


<b>State of California</b>	<b>Arnold Schwarzenegger Governor</b>
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**MINUTES**  
**March 26, 2009**  
**Board Meeting**

**OPEN MEETING**

**A. Call to Order and Roll Call.**

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (Board) regular meeting was held in the Board office, Pier 9, Suite 102, San Francisco, CA, on March 26, 2009, at 10:35 a.m., Commissioner Miller presiding. A quorum was present including Commissioners Johnston, Roberts, Tate, and Wainwright. Also present were Executive Director Pat Moloney, Port Agent Peter McIsaac, Department of Consumer Affairs Supervising Legal Counsel Anita Scuri, Maritime Counsel Ray Paetzold, and Associate Governmental Program Analyst Lynda Jacobsen, as well as various members of the public

**B. Request Approval of Minutes of the February 26, 2009, Regular Board Meeting.**

A motion was made and seconded to approve the minutes. There being no further discussion, the motion was adopted unanimously.

**C. President's Report.**

Commissioner Miller congratulated Commissioner Roberts on his appointment to the Board. He also announced that BTH Deputy Secretary for Goods Movement John Hummer who has served on the Board of Pilot Commissioners as BTH Secretary Bonner's delegate has accepted a new position with the U.S. Maritime Administration. Commissioner Miller stated that he anticipates that the Board will continue working with Mr. Hummer in his new position.

Commissioner Miller next announced that during the February 26, 2009 closed session, the Board voted unanimously to dismiss a pilot trainee who had not met the conditions of probation and was unlikely to successfully complete the training program in the remaining time.

The minutes were approved on motion without amendment or comment. Commissioner Miller stated that the Oregon Board of Maritime Pilots has published its minutes of the regional meeting held last year and that the document is available on the Board's website.

Commissioner Miller also noted that the US Coast Guard has issued its report regarding the *COSCO BUSAN* incident and that the report is available on the Board's website. The report recommends that the Board should modify its procedures for physical examinations, and medication reporting. The report also addressed the consideration of DUI convictions by license holders in determining fitness for duty. Commissioner Miller stated that these issues have been delegated to the respective Board Committees.

**D. Business, Transportation and Housing Agency Comments** - Secretary Bonner (or delegate). BTH had no comments.

**E. Correspondence and Activities since the February 2009 Meeting** -Executive Director Moloney

\*Executive Director Moloney reported the Board's receipt of the following correspondence:

- Letter dated March 17, 2009 from the Bureau of State Audits regarding commencement of the audit process;
- Letter dated March 19, 2009, from the San Francisco Bar Pilots regarding ABS recommendations for load line modifications to the new station boat under construction and regarding modifications to strengthen the apron at Pier 9 to accommodate the new station boat;
- Letter dated March 24, 2009, from the Governor's Office regarding retiree target benefit calculations;
- Letter dated March 11, 2009, from PMSA President John McLaurin to NTSB Member Deborah Hersman;
- Letter dated March 16, 2009, from Commissioner Miller to PMSA President John McLaurin.

\*Copies of the above correspondence are available from the Board office

**F. Port Agent's Report.**

Captain McIsaac reported the following: Captain Welch has been unavailable for assignment since November 12, 2008, as per the Board's physician. Captain Pinder returned to the rotation on March 9, 2009. Captain Coney has been not fit for duty (NFFD) since January 20, 2009, after injuring his shoulder. He expects to be found fit for duty (FFD) on April 1, 2009; Captain Gans has been NFFD since September 2008. He recently had a setback and is expected to retire.

On March 24, 2009, a pilot was dispatched to a vessel inbound for Redwood City that had a deceased crewmember on board. The Captain of the Port informed the pilot that there was concern that the man had died of a contagious disease. The pilot was advised to minimize contact with the bridge team and wear surgical gloves and a mask while onboard. The vessel was met at the berth by a team from the Center of Disease Control (CDC). Captain McIsaac noted that this was not the first time that pilots have had to deal with such an issue. During the SARS scare, he stated that he met with representatives from the CDC, PMA, and USCG to determine a course of action in the event a vessel arrives with a potential SARS case on board. Based on the fact that the pilots are exposed to exotic contagions in the normal course of duty, he respectfully requested that the Pilot Fitness Committee determine if further study of potential health hazards is warranted.

Recommended Minimum Rest Period (MRP) Exceptions: There were four in February 2009: 3 occurred on the 17<sup>th</sup>, with the shortest MRP being 10.8 hours, 21 pilots were on the board; and 1 occurred on February 28, 2009, when one pilot was called in early for a river job.

Billed Vessel Moves in February 2009 compared to a 3-year average:

Bar Crossings:	-	3.6%
Bay Moves:	-	19.4%
River Moves:	+	15.9%
Total Moves:	-	6.2%
GRT: 24.845M	-	6.2%

Captain McIsaac noted that the most important workload statistic to gauge the health of the business is bar crossings. During the peak year of 2006, pilots averaged 20.2 bar crossings per day. In 2007, pilots averaged 19.8 followed by 19.3 last year. In February 2009, pilots averaged 17.5 bar crossings per day.

Commissioner Miller stated that precautions for exotic diseases to which pilots may be exposed while performing their duties should be addressed and assigned the Pilot Fitness Committee to study this issue.

**G. Unfinished Business**

1. Board Office Lease - Executive Director Moloney  
No report.

2. Open Incidents - Executive Director Moloney
  - a. *M/V CAPE BRASILIA* - This item was postponed until the end of the Agenda;
  - b. Update concerning sea buoy allision, December 30, 2008 – No report.
  
3. Vessel Interactions -- Executive Director Moloney  
*M/V XIN NING BO* vessel interaction with *M/V BONASIA* at Oakland 65, February 7, 2009. Executive Director Moloney stated that this matter is still under investigation.
  
4. Pilot Ladder Reportable Incidents - Executive Director Moloney  
No report.
  
5. Non-incidents - Executive Director Moloney  
No report. The provisions in Section 210 of the Board regulations regarding “non-incident” reporting were discussed.
  
6. Rules and Regulations Committee - Commissioner Wainwright  
Commissioner Wainwright stated that he was awaiting a replacement for Commissioner Soares who had served on the Committee and that he had nothing to report at this time.
  
7. Finance Committee - Commissioner Wainwright  
In Commissioner Osen’s absence, Commissioner Wainwright reported on the Finance Committee’s March 26, 2009 meeting. There were no recommendations to change the surcharge rates at this time. The next Committee meeting was scheduled for April 23, 2009 at 8:30 a.m.
  
8. Pilot Training Curriculum Committee – Commissioner Roberts  
Commissioner Roberts discussed the contract with the Maritime Institute of Technology and Graduate Students (MITAGS) for the next training cycle for serving pilots. It will include enhanced training in advanced electronic navigation systems and incorporate the use of Portable Pilot Units, as recommended by the Board’s Navigation Technology Committee and the Harbor Safety Committee. The contract has been forwarded to BTH and DCA for approval.

Commissioner Miller added that the Board is currently operating under an agreement with the Department of Consumer Affairs (DCA) to provide contracting services and explained the need for approval by the Department of General Services (DGS) on all past contracts. He further noted that since the Board now falls under BTH, every contract will need to receive approval from BTH and that future contracts may or may not need to receive DGS approval. Ms. Scuri noted that whether DGS approval is required depends on the amount of the contract.

9. Pilot Evaluation Committee - Commissioner Roberts  
Commissioner Roberts deferred discussion of this item until later in the day to permit Captain Aune and his family to participate.
10. Pilot Power Committee - Commissioner Roberts  
No Report.
11. Pension Committee - Commissioners Tate/Miller  
Commissioner Tate stated that the Committee plans to set a meeting date in April 2009 to review a disability retirement request. Commissioner Miller reported that the Actuarial Study is ongoing and that there is nothing to report at this time.
12. Ad Hoc Committee on Pilot Safety – Commissioner Miller  
Commissioner Miller noted that a new appointment needs to be made and that there is nothing to report at this time.
13. Pilot Vessel Advisory Committee – Commissioner Johnston/Port Agent  
SFBP Business Director Levin the new station boat is now expected to be delivered on July 6, 2009 following delays due to weather conditions in Oregon. Mr. Levin also summarized the SFBP's requests for Preliminary Authorization of approximately \$7.5 million for the construction of the new station boat, and both Necessity Determinations and Preliminary Authorizations to make modifications to the boat required by ABS for load line certification, and to strengthen the apron at Pier 9 to accommodate the new station boat.
14. UPRR Bridge - Executive Director  
No report. Commissioner Roberts added that pilot trainees will be taking a written exam relating to the UPRR Bridge Communications Protocol. There was a brief discussion of the history of the development of the communications protocol, and the possibility of a further meeting of the stakeholders at an unspecified date in the future. Interested parties can contact Executive Director Moloney or Coast Guard Bridge Section Chief David Suloff.
15. Ad Hoc Advisory Committee on Pilot Selection - Commissioner Tate  
Commissioner Tate summarized the earlier findings and recommendations of the Committee and said that he and Commissioner Miller were exploring resources available through BTH to improve recruiting efforts for a broader diversity among candidates.

Commissioner Johnston recommended that Agenda Item H.9 be heard at this time.

16. Pilot Evaluation Committee - Commissioner Roberts

Commissioner Roberts stated that the Pilot Evaluation Committee met on March 18, 2009, at 7:00 a.m. All trainees were interviewed individually, their trip cards examined, and their progress with all elements of the program monitored. The trainees range in time in the program from two at 6 months, two at 1 year 3 months, and one at 1 year 9 months. All trainees are proceeding satisfactorily and at their own speed.

Commissioner Roberts next stated that the PEC has completed its final assessment of whether trainee Captain Drew Aune has successfully completed all elements of the Board's Regulation 214(h) and provided a copy of that regulation to the Board and the public. He noted that the Committee unanimously agreed on its conclusion and authorized him to present its recommendations to the Board.

Commissioner Roberts provided a brief statement about Captain Drew Aune and stated that he was born and raised in Orinda, California. He graduated from the California Maritime Academy in 1990, acquiring a B.S. in Marine Transportation.

Captain Aune holds an Unlimited Chief Mate's License for Any Ocean, with a 1600 ton Master of Towing, along with all Unlimited Pilotage endorsements for San Francisco Bay.

Prior to entering the Board's Pilot Trainee Training Program in January 2008, Captain Aune worked for Foss Maritime Company in the San Francisco Bay. He served as Captain aboard all conventional tugs performing ship assists and handling oil barges throughout the Bay. Prior to his 5-year tenure at Foss, Captain Aune worked for Westar Marine and Jerico Marine, and sailed with Matson and American President Lines.

Captain Aune and his wife Christy reside in Corte Madera along with their two sons.

To date, Captain Aune has a total of 411 trips in the training program, riding as observer on 112 jobs, (including the required trips on local tugboats) and directing the navigation of the vessel under the direct supervision of a pilot or inland pilot on another 299 jobs.

Captain Aune has worked extensively with members of the Pilot Evaluation Committee, acquiring more than the 50 rides required by law (99), with 29 of those rides completed within the last 90 days.

The Committee regularly reviews each trainee's progress through periodic meetings with the trainee and through its review of evaluation cards (trip

reports) from other pilots. Each Committee member personally rode numerous times with Captain Aune before making this recommendation.

Captain Aune continues to meet all statutory prerequisites for being licensed as a pilot. He has maintained in excess of a 4.0 score (4.23) on his evaluations by the Committee during each of the last three months and has adequately demonstrated each of the specific items of local knowledge required by the regulation.

In addition, the Committee used detailed trip reports and personal observation to ensure that Captain Aune has demonstrated a working knowledge of the fundamentals of ship-handling in each of the circumstances listed in the regulations, and has demonstrated the skills and knowledge necessary to become a Board licensed pilot.

On behalf of the Pilot Evaluation Committee, Commissioner Roberts stated that it was his great pleasure to recommend that the Board issue to Captain Aune a certificate of successful completion of the Board's pilot training program and that it authorize the issuance of a pilot's license effective April 1, 2009.

In response to Commissioner Robert's recommendation, Captain McIsaac stated that there is an opening for a pilot and that the start date for that position would be April 1, 2009.

A motion was made and seconded to accept the PEC's report and to issue a Certificate of Completion to Captain Aune, effective April 1, 2009. There being no further comments, the motion was adopted unanimously.

Thereupon, a motion was made and seconded to issue a Pilot license to Captain Aune, effective April 1, 2009. There being no further comments, the motion was adopted unanimously.

Commissioner Miller congratulated Captain Aune and thanked the family members in attendance for their support of Captain Aune throughout the demanding training program.

17. Navigation Technology Committee - Commissioner Johnston  
No report.
18. Pilot Identification Cards - Executive Director Moloney/Commissioner Osen  
No report.
19. Ad Hoc Committee to Review Investigation Procedures - Commissioner Osen  
No report.

20. Pilot Trainee Selection Process – Commissioner Roberts  
Commissioner Roberts deferred this matter to Executive Director Moloney. Executive Director Moloney stated that a public workshop to discuss “lessons learned” from the 2007 selection process was noticed for April 1, 2009 at the Board office. The current contract with the California Maritime Academy for the use of its simulator and staff remained in force through June 2009 but would need to be renewed.
21. Pilot Fitness Committee – Commissioner Roberts  
Commissioner Roberts stated that the following members of the Pilot Fitness Committee have been appointed and have agreed to serve:

**Brigadier General Chester Ward** (US Army Retired). General Ward’s career spans over 40 years. He served many years as a US Army Flight Surgeon then he moved on to private practice and public health. He has held several teaching positions in the medical field, and is the author of many published works.

**Ms. Barbara Price** (Chief Executive Officer, PK Consultants). Ms. Price has 20 years of experience in local governmental relations, community relations, and assistance to public agencies, private companies, and nonprofit corporations. She is on the Board of Trustees of the Alameda County Medical Center, as well as Secretary and a Member of the Governance Committee and Quality Committee.

Commissioner Roberts noted that he will be chairing the Committee. He also noted that the Committee will have access to the following experts: Dr. John Gunderson (Board examining physician), Dr. Bernard Schatz (Kaiser Permanente, Retired), Mr. Jim Clements (Instructor, Maritime Institute of Technology and Graduate Studies, a consultant in maritime fitness, licensed paramedic, and specialist in sleep deprivation); and Dr. Robert Kosnik (Medical Director, Occupational Health Services, UCSF Medical Center).

The Committee anticipates that the Board will be contracting with this teaching hospital to conduct the research and prepare a draft report to the Committee under the guidance of Dr. Kosnik. Executive Director Moloney distributed the Committee’s draft mission statement to the Board for comment. A copy of the draft mission statement is available at the Board office. Commissioner Roberts stated that the Committee’s first meeting is scheduled for April 16, 2009 at 1:00 p.m. at the Board office. He noted that a timely Notice and Agenda will be posted on the Board’s website and mailed to those requesting a copy.



22. Pilot Evaluation Committee Training – Commissioner Roberts  
Commissioner Roberts announced that two PEC members (Captains Lemke and Larwood) will attend a PMI training course for pilot trainers and evaluators to be held in Seattle on April 22 and 23, 2009. A report will be provided to the Board upon completion of the training.

**H. Other Pilot Matters** - Executive Director Moloney  
No Report.

**I. New Business**

Commendation of Pilot McCloy. Executive Director Moloney stated that on January 27, 2009, Captain McCloy was assigned to pilot the double hulled crude oil tanker **OVERSEAS CLELIAMAR** from San Francisco Anchorage 9 to sea. Captain McCloy got the vessel underway at 4:22 p.m. and transited the Bay Bridge using the Alpha-Bravo span and passing east of Blossom Rock and Alcatraz to enter the westbound traffic lane.

At 5:22 p.m., the vessel passed under the Golden Gate Bridge and shortly thereafter lost electrical power and the main propulsion. The rudder was stuck at about right ten degrees. The vessel was turning slowly toward the Marin shore and was being pushed by an ebb current of about 2.5 knots.

Captain McCloy directed that the anchors be made ready to let go. After experiencing some difficulty with the port anchor, he directed that the starboard anchor be backed out to 8 or 9 shots. (A shot is 90 feet.)

While the anchor was being backed out, Captain McCloy observed the Starlight Marine Services tug Z-Four nearby and contacted the boat requesting assistance. The boat immediately came to full speed and headed to the vessel. His next communication was to VTS to advise them of the situation.

The vessel continued toward the Marin shore, but the anchor was dragging and slowing it. Captain McCloy called for full astern but there was no response. As the vessel's bow passed west of Point Diablo and into Bonita Cove, the anchor began to hold and shortly thereafter the engine responded to the astern order.

The Z-Four arrived and put a line up to the vessel's stern. Using the current, the engine and the tug, Captain McCloy was able to stabilize the situation and hold the vessel away from Point Diablo while waiting for other tugs to arrive.

The vessel's crew checked the tanks and found no leakage. Captain McCloy kept VTS informed and later with additional tugs made fast and with approval by VTS, the anchor was recovered and the vessel returned to Anchorage 9 for inspection.

Executive Director Moloney explained that after investigation it was determined that the incident that occurred on January 27, 2009, was caused by an engineering

problem and that there was clearly no pilot error. He next recommended that the Board and BTH present Captain McCloy with a commendation and that a commendation be forwarded to the Governor's Office for signature.

Executive Director Moloney read the proposed language of the commendation to the Board and Captain McCloy. The Board approved unanimously the commendation and congratulated Captain McCloy on a superb job.

Captain McCloy addressed the Board and stated that the techniques he learned at Port Revel were invaluable. Executive Director Moloney noted that the entire training program has paid for itself in accidents prevented and recommended that the program be continued.

**J. Public Comment on Matters not on the Agenda**

There were no comments from the public.

**K. Proposals for Additions to Next Month's Agenda**

Commissioner Miller announced that the next Board meeting will be held on April 23, 2009, and will begin at approximately 9:30 a.m., immediately following the Finance Committee meeting.

At 11:34 a.m., the Board recessed for lunch.

At 1:07 p.m., the Board reconvened.

**L. Unfinished Business**

**(Agenda Item E.2.a was moved to the end of the Agenda)**

Open Incidents – Executive Director Moloney

***M/V CAPE BRASILIA*** – Commissioner Miller announced that Captain Melvin was not able to be present at the hearing because he was at a required training course and that he (Commissioner Miller) was not comfortable proceeding without Capt. Melvin's presence. He stated that he believes that Captain Melvin should be able to hear the report of the Incident Review Committee and any discussion by the Board, and should be able to address the Board should he wish to do so. Commissioner Johnston concurred with Commissioner Miller's statements. Commissioner Tate also noted that were the Board to proceed on this occasion, there would be no industry members of the Board participating and that it would be important to have industry's perspective during Board deliberations. A motion was made and seconded to postpone this matter until the April 2009 Board meeting when Captain Melvin would be available to attend. Captain Melvin's attorney agreed with the Board's proposed motion. There being no further discussion, the motion was adopted unanimously.

## CLOSED SESSION

At 1:15 p.m., the Board went into closed session as authorized by the Open Meetings Act, Government Code Section 11126(a)(1) and 11126(e)(1), after Commissioner Miller announced each item to be addressed in closed session and the Government Code Sections authorizing the closed session:

1. Request approval of Minutes of Closed Meeting held February 26, 2009.
2. Confer with the Board's legal counsel regarding pending litigation in *United States of America v. M/V COSCO BUSAN*, et al., Case No. C 07 06045 (SC) and in the *People of the State of California (CalTrans) v. Regal Stone, Ltd, et al.*, filed in Admiralty, Case No. 2268 EMC, pending in the United States District Court for the Northern District of California, in *Anderson, et al. v. Cota et al.*, Case No. CGC-08-483409 pending in San Francisco Superior Court, and in *Regal Stone v. People of the State of California*, pending in the Superior Court for Sacramento, including cross-actions, counter-claims and related actions pending in federal and state court arising out of the same incident, as authorized by Government Code Section 11126(e)(1).

## RESUME OPEN MEETING

### **M. Return to Open Meeting.**

The Board resumed its open session at 2:26 p.m. Commissioner Miller announced that the Board took no formal action in its closed session.

### **N. Adjournment**

The meeting adjourned at 2:27 p.m.

Respectfully submitted,

Lynda Jacobsen  
Associate Government Program Analyst