

<p><b>Meeting Date:</b> <b>December 17, 2015</b></p>	<p><b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b></p> <p><b>BOARD MEETING MINUTES</b></p>	<p><b>Page 1 of 13</b></p>
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**Board Members Present**

RADM. Francis Johnston, President, Public Member  
 Dave Connolly, Vice President, Public Member  
 Captain George H. Livingstone, Pilot Member  
 Captain Joe Long, Pilot Member  
 Jennifer Ferrera Schmid, Public Member  
 John Schneider, Wet Cargo Industry Member

**Board Members Absent**

Vacant, Dry Cargo Industry Member  
 Benjamin De Alba, Assistant Secretary for Rail and Ports,  
 representing the Secretary of the California State Transportation Agency (CalSTA)

**Staff Present**

Allen Garfinkle, Executive Director  
 Roma Cristia-Plant, Assistant Director  
 Dennis Eagan, Board Counsel  
 Kelly Dolcini, Staff Services Analyst  
 Sigrid Hjelle, Office Technician

**Public Present**

Port Agent Pete McIsaac; Pacific Merchant Shipping Association (PMSA) Vice President Mike Jacob; San Francisco Bar Pilots (SFBP) Business Manager-General Counsel Ray Paetzold; SFBP Captains Einar Nyborg and Eric Johnson; Retired SFBP Capt. Art Thomas; Rex Clack, Esq.; Past Board President Knute Michael Miller, and Rollie Caabe, State Lands Commission.

**OPEN MEETING:**

**1. Call to Order and Roll Call – President Johnston**

President Johnston called the meeting to order at 9:30 a.m. Staff Services Analyst Dolcini called the roll and confirmed a quorum.

**2. Review and approval of Board meeting minutes – President Johnston**

**Board action to approve Board meeting minutes from the meeting held on November 19, 2015.**

Board members were presented with the minutes of the meeting held on November 19, 2015, for approval. There was no discussion and no public comment.

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**MOTION:** Commissioner Schmid moved to approve the minutes of the meeting held on November 19, 2015. Vice President Connolly seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schneider and Schmid.  
NO: None.  
ABSTAIN: None.

**ACTION:** The motion was approved.

### **3. Announcements – President Johnston**

#### **Announcement of events affecting Board business since the last Board meeting.**

President Johnston addressed the assembled Board members and the audience with the following message:

Today marks the end of my eight years on the Board of Pilot Commissioners. During these years, I have been honored and privileged to sit alongside the most dedicated professionals who have so willingly given their time and expertise to this Board.

I would like to thank you all, and the Commissioners who have preceded you for your and their diligence in making this commission a leader in the maritime field and for the foresight in advancing the causes in safety, education and awareness of the San Francisco Bar Pilots. Your guidance has been a spearhead for other pilot commissions to follow.

I especially would like to thank and acknowledge the unending support of our staff, Executive Director Captain Allen Garfinkle, Assistant Director Roma Cristia-Plant, Staff Services Analyst Kelly Dolcini and Office Technician Sigrid Hjelle. I would have been lost without their constant support and guidance.

I would be remiss without acknowledging, general counsel Mr. Dennis Eagan, who kept me from straying off the commission’s guidelines.

Again, thank you all.

### **4. Board Member Activities – Board Members**

#### **Reports by Board members having Board business related activities since the last monthly Board meeting or planned prospectively.**

There were no reports from Board members.

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**5. Executive Directors' Report – Executive Director Garfinkle/Assistant Director Cristia-Plant**

**A) Correspondence and activities since the November 19, 2015, Board meeting.**

Executive Director Garfinkle reported on correspondence received by the Board since the November Board meeting as follows:

- On November 30, 2015, he received email confirmation that the National Transportation Safety Board (NTSB) had received the Board's response to Safety Recommendation M-11-19, and that Michael Brown will respond to it. Michael Brown is a Transportation Safety Specialist in the Safety Recommendation and Quality Assurance Division of the NTSB.
- Also on November 30, 2015, he sent a request to the California Department of Finance requesting approval to raise the amount of the Board Operations surcharge as approved by the Board from one percent (set on January 1, 2013) to two percent of gross pilotage revenue commencing January 1, 2016.
- On December 2, 2015, he attended a Deep Draft Industry Day hosted by United States Coast Guard (USCG) Sector San Francisco, and held at Coast Guard Island. Among some of the material provided that day was a Marine Safety Information Bulletin (MSIB) concerning the new sulfur cap for the Emission Control Area (ECA). As a companion piece to that MSIB, the USCG distributed Marine Safety Alert 13-15, which added two additional recommendations: As part of the master-pilot exchange (as required by 33 Code of Federal Regulations 164.11(k)), to discuss the vessel's maneuvering characteristics, including any change in RPM's associated with Ultra Low Sulfur (ULS) fuel oil, and determine if using ULS fuel necessitates amendments to the pilot card.
- On December 8, 2015, he received a letter from Steven Powell, Director of Operations for Trans Bay Cable LLC, wherein he expresses appreciation for the actions of SFBP Captain Dan Boriolo in protecting the Trans Bay Cable (TBC) submarine cable on November 4, 2015, when a vessel he was piloting lost propulsion. His letter indicated that Captain Boriolo had the astute presence of mind to guide the vessel clear of the TBC prior to releasing the vessel's anchor. The letter also stated, "TBC commends Captain Boriolo and the rest of the SFBP for their professionalism and constant vigilance which the Bay Area relies so heavily upon. Please accept our sincere thanks to your organization and the efforts placed into training and outreach which helps to make everyone successful."
- On December 7, 2015, Board Staff received a copy of a letter from CalSTA Secretary Brian Kelly thanking Assistant Director Roma Cristia-Plant for her hard work and commitment to the "Our Promise: State Employees Giving at Work Charitable Initiative." Accompanying the letter was a Certificate of Commendation in recognition of her leadership and service to the initiative.

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- On December 10, 2015, he received a letter from David E. Russo, Partner at Sterling, Clack and Russo, requesting a continuance of the matter of the JIANMEN TRADER until January 2016 for two reasons: 1) he has an outstanding FOIA request for the Navigation Marker #47 maintenance records, which he believes has relevance to the Board's Incident Review Committee investigation and evaluation of this matter; and, 2) he is not available to attend the December Board meeting.
- Also on December 10, he received a copy of a Marine Accident Investigation Branch Accident Report from Vice President Connolly on the collision between the container ship EVER SMART and the oil tanker ALEXANDRIA 1 at Jebel Ali, UAE on February 11, 2015. Vice President Connolly thought the article was relevant to the Board, both in the context of pilot error and also that the enabling regulation speaking to the goal of the report to be prevention of future accidents and not to determine liability or blame.
- On December 15, 2015, Board Staff received a copy of an article from the Maritime Executive website concerning the upcoming anticipated arrival of the new CMA CGM containership BENJAMIN FRANKLIN, an 18,000 TEU ship 1300 feet in length – the largest containership ever to enter the United States and the 10<sup>th</sup> largest container ship in the world.

**B) Report on pilot licensing matters in the past month and current month.**

Executive Director Garfinkle reported that between the October and November Board meetings staff renewed the license of Captain Kleess.

He further reported that since the November Board meeting staff renewed the licenses of Captains Favro, Johnson, McIsaac, Ridens, Robinson, Rocci, Teague, Carlson, and Coppo.

**C) Report on Board surcharges.**

Executive Director Garfinkle reported the Board received a check from the SFBP for \$81,864.28 for the October 2015 surcharge revenues as follows:

- Board Operations Surcharge: \$32,444.28
- Pilot Continuing Education Surcharge: \$ 3,250.00
- Trainee Training Surcharge: \$46,170.00

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**D) Report on legislative activities and contractual matters.**

Assistant Director Cristia-Plant reported there was no legislative report, and reported the following on Board contracts activity since the last Board meeting:

- Since the last Board meeting, the State Controller’s Office (SCO) has sent an initial draft of the interagency agreement for their surcharge and pilotage revenue auditor work. Staff will work with the California Highway Patrol (CHP) contract analyst and the SCO staff to finalize. The SCO projects conducting the 2014 and 2015 audit in the spring of 2016.
- Staff has provided the CHP contract staff with all of the requested manned model Request for Proposals follow up information except estimated travel costs, and are currently working with the Department of General Services and the CalTravelStore to reopen the Board’s travel account, which was closed due to nonuse.
- In the past month, there has been no activity on the California Department of Human Resources (CalHR) interagency agreement. CalHR does not anticipate any work in this fiscal year.
- Since the last Board meeting, the Department of General Services has finalized a model contract for all state contracts with UC and CSU campuses. San Jose State University Research Foundation has confirmed that the model contract must be used for the pilot fatigue study. Dr. Hobbs and the Foundation staff have provided milestones that are required for the contract. Staff anticipates working with the CHP staff on this contract next month.

President Johnston requested that Captain Boriolo receive a Board commendation for his recent efforts avoiding Trans Bay Cable.

Commissioner Long asked Assistant Director Cristia-Plant about the fatigue study contract and whether it appears that San Jose State is actively moving the agreement forward. She responded that they are working diligently to get the contract in place.

Assistant Director Cristia-Plant confirmed for President Johnston that Board members can travel, and that staff could work with the CalTravelStore to make travel arrangements.

Vice President Connolly asked exactly how the Master Pilot Exchange (MPX) is codified and whether it is normal to ask about fuel switching issues. Port Agent McIsaac stated that he could not speak for all pilots, but that when he pilots, he inquires about handling issues as part of his master-pilot exchange. Commissioner Long reported that he does the same.

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**6. Port Agent’s Report – San Francisco Bar Pilot (SFBP) Port Agent Capt. Peter McIsaac**

**A) Monthly report on pilot availability and absences.**

Port Agent McIsaac reported that three pilots—Captains Chapman, MacLachlan, and Bridgman—have been absent this month, or a portion thereof, for medical reasons, and that during his medical leave, Captain Bridgman has been acting as operations pilot.

**B) Monthly report on SFBP ship piloting business activity.**

Port Agent McIsaac stated that the SFBP continually monitors the dispatch list for possible minimum rest period exceptions, and identified a variety of mitigating measures employed if circumstances are likely to result in a rest period of less than ten hours. He reported that the SFBP currently has 58 licensed pilots, that there were no minimum rest period exceptions in November.

He also reported the P/V GOLDEN GATE was out of service on November 19, 2015 to replace an auxiliary fuel pump.

Port Agent McIsaac reported the following vessel-move data when compared to a three-year average:

- Bar Crossings     491 moves/-9.6%
- Bay Moves     89 moves/+26.7%
- River Moves    25 moves/+17%
- Total Moves     605/-2.6%
- Gross Registered Tons (GRT):                    28.3 million/-5.7% year to date (YTD)

He further reported that when comparing YTD piloting activity in 2015 to 2014, total moves were down 4.1%, and GRT was down 9.5%. He apprised the Board that the Port of Stockton lost some coal export business due to the commodity stock downturn.

**C) Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board. Board may go into closed session to discuss contents of the Port Agent’s confidential report as authorized by Harbors and Navigation Code § 1157.1**

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

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**D) Report on SFBP diversity outreach and mentoring activities.**

Port Agent McIsaac reported on the efforts of the SFBP to diversify its roster, and stated the SFBP has renewed its long commitment to provide financial support for California Maritime Academy programs that focus on academic success for underrepresented populations. He reported the SFBP will fund two San Francisco Bar Pilots Pioneer scholarships--one named in honor of Willie Brown, a pioneer in San Francisco and California Politics and supporter of the pilots as well as maritime safety, and the second named after Captain Nancy Wagner, the first woman pilot in the United States, who served as a San Francisco Bar Pilot from 1990 until her retirement in 2015, and as a Board Commissioner from 2001-2008.

Port Agent McIsaac stated the SFBP's Diversity Committee is pursuing short-term goals of identifying and mentoring qualified female and minority candidates for the June 2017. Pilot Trainee Training Program entrance examination, and longer-term goals of addressing 10- and 20-year pipelines to familiarize and encourage female and minority students with study and career paths leading to the maritime pilot profession. Recently, members of the Diversity Committee:

- Met with Dr. Ramona Bishop, Superintendent, Vallejo Unified School District, to discuss outreach efforts for the 20-year pipeline; additional meetings and presentations are planned for 2016.
- Participated as conference panelist to address diversity issues at the Women's International Shipping & Trading Association (WISTA) conference.
- Toured Houston Unified School District's Maritime High School to explore potential for establishing similar program here in San Francisco.
- Addressed cadets at Texas Maritime Academy regarding diversity issues and career paths to piloting as an SFBP.
- Met with Professor Dewey at the California Maritime Academy (CMA) to discuss diversity and the 10-year pipeline for students presently enrolled in CMA: how to identify and mentor students from underrepresented populations; and the 20-year pipeline, including a conversation with Dr. Bishop, who has turned around Vallejo public high schools using a narrow-focus academy model.
- Met with San Francisco Port Commissioner and International Longshore and Warehouse Union's (ILWU) International Secretary-Treasurer Willie Adams to discuss diversity outreach efforts, and a potential role for the ILWU in diversity efforts.
- Met with Port of SF Executive Director Monique Moyer and staff to discuss potential support for diversity outreach efforts.

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He reported the Diversity Committee is also:

- Developing an outline and mentoring program for prospective Pilot Trainee Training Program candidates from underrepresented populations, including potential career paths, prerequisites to enter the training program, and familiarization with a pilot career, the SFBP organization and the SFBP Pilot Facility.
- Exploring potential career paths toward becoming an SFBP for female and minority candidates with relevant vessel operation experience leaving the U.S. Army Corp of Engineers, USCG and U.S. Navy.
- Working with CMA’s new Education Opportunity Program to educate underrepresented populations on career paths to becoming a SFBP. The program currently has 24 low-income first-year students and is expected to grow to 100 students over the course of the next 4 years.
- Working with CMA’s California State University Louis Stokes Alliance for Minority Participation (CSU-LSAMP), a National Science Foundation-funded program intended to support underrepresented students and others facing barriers to success in science, technology, engineering and mathematics to develop opportunities for presentations and mentoring by SFBP.

Port Agent McIsaac stated that a summary of efforts of the SFBP Diversity Committee will be provided to the Board on at least an annual basis.

## **7. Pilot Evaluation Committee – Captain Einar Nyborg**

### **Report on the Pilot Evaluation Committee meeting held on December 16, 2015.**

The Pilot Evaluation Committee Chairman, Captain Nyborg, reported that the Pilot Evaluation Committee (PEC) met on Dec. 16, 2015, and interviewed all trainees in closed session. The current trainees include Captains Kasper, Hirschfeld, Lowe, Billingsley, Murray, Rubino, Cvitanovic and Epperson. Their time in the program ranges from 4-16 months. He stated there are two trainees in the evaluation stage who are approaching program completion, with a couple of other trainees close behind.

He reported that December brought the first serious heavy weather of the winter. The most recent swells peaked on the San Francisco Bar at 23 feet with a period of 17 seconds. In this sea state the Bar on both sides of the Main Ship Channel is a cauldron of very heavy breaking surf to 35 feet on the face. As the swell size continues up the scale, waves of enormous size will break across the entire bar channel, even in the middle of the channel in 60 feet of water. This impressive display of the power of the sea is a truly humbling experience to any mariner. The relatively rare condition of a heavy bar also offers many critical pilot training opportunities.



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He further reported that in the last 10 years or so, it has been SFBP's policy to prohibit trainees from going to sea under "Barcon Red" conditions in order to limit the physical hazard the trainees are exposed to (the Barcon status is set by the Port Agent and is based on meteorological data such as wind speed, swell, sea state, currents, and visibility, along with application of prudent seamanship, with Barcon Red being designated during extreme conditions with winds in excess of 40 knots). He stated it is PEC's recommendation that this policy should change, and that later this month he will approach the SFBP Policy Committee to discuss the matter. If the Policy Committee agrees, he stated that it is the PEC's intent to allow trainees to begin to transit the Bar under more serious environmental conditions.

Board members asked if Capt. Nyborg felt that the trainees have enough experience to work in those conditions. Capt. Nyborg explained that trainees would only begin working in such conditions after they had been in the program for a certain period of time.

Vice President Connolly asked whether the conditions could be simulated at CMA with less risk. Capt. Nyborg stated that, although rolling conditions can be simulated, they are not able to approximate the handling of a ship in extreme weather.

The issue will be discussed with the SFBP Policy Committee and Capt. Nyborg will report back to the Board at the next meeting.

The next PEC meeting is scheduled for January 20, 2016.

**8. Reported safety standard violations – Executive Director Garfinkle**

**No reported Safety Standard Violations since the last meeting. (Reports received between the issuance of this notice and the meeting will be reported on.)**

Executive Director Garfinkle stated that there were no safety standard violations since the last meeting.

**9. Reportable Piloting Events – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will be reported on.)**

**Status report on the allision of the M/V JIANGMEN TRADER with San Joaquin River lighted marker 47 on June 27, 2015. Possible Board action to grant an extension to present the M/V JIANGMEN TRADER Incident Review Committee incident report at the January Board meeting. If an extension is requested, the delay in presenting the report will be due ongoing investigation activities.**

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Executive Director Garfinkle stated the Incident Review Committee (IRC) investigation for the M/V JIANGMIN TRADER incident was not complete. He noted that the IRC was still seeking information concerning the nature and condition of the object the ship was alleged to have made contact with and requested an extension to the January 2016, Board meeting to present the report. Further, the pilot's attorney has requested a continuance to the January meeting, as reported earlier.

**MOTION:** Commissioner Livingstone moved to grant an extension to the M/V JIANGMEN TRADER IRC investigation report to the January meeting. Vice President Connolly seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schneider, and Schmid.  
NO: None.  
ABSTAIN: None.

**ACTION:** The motion was approved.

Additionally, Executive Director Garfinkle reported three new events. First, on December 11, 2015, containers were lost over the side of a ship on its way to sea. No one was hurt, but the result could have been catastrophic. Second, on December 10, 2015, an articulated tug/barge (ATB) combination undocking in Martinez prior to heading to sea was dented by a tug operated by a tug company trainee. There was a pilot aboard. The Coast Guard was notified, inspected the damage and apparently allowed the tug and barge to proceed. Third, also on December 10, 2015, an embarkation ladder contacted the deck and railing of a pilot boat causing damage to the ladder.

Executive Director Garfinkle stated that two of these events were being investigated, and that Freedom of Information Act requests for information were submitted to the USCG. Commissioner Long expressed concern about containers falling off a ship and interest in finding out why this happened.

#### **10. Loss of Propulsion/low sulfur fuel report – Executive Director Garfinkle**

**Report on loss of propulsion events arising since last meeting, including those events suspected to be due to low sulfur fuel issues.**

Executive Director Garfinkle stated that there was no report since there was no Harbor Safety Committee meeting in December.

#### **11. Board Rulemaking status report – Executive Director Garfinkle/Assistant Director Cristia-Plant/Board Counsel Eagan**

**Report on the status and progress of various Board rulemaking efforts, including the following sections in Title 7 California Code of Regulations:**

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- A) Section 222 – Conflicts of Interest (add Port Agent Conflict of Interest regulation). Possible recommendation to the Board to approve Initial Statement of Reasons and Notice of Proposed Rulemaking for submission to California State Transportation Agency, Department of Finance, and Office of Administrative Law.**

Executive Director Garfinkle stated regulation §222 is being reviewed by CalSTA

- B) Section 213 – Pilot Trainees (add exam fee and clean-up of regulations).**
- C) Section 218 – Duties of Port Agent (amend requirement for assignments of pilots with under 12 and 18 months experience).**
- D) Section 211.5 – Commission Investigator Minimum Standards (amend minimum qualifications standards).**
- E) Section 215 – Pilot and Inland Pilot Training (add fatigue management and radar navigation in low/restricted visibility training and clean-up).**

Assistant Director Cristia-Plant stated that the rulemaking package for proposed regulations to §§ 213, 218, 211.5 and 215 was approved by CalSTA and has been sent to the Department of Finance for review.

## **12. Report on the Status of Public Records Act litigation – Board Counsel Eagan**

**Status report on Public Records Act litigation: Pacific Merchant Shipping Association vs. BOPC and Peter McIsaac as Port Agent, Writ of Mandate. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.**

Board Counsel Eagan stated there was nothing to report.

## **13. Report on Board of Pilot Commissioners vs. Fair Political Practices Commission litigation initiated by the Board on March 3, 2015 – Executive Director Garfinkle/Assistant Director Cristia-Plant**

**Progress report on Board of Pilot Commissioners vs. Fair Political Practices Commission. The Board may go into closed session to discuss with the Executive Director/Assistant Director any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.**

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Executive Director Garfinkle reported the Fair Political Practices Commission has until January 12, 2016, to file an appeal to the Superior Court’s ruling in favor of the Board.

**14. Report on Craig E. Reeder vs. State Board of Pilot Commissioners litigation initiated by Captain Craig Reeder on December 17, 2014 – Board Counsel Eagan**

**Progress report on Reader vs. Board of Pilot Commissioners. The Board may go into closed session to discuss with the Executive Director/Assistant Director any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.**

Board Counsel Eagan reported that Captain Reeder has appealed the Superior Court’s ruling in favor of the Board denying him an Inland Pilot pension.

**15. Board discussion of best practices in maritime safety – Vice President Connolly**

**A Board discussion of best practices in maritime safety and/or lessons learned from Incident Review Committee incident reports or other sources, and possible directions to staff to develop safety policies and procedures. Possible Board action to direct staff to develop safety policies and procedures.**

Vice President Connolly asked Board members to review the United Kingdom’s Marine Accident Investigation Branch (MAIB) report on the investigation of the collision between the container ship EVER SMART and the oil tanker ALEXANDRA 1, provided as part of the Executive Director’s correspondence. He commended Executive Director Garfinkle on his work on IRC reports and their use as a learning tool, and highlighted the goal of the MAIB report be to prevent future accidents and not to determine liability or apportion blame (while recognizing that regulatory agencies such as the Board have a different role). He requested the Pilot Safety Committee receive and review the report.

He also mentioned visiting the American Pilot Association (APA) web site, and particularly noted their Positions, Resolutions, & Best Practices web page which includes publications such as “Guidelines for BRM-P Course” and “Portable Pilot Unit: A Best Practice Summary” and “Federal and International Rules Governing Work, Rest and Duty for Mariners.” Commissioner Long suggested the latter article would be a good refresher for the Pilot Fitness Committee, but noted that the content applied primarily to watch standing personnel. Port Agent McIsaac reported that the APA is revising its Portable Piloting Unit (PPU) best practices document, to be published next year. Commissioner Livingstone stated that the SFBP has adopted many of the APA’s navigation technology guidelines.

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**16. Incident Review Committee incident report on the M/V JIANGMEN TRADER - President Johnston**

**A presentation of the Incident Review Committee incident report concerning the allision of the M/V JIANGMEN TRADER with San Joaquin River lighted marker 47 on June 27, 2015. Board deliberation and decision with respect to possible pilot error. Board determination with respect to further actions, if appropriate. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).**

The Board granted an extension of this IRC report under agenda item 9.

**17. Public comment on matters not on the agenda.**

Mr. Jacob addressed the Board regarding policy changes made by the SFBP concerning an extension to lead time required when shipping companies request pilot services during nighttime hours. He stated that he had received calls from shipping company agents concerned with the recent change, and that PMSA and its stakeholders would prefer that these kind of policy changes be made in a public forum allowing input from stakeholders prior to implementation.

**18. Proposals for additions to next month's agenda.**

There were none.

**19. Adjournment.**

**MOTION:** Vice President Connolly moved to adjourn the meeting. Commissioner Livingstone seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long and Schmid.  
NO: None.  
ABSTAIN: None.

**ACTION:** The motion was approved. The meeting was adjourned at 10:50 a.m.



Allen Garfinkle, Executive Director