward imposing the requirement on the entire fleet of so-called factory trawlers—including the Aleutian Enterprise.

Wall Street Journal  
10 Apr 91

"Mr. Baker knew it [the load-line requirement] would apply to several other vessels in his fleet," says Coast Guard Capt. James M. MacDonald, chief of the agency's inspection and documentation division. And Mr. Baker agrees: "It also would have been applied to other vessels."

Meeting the standards can be costly; Arctic Alaska claimed it would cost \$250,000 on the U.S. Enterprise alone. But Arctic Alaska attorneys argued that the U.S. Enterprise didn't need a load line because it was more a fishing than a processing vessel.

On Jan. 11, 1989, then-Coast Guard Commandant Paul A. Yost, in a personal ruling, formally disagreed. That is when the company turned to Rep. Miller, its local congressman and a member of the Merchant Marine and Fisheries Committee, which oversees the Coast Guard.

Mr. Miller argues that the company had "a credible position," and says he was assured that safety wasn't an issue on the sleek new factory trawlers.

### Election Cycles

He was already well acquainted with the company. According to a Wall Street Journal tabulation, top officers and attorneys for Arctic Alaska, including Mr. Baker, have given his campaigns more than \$10,000 in the past two election cycles. In addition, Arctic Alaska employees' political action committee gave Mr. Miller's campaign a total of \$3,400 in 1989 and 1990, making him its largest single beneficiary. (Mr. Miller has been considering running for the Senate in 1992.)

Rep. Miller and Mr. Baker assert that there wasn't any connection between campaign giving and their cooperation on the load-line issue. But there certainly was close cooperation. Charles F. Broches, the congressman's fisheries aide, says he relied on a thick memorandum from company lawyers to draft a letter to Adm. Yost that Rep. Miller signed and sent on Jan. 27, 1989. "I believe that this vessel is not subject to load line requirements and re-

Page 1 continued

quest your confirmation that the vessel will not be detained for a possible load line violation," Rep. Miller wrote.

On Feb. 17, Adm. Yost wrote back to Rep. Miller, asserting that the lawmaker was misinformed about the vessel and the law. "However, because of your concerns," he continued, the Coast Guard would refrain from detaining the ship the next time it came into port, pending a legal review. A handwritten note at the bottom of the letter added: "I'd be most happy to meet with you if you desire."

On April 17, Rep. Miller took advantage of Adm. Yost's invitation. In his office in the Longworth House Office Building, he played host to three Coast Guard representatives and three representatives of Arctic Alaska, including Mr. Baker, who sat at the congressman's right. At the meeting, according to an official Coast Guard summary, the lawmaker said Congress never intended to place "any new cost requirements on the fishermen."

The meeting ended with Capt. MacDonald saying no action would be taken against Arctic Alaska until the Coast Guard finished its review. On July 31, Adm. Yost wrote the congressman that "U.S. Enterprise must comply with the requirement."

Usually, when Rep. Miller receives a response from an agency, he sends a copy of it to the constituent with a "for your information" note. But this time, Rep. Miller and Mr. Broches insist, there is no record that such communication took place. Mr. Miller says that although he talked "on numerous occasions" to company officials "on other topics," the Yost response never came up.

"When we responded back to Congressman Miller, we assumed that he would convey the Coast Guard response to the constituent who brought up the issue in the first place," Capt. MacDonald says. Adm.

Yost, who is now retired from the Coast Guard, adds: "I'm sure the congressman got immediately back to his constituent; congressmen don't leave their constituents twisting in the wind."

But Michael J. Hyde, a lawyer for the company who attended the meeting in Rep. Miller's office, says, "The Coast Guard never notified me, or Bill Myhre [another Arctic Alaska lawyer at the meeting] or the company, to my knowledge." And Coast Guard Capt. René Roussel, who headed an investigation into the sinking, concedes: "It fell through the cracks."

The Seattle office of the Coast Guard was informed about Mr. Yost's July letter, but took no action against the U.S. Enterprise or any other vessel. "I was under the

impression that the commandant was still reviewing certain aspects of the question . . . and that review was the result of Congressman Miller's inquiries," says Coast Guard Capt. Harry Dudley, the officer in charge of marine inspections in Seattle. "At that point in the game, until I got a firm policy statement . . . I put this on the back burner."

The issue wasn't brought to the front burner until nearly eight months later when, on March 22, 1990, the Aleutian Enterprise sank. In a soon-to-be released Coast Guard report on the accident, investigators say an alarm failed to sound, crew members had trouble getting survival suits and escape routes were partly blocked. But had the ship been forced to pass a competent load-line inspection, investigators say, the openings in the hull would have been closed, and water probably wouldn't have been able to shoot with such ferocity onto the factory level. In addition, stability problems detected by the Coast Guard would have been corrected.

"There's no doubt about it needing a load line," says Capt. Roussel. "If there had been a load line, the vessel would have been more survivable."

With these findings in mind, the Coast Guard soon began to enforce the load-line law. And on April 19, 1990, nearly a month after the sinking of the Aleutian Enterprise, the Coast Guard formally notified Arctic Alaska that the U.S. Enterprise had to get a load line.

For relatives of dead crew members, that was far too late. Some have voiced their anger to the congressman himself.

Rep. Miller met in his Capitol Hill office with Ann C. Williams, whose brother John Dieterich was the Aleutian Enterprise's chief engineer. The congressman defended his intervention by saying he was helping a constituent. "Our brother was one of your constituents too," Mrs. Williams says she replied, "and he's dead now."