

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



**2016**

**Annual Legislative Report**

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

*As of December 31, 2016*

**Commissioners/Board Members**

Jennifer Ferrera Schmid, President, Public Member  
Dave Connolly, Vice President, Public Member  
David Hoppes, Dry Cargo Industry Member  
Captain George Livingstone, Pilot Member  
John Schneider, Wet Cargo Industry Member  
Brian P. Kelly, Secretary of the California State Transportation Agency

**Board Staff**

Allen Garfinkle, Executive Director  
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Sigrid Hjelle, Office Technician

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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 maritime 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 (also known as Commissioners) appointed by the Governor, 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.*

The Legislature, based upon recommendations by the Board, sets pilotage rates that are charged by Board-licensees for pilotage services. Board-licensees also charge, collect and remit or expend various surcharges as directed by the Board. These surcharges fund the Board’s operations and programs.

Section 1157.5 of the Harbors and Navigation Code was added to the code by Senate Bill 1217 (2008) and mandates that the 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 reporting requirements include: the number of vessel movements across the bar (a sand bar approximately 8 miles west of the Golden Gate Bridge), 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 statutory requirements.

Allen Garfinkle, Executive Director  
April 14, 2017

## **II. Summary of Major Board Activities in Calendar Year 2016**

Below is a summary of major Board activities in calendar year 2016:

### **1. Pilot Fitness**

The Board, in contract with the University of California Medical Center's Division of Occupational and Environmental Medicine, continues to operate one of the most comprehensive and advanced pilot and trainee medical assessment programs in the nation, with requirements that exceed the U.S. Coast Guard's medical guidelines for maritime pilots.

Some highlights of the Board's fitness regulations include: agility testing that simulates the physical demands of providing pilotage service; toxicological testing for prescription medications along with physician notification when there are changes in medications; establishing minimum qualifications for Board-appointed physicians including ensuring the physicians are personally familiar with the physical and cognitive challenges encountered by pilot licensees; and, a dual-physician evaluation process that includes Medical Review Officer approval on all fit-for-duty assessments.

### **2. Personnel Matters**

In April of 2016, the Board elected Jennifer Ferrera Schmid as Board President, replacing RADM Frank Johnston, USMS (Ret.), who served two 4-year terms on the Board. President Schmid was appointed to a public member seat on the Board by Governor Brown on February 10, 2015 for a four-year term. Since 1999, she has been a member of the City of Oakland Fire Department, and was promoted to the rank of Engineer in 2005. President Schmid is a graduate of California Maritime Academy, and brings extensive administrative and maritime expertise to the Board.

The Board has a staff of four full time employees, with additional administrative and program support provided by interagency agreements with: the Department of Justice; the California Highway Patrol, the Department of Transportation; the California Department of Human Resources; the State Controller's Office; the Department of Technology; the California State University Maritime Academy; the Regents of the University of California; and, through contracting with private-sector Commission Investigators.

### **3. Progress Implementing Senate Bill 1408 (2012)—The Pilot Fatigue Study**

The Board has been working diligently to meet the legislative mandate of Senate Bill 1408 (chaptered on September 29, 2012) to conduct a study of the effects of work and rest periods on the psychological ability and safety for pilots. As mandated by the legislation, based on the study results and recommendations, the Board will promulgate regulations

establishing requirements for adequate pilot and trainee rest periods intended to prevent fatigue.

Integral to that effort, the Board issued a request for study proposals in December 2014, and selected a proposal from the San Jose State University Research Foundation (Foundation) in March, 2015. The Board entered into a contract for the study in June, 2016, and subsequently approved clarifications to the contracted scope of work originally proposed by the Foundation in August, 2015. The study officially commenced in August of 2016, and will be completed in stages over the next several years.

#### **4. Progress Implementing Assembly Bill 1432 (2016)—Navigation Technology Surcharge**

Assembly Bill 1432 allows for a ship movement fee (Navigation Technology Surcharge) to be authorized by the Board on or after January 1, 2017, to be used to recover a pilot's cost for the purchase, lease, or maintenance of navigation software, hardware, and ancillary equipment determined by the Board to be reasonable and necessary. The bill specifies the cumulative amount of the Navigation Technology Surcharge shall not exceed \$1.2 million dollars and shall end on January 1, 2021.

Pursuant to this law, the San Francisco Bar Pilots presented a navigation technology acquisition proposal to the Board, through its Navigation Technology Committee. The Board subsequently determined that the proposal was reasonable and necessary, and provided a preliminary authorization to the San Francisco Bar Pilots to proceed with a navigation technology purchase in February 2017. Once the navigation technology acquisition is complete and final costs are known, the Board anticipates providing a final authorization to the San Francisco Bar Pilots in the second quarter of 2017, and will set the Navigation Technology Surcharge rate at that time.

#### **5. Trainee Program Entrance Examination**

The Board administers a Pilot Trainee Training Program for qualifying mariners who wish to obtain the knowledge, skills and abilities to be licensed by the Board and have the opportunity to join the San Francisco Bar Pilots. Every two to three years, the Board conducts a rigorous Pilot Trainee Training Program entrance examination to establish a ranked list of eligible candidates from which to select qualified program participants. The Board last conducted a Pilot Trainee Training Program entrance examination during 2014 with the assistance of a contracted psychometrician. The Board has scheduled another Trainee Program Entrance Examination for the summer of 2017, and has enlisted the assistance of qualified test administrators from the California Department of Human Resources.

A ranked list of eligible candidates resulting from the 2017 examination will be valid for three years. A trainee can be in the training program from one to no more than three years. Board-licensed pilots provide hands on training to trainees. Trainee progress is

overseen by the Board's Pilot Evaluation Committee, which consists of five Board-licensed pilots who have been licensed for ten or more years.

To determine the number of trainees in the program, 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. At the close of calendar year 2016, a total of ten trainees from the 2014 ranked eligibility list of thirteen candidates were accepted into the Pilot Trainee Training Program, with six trainees becoming licensed pilots. Since the end of 2016, two more candidates entered the program, with one eligible candidate remaining on the 2014 eligibility list who is scheduled to enter the Pilot Trainee Training Program in June of 2017.

The Board anticipates that there will be sufficient retirements of licensed pilots to keep the demand for trainees and new licensees strong through 2020.

## **6. Litigation Involving the Board in 2016**

### **Reeder v. Board of Pilot Commissioners**

Captain Reeder was formerly licensed by the Board as an inland pilot providing pilotage on navigable rivers to ports in Stockton and Sacramento. He applied for an inland pilot's<sup>1</sup> pension from the San Francisco Bar Pilot Pension Plan in April, 2009. The Board, as the administrative body of the pension plan, denied his application in February, 2011, on the grounds that Captain Reeder failed to meet two of the eligibility requirements for a pension. Captain Reeder filed a petition in December, 2014 in San Francisco Superior Court seeking to overturn the Board's decision. The San Francisco Superior Court denied his petition after a hearing in September, 2015, and Captain Reeder subsequently submitted an appeal in early 2016. All briefs have been filed by the parties and the Board is awaiting a decision by the appellate court.

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<sup>1</sup> "Inland pilot" means a person holding an inland pilot license prior to January 1, 2011. Inland pilots navigated vessels in the San Francisco bays and tributaries to ports in Stockton and Sacramento. Inland pilots were amalgamated with pilots in 1984. References to inland pilots were deleted in statutes pursuant to AB 1025 (Skinner, Chapter 324, Statutes of 2011).

### III. Number of Vessel Movements in 2016

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 2016 vessel movement statistics:

Number of vessel movements across the San Francisco Bar ( <i>Includes 4 movements for Monterey Bay</i> )	6587
Number of vessel movements within the Bays of San Francisco, San Pablo and Suisun	1305
Number of vessel movements on the Sacramento and San Joaquin Rivers	523
<b>Total Moves</b>	<b>8,415</b>



## IV. List of Status of Pilot Licensees and Trainees in 2016

### 1. Status of Pilot Licensees

Pilot Name	Original Licensing Date	Date Retired	Licensed and Fit for Duty Dates	Licensed and Not Fit For Duty Dates	Licensed and on Mandated Manned Model Training Dates	Licensed and on Mandated Combination Course Training Dates	Licensed and on Active Military Duty Dates	Licensed and on Leave of Absence Dates	License Suspended Dates
Alden, Bruce	7/2/1993		1/1/16 - 12/31/16						
Aune, Drew	4/1/2009		1/1/16 - 12/31/16						
Billingsley, Neil	4/28/2016		4/28/16 - 12/31/16		8/25/16 - 9/3/16	4/3/16 - 4/8/16			
Boriolo, Dan	10/1/1995		1/1/16 - 12/31/16						
Bridgman, Daniel	4/1/2010		1/8/16 - 12/31/16	1/1/16 - 1/7/16					
Burger, Tom	9/4/1991		1/1/16 - 3/29/16 4/21/16 - 12/31/16	3/30/16 - 4/20/16	9/1/16 - 9/10/16				
Carlier, John	1/20/1989		1/1/16 - 12/31/16						
Carlson, Kenneth	1/1/1988		1/1/16 - 12/31/16		9/1/16 - 9/10/16				
Carr, Robert	6/28/2013		1/1/16 - 12/31/16						
Chapman, David	5/26/1997	3/3/2016		1/1/16 - 3/2/16					
Cloes, Don	6/26/2009		1/1/16 - 12/31/16						
Coney, Blake B	9/1/1993		1/1/16 - 3/16/16 6/29/16 - 12/31/16	3/17/16 - 6/28/16					
Coppo, George	1/1/1992		3/9/16 - 12/31/16	1/1/16 - 3/8/16					
D'Aloisio, Samuel	7/1/2014		1/1/16 - 12/31/16						
Dowdle, George	11/1/1993		1/1/16 - 12/31/16						
Epperson, Dylan	12/15/2016		12/15/16 - 12/31/16						
Favro, Orrin	12/14/2012		1/1/16 - 12/31/16						
Fawcett, Erik	6/24/2011		1/1/16 - 12/31/16						
Fuller, Peter	5/1/1998		1/1/16 - 9/5/16 9/15/16 - 12/31/16	9/6/16 - 9/14/16					
Haggerty, Mark	7/1/1998		1/1/16 - 12/31/16		9/1/16 - 9/10/16				
Hirschfeld, Jubal	2/29/2016		2/29/16 - 12/31/16		8/25/16 - 9/3/16	4/3/16 - 4/8/16			

Pilot Name	Original Licensing Date	Date Retired	Licensed and Fit for Duty Dates	Licensed and Not Fit For Duty Dates	Licensed and on Mandated Manned Model Training Dates	Licensed and on Mandated Combination Course Training Dates	Licensed and on Active Military Duty Dates	Licensed and on Leave of Absence Dates	License Suspended Dates
Horton, Bruce	5/8/1991		1/1/16 - 12/31/16						
Hurt, Richard	9/26/2003		1/1/16 - 12/31/16						
Johnson, Eric	12/14/2012		1/1/16 - 12/31/16						
Kasper, Drue	3/22/2016		3/22/16 - 12/31/16		8/25/16 - 9/3/16				
Kellerman, Zachary	1/28/2011		1/1/16 - 12/31/16						
Kelso, Arnold	1/20/1989		1/1/16 - 6/18/16 12/27/16 - 12/31/16	6/19/16 - 12/26/16					
Kenyon, Hugo	7/1/1998		1/1/16 - 7/1/16	7/2/16 - 12/31/16					
Kirk, Roger	4/1/2007		1/1/16 - 12/31/16		9/1/16 - 9/10/16				
Kleess, Guy	11/1/2005		1/1/16 - 1/28/16 4/13/16 - 12/31/16	1/29/16 - 4/12/16					
Laakso, Kristopher	8/26/2011		1/1/16 - 12/31/16						
Larwood, Dan	7/1/1998		1/1/16 - 12/31/16		9/1/16 - 9/10/16				
Lemke, William	4/1/1993		1/1/16 - 12/31/16						
LeSieur, Cevan	9/26/2014		1/1/16 - 12/31/16						
Lingo, Matthew	2/22/2013		1/1/16 - 12/31/16						
Livingstone, George	4/24/2008		1/1/16 - 12/31/16						
Long, Joe	7/1/2008		1/1/16 - 12/31/16						
Lowe, Jeremy	11/21/2016		11/21/16 - 12/31/16		8/25/16 - 9/3/16				
Manes, Mark	6/28/2012		1/1/16 - 12/31/16		9/1/16 - 9/10/16	4/3/16 - 4/8/16			
Martin Jr., Carl	4/1/2010		1/1/16 - 12/31/16						
McCloy, Dave	6/1/2008		1/1/16 - 12/31/16						
McIsaac, Peter	1/1/1994		1/1/16 - 12/31/16						
Melvin, Eddie	4/1/1988		1/1/16 - 12/31/16						
Merritt, David	8/27/2010		1/1/16 - 12/31/16						
Murray, Andrew	4/28/2016		4/28/16 - 12/31/16		8/25/16 - 9/3/16	4/3/16 - 4/8/16			
Miller, Tom	7/1/1987		1/1/16 - 12/31/16						
Nyborg, Einar	7/1/1995		1/1/16 - 12/31/16						

Pilot Name	Original Licensing Date	Date Retired	Licensed and Fit for Duty Dates	Licensed and Not Fit For Duty Dates	Licensed and on Mandated Manned Model Training Dates	Licensed and on Mandated Combination Course Training Dates	Licensed and on Active Military Duty Dates	Licensed and on Leave of Absence Dates	License Suspended Dates
Pate, David	4/1/2007		1/1/16 - 12/31/16						
Pinetti, Randall	2/1/2004		1/1/16 - 12/31/16						
Ridens, Ray	1/1/2007		1/1/16 - 12/31/16						
Roberts, Steve	2/11/1985		1/1/17 - 1/17/16 3/9/16 - 12/31/16	1/18/16 - 3/8/16					
Robinson, Eric	1/1/2004		1/1/16 - 12/31/16						
Rocci, Reuben	1/1/2008		1/1/16 - 12/31/16						
Ruff, Paul	1/28/2011		1/1/16 - 12/31/16						
Slack, Dustin	7/1/2008		1/1/16 - 12/31/16						
Stultz, Joshua	2/24/2012		1/1/16 - 12/31/16			4/3/16 - 4/8/16			
Teague, Steve	1/1/2007		1/1/16 - 12/31/16						
Tylawsky, Greg	5/28/2010		1/1/16 - 12/31/16						
Wehr, Shane	6/1/2008		1/1/16 - 12/31/16						
Weiss, David	9/10/1993		1/1/16 - 12/31/16						

**2. Status of Pilot Trainees as of December 31, 2016**

	<b>Name of Trainee</b>	<b>Date Began Training Program</b>	<b>Status on 12/31/2016</b>
1	Hirschfeld, Jubal	9/4/2014	Licensed on 2/25/2016
2	Kasper, Drue	9/4/2014	Licensed on 3/22/2016
3	Murray, Andrew	9/15/2014	Licensed on 4/28/2016
4	Rubino, Michael	9/15/2014	In Training
5	Billingsley, Neil	2/01/2015	Licensed on 4/28/2016
6	Lowe, Jeremy	2/01/2015	Licensed on 11/17/2016
7	Cvitanovic, David	9/02/2015	In Training
8	Epperson, Dylan	9/02/2015	Licensed on 12/14/2016
9	Alfers, Douglas	3/28/2016	In Training
10	Vogel, Jason	3/28/2016	In Training

## IV. Summary of Reports of Navigational Incidents and That Occurred in 2016

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.

1.

**Vessel:** M/V STAR LUSTER

**Pilot** Captain Bruce Alden

**Incident Description** Allision of cargo crane with overhead power transmission cables.

**Location** Port of Stockton

**Date of Incident** January 19, 2016

**IRC Finding**  No Pilot Error  Pilot Error

**Summary:**  
 Captain Alden's assignment was to move a vessel from dock to dock within the Port of Stockton. Cargo crane booms were in the up position, and upon the ship move, the cranes hit power lines, causing loss of power to Stockton residents and \$160,000 in damage.

Although there was inclement weather conditions, and the pilot was not informed by the master of the vessel during the customary master-pilot exchange that the cargo crane booms were in the up position, the IRC found that the pilot had a duty to conduct a reasonable inspection of the vessel for open and obvious conditions which may render the vessel unseaworthy

The IRC recommended to the Board that they find for pilot error in this incident and that a Letter of Warning be issued to the pilot.

**Board Action** The Board accepted the recommendation of the IRC on the finding of pilot error, but not on the recommendation of issuing a Letter of Warning to the pilot.

**Prior Reportable Incidents Involving Pilot Error** None.

2.

**Vessel** M/V MORNING ORCHID

**Pilot** Captain Eric Johnson

**Incident Description** Interaction with the moored M/V K WINNER while transiting inbound.

<b>Location</b>	Port of Stockton
<b>Date</b>	June 8, 2016
<b>IRC Finding</b>	<input checked="" type="checkbox"/> No Pilot Error <input type="checkbox"/> Pilot Error Summary: While the M/V MORNING ORCHID was passing the M/V K WINNER, the M/V K WINNER suffered damage to its gangway allegedly due to hydraulic interaction. The IRC found strong support that the inbound M/V MORNING ORCHID's was proceeding carefully and prudently in that none of the other vessels moored in the Port of Stockton experienced any damage as a result of the M/V MORNING ORCHID's passing. The IRC also found strong evidence that the M/V K WINNER was not properly moored to resist ordinary and normal swells in narrow waters where heavy traffic may be anticipated. Some of this evidence was provided by the testimony of the Port of Stockton Police, who provided logs and reports of their activity showing that the M/V K WINNER was specifically instructed to tighten their lines and lift their gangway off the dock, precisely the objects that were damaged. The IRC found clearly no pilot error and discontinued the investigation as permitted by 7 CCR §210(b)(3). <sup>2</sup>
<b>Board Action</b>	Not applicable.
<b>Prior Pilot Error Reportable Incidents</b>	Not applicable.

3.

<b>Vessel</b>	M/V LUIGI LAGRANGE
<b>Pilot</b>	Captain Erik Fawcett
<b>Incident Description</b>	Various marina facility damage caused by the vessel's wake.
<b>Location</b>	RiverPoint Marina Resort in the vicinity of the Port of Stockton.
<b>Date</b>	September 3, 2016
<b>IRC Finding</b>	<input checked="" type="checkbox"/> No Pilot Error <input type="checkbox"/> Pilot Error Summary: As the M/V LUIGI LAGRANGE passed the marina, the marina suffered damage including a cleat pulled loose from a bass boat, a broken line on a 70-foot sailboat, a swim-deck damaged from contact with a dock, a cleat pulled off the stern of an aluminum work boat, a deflated fender on a houseboat, and a shore-power cord pulled from a receptacle bending the prongs on the cord end. There was no estimate of the cost of the damage but the items were all fairly minor in nature.  The IRC determined that the pilot's actions were reasonable, that there was clearly no pilot error, and made the decision to discontinue the investigation as permitted by 7 CCR §210(b)(3).
<b>Board Action</b>	Not applicable.

<sup>2</sup> CCR means the California Code of Regulations.

<b>Prior Pilot Error Reportable Incidents</b>	Not applicable.
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4.

<b>Vessel</b>	S.S. PETERSBURG
<b>Pilot</b>	Captain George Livingstone
<b>Incident Description</b>	The vessel was temporarily grounded while being dead-ship towed. Four tugs were used in the tow. While on the last leg of the transit and after passing through the Benicia-Martinez bridges, the towed vessel grounded for approximately 40 minutes. The tugs were able to free the tow and the passage continued successfully. There was no damage reported to the towed vessel, the towing equipment, or any associated equipment.
<b>Location</b>	Enroute from San Francisco to the Suisun Bay Reserve Fleet anchorage.
<b>Date</b>	September 7, 2016
<b>IRC Finding</b>	<input checked="" type="checkbox"/> No Pilot Error <input type="checkbox"/> Pilot Error Summary:  The IRC concluded the evidence collected revealed that recent shoaling in the vicinity of the supporting structure of the Union Pacific Railroad's Benicia-Martinez Bridge was the primary cause of the grounding. The extent of the recent shoaling was not shown on the most recent chart available to the pilot, which is the primary basis for concluding that there was clearly no pilot error. On that basis the IRC discontinued the investigation as allowed by 7 CCR §210(b)(3).
<b>Board Action</b>	Not applicable.
<b>Prior Pilot Error Reportable Incidents</b>	Not applicable.