

**Board of Pilot Commissioners
for the Bays of
San Francisco,
San Pablo, and Suisun**



2014

Annual Legislative Report

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I. Introduction

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board or BOPC) – sometimes called the "the Pilot Commission" – licenses and regulates up to 60 pilots who guide ships of 750 gross tons or greater in the Bays of San Francisco and Monterey and tributaries to ports in Stockton and Sacramento. The Pilots are organized for business operational purposes as the "San Francisco Bar Pilots."

The Board consists of seven members appointed by the Governor (also known as Commissioner) and one ex-officio member as follows:

- Two are pilots licensed by the Board;
- Two are "industry members" - one from the tanker industry and one from the dry cargo industry;
- Three are public members who are neither pilots nor work for companies that use pilots; and,
- The Secretary of the California Transportation Agency, who serves as an ex officio non-voting member.

The Board was created by the first legislative session of the new state of California in 1850 and has been serving continuously ever since. Statutory references to the Board can be found in the Harbors and Navigation Code § 1100 *et seq.* Board regulations can be found in California Code of Regulations, Title 7, § 201 *et seq.*

Section 1157.5 of the Harbors and Navigation Code was added to the code by Senate Bill 1217 (2008) and mandates that the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) submit an annual report to the Secretary of the Senate, the Chief Clerk of the Assembly and the Secretary of the California Transportation Agency describing the Board's activities for the preceding calendar year and providing certain specified information.

The statutory provision calls for reporting on the number of vessel movements across the bar, on the bays, and on the rivers within the Board's jurisdiction; the names of pilots and trainees and license status; and, summaries of closed and open misconduct or navigational incident reports involving a pilot or pilot trainee.

The following report is hereby submitted in compliance with the cited provision.

The report has been prepared with the collaboration of the following officials:

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Roma Cristia-Plant, Assistant Director
Kelly Dolcini, Staff Services Analyst

March 18, 2015

II. Summary of Major Board Activities in Calendar Year 2014

Discussion

Below is a summary of the major Board activities in calendar year 2014:

1. Pilot Fitness.

Following the findings in the COSCO BUSAN incident in which prescription drug use was found to be a factor, weaknesses in the pilot fitness determination (medical examination) process were also identified. After contracting with the University of California, San Francisco Medical Center Department of Occupational Medicine to conduct a pilot fitness study and prepare a report and recommendations concerning pilot medical assessments, the Board constructed a new pilot fitness regime by administrative regulations. The study, consideration of the recommendations, and drafting new regulations occurred over a three-year period, and the new regulations became effective April 1, 2014.

Key components of the Board-approved pilot fitness regulations are as follows:

- The regulations instituted, as a baseline, the newest U.S. Coast Guard medical guidelines as the medical standard for conducting the fitness for duty determinations of pilot and pilot trainees.
- The regulations identified minimum and desired qualifications for Board-appointed physicians, including ensuring that the physicians are personally familiar with the physical and cognitive challenges encountered by pilot licensees.
- The now implemented regulations established requirements that exceed the U.S. Coast Guard medical guidelines, and require pilots and pilot trainees to undertake an agility test that simulates the physical demands of providing pilotage service, and to submit to toxicological tests that include testing for anti-depressants, anti-psychotics, anti-convulsants, barbiturates, amphetamines, benzodiazepines, sedative hypnotics, opiates and other pain medications.
- The regulations established a requirement that pilots and pilot trainees inform the Board of the onset of a new medical condition diagnosed by a physician or a current medical condition which impairs, to an appreciable degree, the ability of the individual to conduct his or her piloting duties.
- The regulations call for the appointment of a Medical Review Officer, whose duties will be reviewing fitness for duty determinations made by an examining physician, undertake annual peer review of the Board-appointed examining physicians, and provide advice to the Board on matters relating to pilot fitness.

On May 9, 2014, the Board entered into an Interagency Agreement with The Regents of the University of California, San Francisco Campus to obtain the services of physicians

at the Division of Occupational and Environmental Medicine to perform medical assessments of the Board's licensees and trainees consistent with the new regulations.

2. Personnel Matters.

The Board has a staff of four, with additional staffing support provided by the Department of Justice, the California Highway Patrol, and through contracting with private sector Commission Investigators.

3. Performance and Financial Audit by the State Auditor.

Commencing in late 2013, the State Auditor conducted a comprehensive follow-up review of relevant actions taken by the Board related to recommendations made in the Bureau of State Audits 2009 report. The State Auditor found that the Board had fully implemented some of the 2009 recommendations, but others needed additional efforts by the Board. The Board members and staff found the findings of the audit useful as a roadmap to more effectively meet its mission. The Board fully responded to all outstanding recommendations of the State Auditor in May, 2014, and the State Auditor officially closed both the 2009 audit and the 2013 follow up audit in September, 2014.

4. Trainee Selection Exam.

The Board conducts a Pilot Trainee Training Program for qualifying mariners who wish to obtain the knowledge, skills and abilities to be licensed by the Board as San Francisco Bar Pilots. Every two to three years, the Board conducts a selection examination to establish a roster of candidates to enter the program. The Board conducted a trainee selection examination during 2014 with the assistance of a contracted psychometrician.

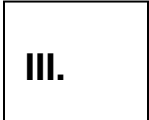
The examination involved both a written examination component and a bridge simulator examination component. Of 51 applications received by the Board, 38 applicants were qualified to sit for the written examination component based on the mariner having a current U.S. Coast Guard license and qualifying maritime experience. Thirty-two applicants actually took the written examination component, with 25 applicants qualified to take the simulator examination component. Of that number, 13 applicants passed the simulator examination component and were placed on a ranked list. As openings in the Board's Pilot Trainee Training Program arise, candidates will be offered admission to the program in the order in which they appear on the list.

The Board's Pilot Power Committee meets regularly and reviews a semi-annual confidential pilot retirement survey, along with pilot work/rest data, and recommends to the Board the number of new trainees to induct into the program and at what intervals. Based on these recommendations, the Board inducted four trainees into the training program in the month of September 2014, and authorized two more to be offered positions in the training program in February 2015.

5. Legislation and Legislative Hearings Affecting the Board in 2014.

There was no legislation and no legislative hearing affecting the Board in 2014. The Board has been working diligently to meet the legislative mandate of Senate Bill 1408 (chaptered on September 29, 2012). Most notably and still outstanding is the legislative mandate to contract with an independent entity to conduct a study of the effects of work and rest periods on psychological ability and safety for pilots. In addition, the Board shall, based on the study results and recommendations, promulgate regulations on establishing requirements for adequate rest periods intended to prevent pilot fatigue.

The Board's Pilot Fitness Committee, working in conjunction with Board staff, is in the process of taking proposals from governmental research experts to conduct this study. Since funding was not specified in the legislation mandating the study, the Board is hopeful that the study can be funded from available resources.



III. Number of Vessel Movements in 2014

Subdivision (a) of Section 1157.5 of the Harbors and Navigation Code mandates that the Board report the number of vessel movements across the bar, on the bays, and on the rivers within the Board's jurisdiction. The following are the 2014 vessel movement statistics:

Number of vessel movements across the San Francisco Bar (<i>Includes 8 movements for Monterey Bay</i>)	6,499
Number of vessel movements within the Bays of San Francisco, San Pablo and Suisun	1,376
Number of vessel movements on the Sacramento and San Joaquin Rivers	515

IV. List of Status of Pilot Licensees and Trainees in 2014

1. Status of Pilot Licensees

Pilot Name	Date of Original Licensing	Passed Away	Retired	Fit for Duty	Licensed and Absent for Medical Reasons	Not Fit for Duty	Mandated Manned Model Training	Mandated Combination Course Training	On Active Military Duty	On Leave of Absence	License Suspended
Alden, Bruce	7/2/1993			1/1/14 - 12/31/14							
Aune, Drew	4/1/2009			1/1/14 - 12/31/14							
Boriolo, Dan	10/1/1995			1/1/14 - 12/31/14							
Bridgman, Daniel	4/1/2010			1/1/14 - 12/31/14							
Burger, Tom	9/4/1991			1/1/14 - 12/31/14							
Carlier, John	1/20/1989			1/1/14 - 12/31/14							
Carlson, Kenneth	1/1/1988			1/1/14 - 12/31/14				5/11/14 - 5/16/14			
Carr, Robert	6/28/2013			1/1/14 - 12/31/14							
Chapman, David	5/26/1997			1/1/14 - 12/31/14							
Cloes, Don	6/26/2009			1/1/14 - 12/31/14							
Coney, Blake B	9/1/1993			1/1/14 - 10/14/14	10/15/14 - 12/31/14		5/22/14 - 5/31/14	4/27/14 - 5/2/14			
Coppo, George	1/1/1992			1/1/14 - 12/31/14							
D'Aloisio, Samuel	7/1/2014			7/1/14 - 12/31/14							
Dowdle, George	11/1/1993			1/1/14 - 12/31/14							
Favro, Orrin	12/14/2012			1/1/14 - 12/31/14							
Fawcett, Erik	6/24/2011			1/1/14 - 12/31/14							
Fuller, Peter	5/1/1998			1/1/14 - 12/31/14				4/27/14 - 5/2/14			
Gabe, Sean	5/1/1995			1/1/14 - 12/31/14			6/12/14 - 6/21/14				
Greig, William	2/9/1989			1/1/14 - 12/31/14							
Haggerty, Mark	7/1/1998			1/1/14 - 12/31/14				4/27/14 - 5/2/14			
Horton, Bruce	5/8/1991			1/1/14 - 12/31/14				5/11/14 - 5/16/14			
Hurt, Richard	9/26/2003			1/1/14 - 12/31/14			6/12/14 - 6/21/14				
Johnson, Eric	12/14/2012			1/1/14 - 12/31/14							
Kellerman, Zachary	1/28/2011			1/1/14 - 12/31/14							

Pilot Name	Date of Original Licensing	Passed Away	Retired	Fit for Duty	Licensed and Absent for Medical Reasons	Not Fit for Duty	Mandated Manned Model Training	Mandated Combination Course Training	On Active Military Duty	On Leave of Absence	License Suspended
Kelso, Arnold	1/20/1989			1/1/14 - 12/31/14			6/12/14 - 6/21/14				
Kenyon, Hugo	7/1/1998			8/28/13 - 12/31/14				4/27/14 - 5/2/14			
Kirk, Roger	4/1/2007			1/1/14 - 2/25/14 8/25/14 - 12/2/14	2/26/14 - 3/23/14 12/3/14 - 12/31/14	3/24/14 - 8/24/14					
Kleess, Guy	11/1/2005			9/4/13 - 12/31/14							
Laakso, Kristopher	8/26/2011			1/1/14 - 12/31/14							
Larwood, Dan	7/1/1998			1/1/14 - 12/31/14				4/27/14 - 5/2/14			
Lemke, William	4/1/1993			1/1/14 - 12/31/14			5/22/14 - 5/31/14				
LeSieur, Cevan	9/26/2014			9/26/14 - 12/31/14							
Lingo, Matthew	2/22/2013			1/1/14 - 12/31/14							
Livingstone, George	4/24/2008			1/1/14 - 12/31/14							
Long, Joe	7/1/2008			1/1/14 - 12/31/14							
MacLachlan, Steve	1/14/1987			1/1/14 - 12/31/14				5/11/14 - 5/16/14			
Manes, Mark	6/28/2012			1/1/14 - 12/31/14							
Martin Jr., Carl	4/1/2010			1/1/14 - 12/31/14				5/11/14 - 5/16/14			
McCloy, Dave	6/1/2008			1/1/14 - 12/31/14							
McIsaac, Peter	1/1/1994			1/1/14 - 12/31/14							
Melvin, Eddie	4/1/1988			1/1/14 - 12/31/14							
Merritt, David	8/27/2010			1/1/14 - 12/31/14							
Miller, Tom	7/1/1987			1/1/14 - 12/31/14			5/22/14 - 5/31/14				
Nyborg, Einar	7/1/1995			1/1/14 - 12/31/14							
Pate, David	4/1/2007			1/1/14 - 4/22/14 6/5/14 - 12/31/14	4/23/14 - 6/4/14						
Pinetti, Randall	2/1/2004			1/1/14 - 5/31/14 6/27/14 - 12/31/14	6/1/14 - 6/26/14		5/22/14 - 5/31/14				
Ridens, Ray	1/1/2007			3/9/14 - 12/31/14	1/1/14 - 3/8/14		6/12/14 - 6/21/14				
Roberts, Steve	2/11/1985			1/1/14 - 12/31/14							
Robinson, Eric	1/1/2004			1/1/14 - 12/31/14			5/22/14 - 5/31/14	5/11/14 - 5/16/14			
Rocci, Reuben	1/1/2008			1/20/14 - 12/31/14	1/1/14 - 1/19/14						

Pilot Name	Date of Original Licensing	Passed Away	Retired	Fit for Duty	Licensed and Absent for Medical Reasons	Not Fit for Duty	Mandated Manned Model Training	Mandated Combination Course Training	On Active Military Duty	On Leave of Absence	License Suspended
Ruff, Paul	1/28/2011			1/1/14 - 12/31/14							
Slack, Dustin	7/1/2008			1/1/14 - 12/31/14			6/12/14 - 6/21/14				
Stultz, Joshua	2/24/2012			1/1/14 - 12/31/14							
Sweeney, Michael	3/28/1985		02/14/14			1/1/14 - 2/14/14					
Teague, Steve	1/1/2007			1/1/14 - 12/31/14							
Tylawsky, Greg	5/28/2010			1/1/14 - 12/31/14							
Wagner, Nancy	3/1/1990			1/1/14 - 3/25/14	3/26/14 - 5/6/14	5/7/14 - 12/31/14		4/27/14 - 5/2/14			
Wainwright, David	7/1/1991			1/1/14 - 12/31/14				5/11/14 - 5/16/14			
Wehr, Shane	6/1/2008			1/1/14 - 12/31/14							
Weiss, David	9/10/1993			1/1/14 - 12/31/14			5/22/14 - 5/31/14				
Active Pilots:	60										
Retired Pilots:	1										

2. Status of Pilot Trainees

	Name of Trainee	Date of Beginning Training	Status
1	D'Aloisio, Sam	03/01/2013	Finished Training 06/30/14
2	LeSieur, Cevan	04/01/2013	Finished Training 09/25/14
3	Kasper, Drue	09/04/14	In Training
4	Hirschfeld, Jubal	09/04/14	In Training
5	Murray, Andrew	09/12/14	In Training
6	Rubino, Michael	09/15/14	In Training

V. Summary of Reports of Navigational Incidents and Pilot Ladder Safety Standard Violations That Occurred in 2014

Subdivision (c) of Section 1157.5 of the Harbors and Navigation Code requires the Board to provide summaries of each report of misconduct or navigational incidents involving pilots, or other matters for which a license issued by the Board may be revoked or suspended. The summaries must provide a description of findings made by the Board's Incident Review Committee (IRC), the resulting action taken by the Board, as well as a summary of any prior reportable incidents of which a finding of pilot error was made for the pilots involved. This report also includes safety standard violations, which are reported to the U.S. Coast Guard. Accordingly, the navigational incidents and safety standard violations that occurred in 2014 are listed below.

(Note: Two investigations that occurred in 2013, the ITB MOKU PAHU and the M/V ESSEX STRAIT, were still open at the time the 2013 Annual Legislative Report was submitted but closed in 2014 and are included below.)

1. ITB MOKU PAHU, Allision with New York Slough Channel Marker #7 October 15, 2013, Pilot Capt. Michael Sweeney

The ITB MOKU PAHU was transiting from Stockton to sea, with a pilot change in the vicinity of New York Point. After the boarding of the pilot that would take the vessel from New York Point to sea, but prior to the pilot relief, the vessel apparently experienced bank suction causing a sheer to starboard. Attempts to correct for this sheer were partly successful and the vessel made contact with New York Slough channel marker #7, damaging the marker. The report was presented to the Commissioners at the Board meeting held April 24, 2014.

In the report the IRC found that the probable cause of the initial bank effect was the result of the pilot becoming distracted and losing situational awareness, and allowing the ship to come too close to the southern shore of the channel, which in turn caused the vessel to sheer to the north. The Committee recommended a finding of pilot error, and that the pilot be directed to complete a Bridge Resource Management class approved by the American Pilot Association within 90 days.

The Board agreed with the recommendation of the IRC and further ordered that the class be attended at the pilot's own expense.

Capt. Sweeney has eight prior incidents, all with a finding of no pilot error.

2. M/V ESSEX STRAIT, Interaction with M/T CHAMPION EXPRESS November 29, 2013, Pilot Capt. Bruce Alden

While transiting the channel after departing Berth #2, Port of Stockton, the passage of the M/V ESSEX STRAIT was alleged to have caused damage to the accommodation ladder of the M/T CHAMPION EXPRESS, moored at Berth #9, due to hydraulic interaction. The Master of the M/V CHAMPION EXPRESS claimed that the M/V ESSEX STRAIT was transiting the channel with "greater than safe speed." The Master of the M/V ESSEX STRAIT claimed his vessel never exceeded three knots and "did nothing wrong."

In cases where hydraulic interaction between vessels may be an issue, the passing vessel has a duty to proceed carefully and prudently. In kind, there is also a duty placed on the moored vessel to be seaworthy and properly moored to resist ordinary and normal swells. Court cases provide that some wash from passing vessels is bound to occur and must be anticipated or guarded against, and only unusual swells or suction which cannot be reasonably anticipated form the basis for a claim.

The Board received the IRC report at the July 24, 2014, Board meeting. Based on the evidence of the incident, the IRC found that it was more likely than not that there was a defect in the mooring, allowing the gangway to be damaged. The Board accepted the IRC recommendation and delivered a finding of no pilot error. In this case, the IRC recommended, and the Board accepted, that Board staff develop a lessons learned/best practices presentation on vessel interaction for pilot professional development purposes.

Captain Alden has four prior incidents, two of which were found to be the result of pilot error as follows:

- M/V THORSEGGEN, 1995, freighter allided with Pier 27; \$30,000 damage to vessel, \$20,000 damage to pier. The pilot received a Letter of Warning and was required to participate in four trips as an observer to Pier 27.
- M/V RICKMERS NEW ORLEANS, 2004, bulk freighter grounded in Stockton Ship Channel; No damage to vessel. Although the pilot error was determined by the Board to be minor, the pilot was commended for prompt action in re-floating the ship without assistance.

3. TUG Z FIVE Allision with the Benicia-Martinez Union Pacific Railroad Bridge fendering while taking part in a Dead-ship tow of the USNS PONCATOULA May 15, 2014, Pilot Thomas Burger

The USNS PONCHATOULA was being towed from the National Defense Reserve Fleet in Susuin Bay to the Mare Island Dry Dock facility located in Vallejo, CA. The tow was being piloted by Capt. Burger, who was supervising a Board trainee. The trainee, in the later stages of training, was allowed to do the actual conning of the vessel. The USNS PONCHATOULA, who was unmanned and did not have its own means of propulsion (also known as a "flat" or "deadship" tow), was being towed by three tugs, the Z FOUR, the Z

FIVE, and the AHBRA FRANCO. It is worth noting that a “dead” ship, in addition to having no means of propulsion, also has no instrumentation or power available. While the pilot may use his personal piloting unit (a laptop computer with a charting program), the usual input from the ships instruments (position, course steered, course made good, speed through the water, rate of turn, etc.) was not available, and the use of this device was not required.

The tow was planned to begin at 1100 hours, when the water current was minimal. Due to various factors, the tow did not get underway until 1230 hours. The USNS PONCHATOULA was being towed stern first, as this would facilitate entry into the dry dock. The movement of the ship progressed smoothly until the ship was passing beneath the Benicia-Martinez Union Pacific Railroad Bridge, when a gust of wind caused the ship to sheer north, aided by the current, which was now nearing maximum speed.

The pilot attempted to counter the sheer through the use of the three tugs, but in spite of these efforts, the last tug, Z FIVE, made contact with the southern bridge fendering, causing damage to the bridge fendering estimated at \$100,000 to \$300,000 (as of the date of this report, the actual damage amount is a matter of dispute and is expected to be litigated.) The IRC found that, given the various challenges presented by a flat-tow (no propulsion or instruments), coordinating the actions of three tugs, and the wind and current, that the pilot was not negligent in his handling of the ship, and recommended a finding of no pilot error.

This report was presented to the Board on September 25, 2014. After deliberation in closed session the Board made the following determinations: there was no pilot error; the Pilot Safety Committee study the use of precision independent positioning devices by the pilots when engaged in a flat tow through the Union Pacific Railroad Bridge; and the Pilot Safety Committee also study proper tug configuration when a pilot is engaged in a flat tow transiting the Union Pacific Railroad Bridge.

Captain Burger had no prior incidents.

4. M/V MINDORO STAR Hard Landing While Docking at Valero Benicia (BNC 4) July 26, 2014, Pilot Capt. Randall Pinetti

While approaching the berth at Valero Benicia (BNC 4), the M/V MINDORO STAR made unintended contact with the corner of the pier, causing damage to the metal grating that extends out from the pier and the metal grating anchor positions in the adjacent concrete. According to the evidence, a gust of wind caused the bow of the ship to be blown off the dock during docking and when the pilot brought the bow back into parallel with the dock face, the bow touched down first, with enough force to damage the grating. The evidence showed that the design of the pier is such that, unless approached with very little angle (Valero recommends within one degree of parallel), it is possible for the bow or stern of the ship to cross inside of the face of the pier and make contact with the corner of the pier. The IRC recommended that, although there was damage to the pier, that the pilot's

response to the less than ideal conditions encountered in the docking were reasonable and consistent with that of a skilled professional with similar experience and training.

This report was presented to the Board on January 22, 2015. After hearing the evidence and deliberating in an open meeting, the Board affirmed the IRC recommendation and found for no pilot error.

Captain Pinetti had two prior incidents with no findings of pilot error.

5. M/V OCEAN LIFE Loss of Propulsion and Subsequent Anchoring September 5, 2014, Pilot Capt. Daniel Bridgman

While on approach to the Benicia-Martinez Union Pacific Railroad Bridge, the M/V OCEAN LIFE lost propulsion, most likely due to the California mandated use of low sulfur fuel. In response, the pilot ordered the anchors dropped to prevent unintended contact with the bridge structure. When the use of the ship's engines was regained, the pilot ordered the engines astern. In the course of backing toward the nearest safe anchorage, the anchor came in contact with the Trans Bay Cable, a 53 mile long high voltage direct current submarine transmission cable linking San Francisco with a converter substation in Pittsburg. The Trans Bay Cable consists of two direct current conductors and a fiber optic cable nested between them. The original plan called for the cable to be buried 3 to 6 feet under the bay floor. The anchors made contact with and slid along the cable for a short distance before putting enough strain on the cable to bend it beyond the design parameters, causing an interruption in the signal through the fiber optic component. When this occurred, Trans Bay Cable, LLC notified Vessel Traffic Service, who notified the ship that the cable was likely at the site of the anchoring. The anchor chain had to be cut to free the ship, and the anchor was later recovered by divers. The cost to repair the cable is stated to be approximately \$15 million, but the actual damages are expected to be determined by litigation.

Due to the IRC experiencing delays in obtaining evidence relative to this investigation, the Board has not been presented with the IRC report at the time of this writing. The report is estimated to be completed in March, 2015.

Captain Bridgman has no prior incidents.

6. M/V COSCO OCEANIA Stowaway Incident September 21, 2014, Pilot Capt. Carl Martin

On September 21, 2014, while the M/V COSCO OCEANIA was outbound from the Port of Oakland and passing under the San Francisco-Oakland Bay Bridge, the pilot noticed a unidentified person on the bridge of the ship, not appearing to be a member of the crew, who announced he wanted to "go to Pusan (Korea)" After confirming that this person was not a crew member, the United States Coast Guard (USCG) was notified, who in turn

notified United States Customs and Border Protection (CBP), but there appeared to be confusion about who had jurisdiction, CBP, USCG or local law enforcement.

The ship aborted its outbound passage and diverted to Anchorage 9, a safe anchorage south of the San Francisco-Oakland Bay Bridge. Once at anchor, the USCG did board the vessel, but did not take the stowaway, now identified as Andreas Guenther, a German national, into custody. Instead, using a separate launch, the USCG directed the stowaway to go ashore, where he walked away. Mr. Guenther claimed he had bought a visitor pass to the ship from a man in San Francisco's Chinatown neighborhood for \$500.

Following an investigation by the USCG Investigative Service, Mr. Guenther was charged in federal court with being a stowaway on a vessel, which carries a possible sentence of up to five years in prison.