

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		September 25, 2014
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**Board members present**

RADM. Francis Johnston, President, Public Member  
 Dave Connolly, Vice President, Public Member  
 Capt. Joe Long, Pilot Member  
 Capt. Steve Roberts, Pilot Member  
 John Schneider, Wet Cargo Industry Member  
 Benjamin De Alba, Assistant Secretary for Rail and Ports, representing the Secretary of the California State Transportation Agency

**Board members absent**

Vacant, Public Member  
 Vacant, Dry Cargo Industry Member

**Staff present**

Allen Garfinkle, Executive Director  
 Dennis Eagan, Board Counsel  
 Kelly Dolcini, Staff Services Analyst  
 Sigrid Hjelle, Office Technician

**Public present**

Port Agent Capt. Pete McIsaac; Pacific Merchant Shipping Association (PMSA) Vice President Michael Jacob; San Francisco Bar Pilots (SFBP) Business Director John Cinderey, Pilot Trainees LeSieur, Hirschfeld, Murray, Rubino and Kasper, and SFBP Capt. Sam D’Aloisio.

**1. Call to order and roll call**

President Johnston called the meeting to order at 9:30 a.m. Staff Services Analyst Kelly Dolcini called roll and found that a quorum was established.

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**2. Approval of minutes of the August 28, 2014, Board meeting**

Board members were presented with the minutes of the August 28, 2014, meeting for approval.

**MOTION:** Vice President Connolly moved to approve the August 28, 2014, minutes with revisions. Commissioner Schneider seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

**3. Announcements – President Johnston**

There were no announcements.

**4. Board Member Activities**

There were no reports.

**5. Executive Director’s report**

**Correspondence and activities since the last meeting:**

Executive Director Allen Garfinkle gave a report of the correspondence received by the Board since the August meeting as described below.

On September 2, 2014, he received an article from Capt. Roy Mathur of the Department of Fish and Wildlife titled “Drawing a Line -- Why Pilotage Must be Exempt from Competition,” first published on Lloyd’s List website on August 29, 2014. The article was provided to the Board members.

On September 10, 2014, Board staff received a copy of a letter to SFBP Capt. Dan Bridgman from David Kutrosky, Managing Director of the Capitol Corridor Joint Powers Authority, commending Capt. Bridgman on his quick actions and efforts to safely and successfully stop the M/V OCEAN LIFE avoiding contact with the north tower of the Union Pacific Railroad Bridge on September 5, 2014.

On September 11, 2014, Assistant Director Cristia-Plant attended the Harbor Safety Committee meeting on behalf of Board staff. He gave a report of her summary of the meeting.

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On September 15, 2014, Mr. Garfinkle attended a Directors' Meeting at the California State Transportation Agency (CalSTA) headquarters in Sacramento. During the meeting, Secretary Brian Kelly stressed the importance of departmental strategic plans and long-term goal-setting. It was also announced at the meeting that Bill Davidson, CalSTA Deputy Secretary for Administration and Finance, has accepted a new job at the Department of Motor Vehicles. Mr. Garfinkle lamented that Mr. Davidson has been a friend to the Board and will be missed.

On September 16, 2014, Board staff was notified that Capt. Peter McIsaac and Capt. John Carlier were traveling to Port Angeles, Washington, to observe a live escort/tether drill to demonstrate the capability and effectiveness of Foss tugs with different propulsion systems (Azimuthing Stern Drive/Voith Schneider Propulsion) to hook up and assist, retard, and arrest tankers in emergency situations.

On September 22, 2014, Board staff received a letter from the California State Auditor's Office that the BOPC had fulfilled all auditor recommendations stemming from the 2009 audit, and the 2013 follow up audit.

Also on September 22, 2014, Board staff met with Mr. James Duckens, CalSTA Deputy Secretary for Information Technology, reviewed the Board's information technology (IT) needs and discussed the need to formulate a Technology Recovery Plan. Mr. Duckens suggested that the Board could potentially enter into an interagency agreement with the California Department of Transportation for IT support.

**Board Licensing:**

Mr. Garfinkle announced that between the July and August Board meetings, staff has renewed pilot licenses for Captains Laakso, Merritt, Burger, Boriolo, and Kirk. And, since the August meeting, staff renewed Capt. Coney's pilot license

**Board Surcharges:**

Mr. Garfinkle reported that the Board received a check for \$90,035.58 for August surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$33,085.58

Continuing Education Surcharge: \$32,975.00

Trainee Training Surcharge: \$23,975.00

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**Legislative Matters:**

Mr. Garfinkle reported that there has been no legislation affecting the Board since last meeting.

**Contractual Matters:**

Since Ms. Cristia-Plant was in Sacramento attending a training class, Mr. Garfinkle gave the contracts report on her behalf. He reported that staff entered into Pilot Trainee Training Program contracts with four trainees who took the exam in June of this year.

Responses to the recent request for information were received from all six manned model training providers, and that staff has compiled the responses and will continue to work with Capt. Long to determine minimum qualifications and point scoring categories to be included in a request for proposals.

Staff is currently working with contract analysts at California Highway Patrol to produce an invitation for bids (IFB) to procure a surcharge auditor. It is anticipated that the IFB will be directed to certified small business, which should speed the contracting process.

As was previously reported to the Board, contracts for incident investigation services were procured with Capt. Klaus Niem and Capt. Jeff Hill. The contract with Capt. Niem was fully executed and approved by the Department of General Services (DGS) in August. Capt. Hill's contract, although exactly the same, did not pass DGS legal review. DGS has suggested amendments and revisions to Capt. Hill's contract.

Trainees in the Board's Pilot Trainee Training Program need to be randomly drug tested to maintain their federal licenses while they are in the program. Currently, the SFBP's drug testing contractor also tests trainees on behalf of the Board for post-incident testing, but the Board may need to enter into a direct contract for these services.

**6. Port Agent's Report**

Capt. Pete McIsaac gave the Port Agent Report. He reported the following to the Board:

- There were two pilots absent for medical reasons during the month of August.

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- There were eight minimum rest period (MRP) exceptions during the month of August. This was largely due to a large number of river moves to the Port of Stockton, which had its busiest month of vessel calls ever.
- The P/V PITTSBURG was taken out of service on September 2, 2014, for the planned service life extension project, which is about 75% complete. .
- The P/V DRAKE was out of service from September 2-17, 2014, for planned maintenance and repairs.
- The P/V GOLDEN GATE was out of service September 24, 2014, for planned maintenance and repairs.

When compared to a three-year average, bar crossings were down 0.5% during the month of August at 556. There were 103 bay moves, up 8.3%, and 60 river moves, up 27%. Total moves were up 2.1% at 719, and gross registered tonnage was up 7% at 31,189,639 tons. When compared to 2013 year-to-date, total moves were up 3% and gross registered tonnage was up 5.7%.

Capt. McIsaac announced to the Board that there had been an incident of a stowaway on the M/V COSCO OCEANIA on September 21, 2014. The man approached the pilot on board and engaged him in conversation as he was lining up the vessel to pass under the San Francisco-Oakland Bay Bridge. After finding out he was not a crewmember, but a stowaway purporting to be on his way to Busan, Korea to find work, the pilot had him removed from the bridge. Federal law enforcement was notified, and the man was eventually put on a water taxi and released. Capt. McIsaac indicated the SFBP has concerns about how the situation was handled, and the questioned the level of response from federal, and local authorities.

Capt. Roberts asked if it is within the Board’s purview to write a letter expressing concern to authorities who have jurisdiction over such matters in the Bay. Vice President Connolly agreed with him and, as a result of the discussion, President Johnston directed Board Staff to compose a letter to authorities expressing concern regarding stowaways and public safety.

Vice President Connolly asked Capt. McIsaac whether he had any further information on the tug demonstration which had taken place in Port. Angeles, Washington. Capt. McIsaac gave a detailed description of the exercise and reported that the SFBP was invited to participate in a similar exercise in the San Francisco Bay, but the amount of sea room in the Bay was not sufficient to reproduce the necessary exercise conditions.

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**7. Pilot Evaluation Committee**

Capt. Einar Nyborg gave a report on Pilot Evaluation Committee (PEC) activities since the last Board meeting, and acknowledged the Committee last met on September 17, 2014. He reported that since the August Board meeting, Captains Murray, Rubino, Kasper and Hirschfeld were welcomed into the Pilot Trainee Training Program. The new trainees attended an initiation day during which program details, safety equipment and procedures were discussed.

Capt. Nyborg next announced that, at its September 17, 2014, meeting, the PEC had evaluated Capt. Cevan LeSieur's performance in the Pilot Trainee Training Program and determined that he met the program requirements as outlined in California Code of Regulations, Article 4, Subsection 214 (c) and (h). The PEC is recommending that Capt. LeSieur be issued a Certificate of Completion for the Pilot Trainee Training Program.

President Johnston asked Mr. Garfinkle to confirm that Capt. LeSieur had completed all requirements to be awarded a Certificate of Completion. Mr. Garfinkle affirmed that he had.

**MOTION:** Commissioner Long moved to grant Capt. LeSieur a Pilot Trainee Training Program Certificate of Completion. Vice President Connolly seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

President Johnston asked Mr. Garfinkle to confirm that he had received a complete pilot license application and associated documents from Capt. LeSieur. Mr. Garfinkle affirmed that he had and that there is one vacancy with respect to the number of authorized licenses.

**MOTION:** Commissioner Long moved to grant Capt. LeSieur a pilot license. Vice President Connolly seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

Capt. LeSieur was then sworn in by President Johnston, following which the Board took a short recess.

BEGIN RECESS: 9:55 a.m.  
 END RECESS: 10:20 a.m.

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**8. Reported safety standard violations**

There were no safety standard violations reported since the last meeting.

**9. Reportable piloting events**

- A) On May 15, 2014, the TUG Z FIVE was involved in an allision with the Union Pacific Railroad Bridge fendering system while taking part in a dead-ship tow of the USNS PONCHATOULA when the ship was transiting from the Reserve Fleet to Mare Island. The 90-day deadline for reporting to the Board on this incident was August 13, 2014. The incident report was presented under agenda item 17.
  
- B) Mr. Garfinkle reported that there was an event involving the M/T MINDORO STAR at the Valero Benicia Marine Terminal (BNC 4) with an alleged hard landing on July 26, 2014, that caused damage to the dock. He indicated that the 90-day deadline for reporting to the Board on this incident is October 23, 2014, which falls on the same day as the Board meeting. Mr. Garfinkle asked for an extension due to concerns with the State Auditor’s interpretation of 90-days. The Board granted an extension to October 23, 2014 Board meeting.
  
- C) Mr. Garfinkle gave an initial report on the loss of propulsion of the M/V OCEAN LIFE on September 5, 2014, wherein the anchor was deployed and allegedly made unintended contact with (and damage to) the Trans Bay Cable in the vicinity of the Union Pacific Railroad Bridge. Mr. Garfinkle indicated the investigation is underway, and that the 90-day deadline for reporting to the Board on this incident is December 4, 2014.

**10. Low Sulfur Fuel**

Mr. Garfinkle gave a report on loss of propulsion due to the suspected impact of low sulfur fuel from data provided by the Office of Spill Prevention and Response. He reported that there were five (5) loss of propulsion incidents in California during the month of August, 2014. Of those incidents, one was determined to be related to fuel switching and three were suspected to be related.

Additionally, Mr. Garfinkle shared the U.S. Coast Guard’s Harbor Safety Committee report, which listed loss of propulsion incidents occurring within the jurisdiction of U.S. Coast Guard Sector San Francisco in August, 2014. There were three loss of propulsion incidents. None were related to fuel switching.

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**11. Implementation of Pilot Fitness Regulations**

Mr. Garfinkle reported that, in spite of early communication issues, the implementation of the interagency agreement with UCSF is going well. Staff is currently collecting medical records from doctors with whom the Board had previous agreements.

**12. Report of Finance Committee**

Commissioner Schneider reported that the Finance Committee met on September 17, 2014. With the licensure of Capt. LeSieur earlier in the meeting, the number of pilot licenses has reached the maximum of 60. The Committee recommended raising the pilotage mill rate relative to the number of licensed pilots as of October 1, 2014, and since there will be 60 pilots on October 1, 2014, the Finance Committee recommended increasing the bar pilotage rate from .09181 to .09243 per high gross registered ton, with the draft foot rate to remain at \$10.26.

**MOTION:** Commissioner Roberts moved to raise the mill rate from .09118 to .09243. Vice President Connolly seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

Commissioner Schneider further informed the Board that the Finance Committee reviewed all surcharges and declined to recommend and adjustments the Board Operations Surcharge, the Pilot Vessel Surcharge or the Trainee Training Surcharge. However, due to a surplus of funds in the Continuing Education fund, the Committee voted to lower the surcharge from \$50 per move to \$25 per move.

**MOTION:** Commissioner Roberts moved to reduce the Continuing Education Surcharge from \$50 to \$25 per move, and retain the current surcharge amounts for the Board Operations Surcharge, the Pilot Vessel Surcharge, and the Trainee Training Surcharge. Commissioner Long seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

The Committee also considered the issue of trainee stipends. The stipend has been set at \$5,000 for at least five years. Based on analysis and discussion of the increase in cost of living in the Bay Area, the Committee recommends raising the stipend to \$6,000 per month.



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**MOTION:** Commissioner Schneider moved to raise the monthly trainee stipend to \$6,000 per month beginning November 1, 2014. Vice President Connolly seconded the motion.

**ACTION:** The motion passed unanimously.

**THE BOARD NEXT CONSIDERED AGENDA ITEM 16, AS ITEMS 13, 14, AND 15 REQUIRED CLOSED SESSIONS, WHICH WILL FOLLOW AGENDA ITEM 17.**

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

Vice President Connolly Reported that the Pilot Safety Committee would meet on Wednesday, October 2, 2014. Capt. Rick Hurt will represent the Port Agent.

At its meeting, the Committee will discuss a recent safety alert from the U.S. Coast Guard (USCG) regarding bridge resource management and communication in pilotage waters.

Vice President Connolly then shared a USCG safety bulletin on air draft calculations. He asked whether the pilots calculate the air draft and how they check the calculations. Commissioner Roberts responded to his question, stating that the Pilots do not make assumptions about air draft. Specific data should be provided by the ship and independently verified and calculated. He indicated that there are generally no air gap issues except when incorrect information is supplied by a ship.

Vice President Connolly also cited from the USCG annual Port State Control Report. There was a discussion of the efficacy of USCG port-state control. Vice President Connolly noted that only a small percentage of vessels entering our waters get inspected, and he would like to look at which flag states have the most safety violations. Commissioner Roberts offered that Pilots are the first line of defense and that the “see something, say something” practice could serve to alert the authorities of safety violations in a timely and meaningful manner.

**PRESIDENT JOHNSTON PROCEEDED WITH AGENDA ITEMS 18 AND 19 OUT OF ORDER SO THAT CLOSED SESSIONS FOR AGENDA ITEMS 13, 14, AND 15 COULD BE HELD FOLLOWING THE CLOSED SESSION FOR AGENDA ITEM 17.**

**18. Public Comment on matters not on the agenda.**

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Capt. McIsaac reported that the P/V PITTSBURG service life extension project is about 75% finished. The final request for pilot vessel surcharge funds is anticipated in mid-October. The funds would cover costs not met by the Carl Moyer Grant. Capt. McIsaac requested a meeting of the Pilot Vessel Advisory Committee prior to the November Board meeting.

Commissioner Schneider informed Capt. McIsaac that the Finance Committee confirmed that up to \$120,000 could be covered by the Pilot Boat Surcharge fund without stressing the fund. The project cost is not expected to exceed the available \$120,000.

**19. Proposals for Next Month’s Agenda**

There were none.

**17. Incident Review Committee report on the USNS PONCHATOULA. – President Johnston**

President Johnston recused himself from participation as a voting member of the Board in order to participate in the meeting as chairman of the Incident Review Committee (IRC). Vice President Connolly presided over this agenda item in his absence.

Mr. Garfinkle presented the investigation report on behalf of the Incident Review Committee and conveyed the following:

On the afternoon of May 15, 2014, the USNS PONCHATOULA was under tow from the National Defense Reserve Fleet in Suisun Bay to be dry-docked at Mare Island. It was piloted by Capt. Tom Burger, who was supervising pilot trainee Capt. Sam D’Aloisio as he piloted the vessel. Conditions were windy and there was a strong flood current, which reduced the speed of the ship over the ground.

It was noted for those unfamiliar that dead ship tows, that they have no crew, no power, and hence no electronic instrumentation whatsoever. With no navigational instruments available to the pilots, they must instead pilot by visual reference.

There were delays in getting the tow underway, but once underway arrangements were made for the Union Pacific Railroad Bridge (UPRR Bridge) to be lifted at 1330 and the bridge-tender confirmed a “full lift” at 1327. The tow proceeded uneventfully up to the point of passing under the UPRR Bridge. When the stern of the tow (being towed stern

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first) passed under the bridge, the gusting wind caused the tow to sheer to the north, which was aided by the strong flood current. Capt. D’Aloisio gave orders to the tugs to stop and reverse the sheer to the north but when it became apparent the tow was not responding, he instructed the tug operators to do what they need to do to keep their tugs safe. In spite of these efforts, the TUG Z FIVE made contact with the fendering of the UPRR Bridge. There was no damage to the tug or the ship.

Following the contact, damage to the bridge was assessed by surveyors from both Union Pacific Railroad and Starlight Marine and estimates for repairs to the fendering ranged from \$100,000 to \$300,000.

The Incident Review Committee interviewed Both Capt. Burger and Capt. D’Aloisio, and the tug operators. Although Cap. D’Aloisio was in control of the vessel, as the pilot of record, Capt. Burger bears the responsibility for any incidents. He offered his opinion that Capt. D’Aloisio acted properly throughout the event.

After evaluating all the evidence in the incident, the IRC determined that, due to environmental factors (wind and tide), the USNS PONCHATOULA swung to the north. Although Capt. D’Aloisio took steps to counter the swing, the only tools he had at his disposal were three tugs. The Committee found that Capt. Burger had acted neither ignorantly nor willfully in his control of the TUG Z FIVE. The Committee also found that Capt. Burger exhibited a level of care consistent with that of another skilled pilot placed in a similar situation.

Based on the information received by the IRC, it was recommended that the Board find no pilot error and close the case with no further action.

The Board discussed this item in closed session (see below).

**14. Report on the status of Public Records Act litigation – Board Counsel Eagan**

Board Counsel Eagan had no report except to say that the appeal is pending.

**THE BOARD THEN WENT INTO CLOSED SESSION TO DISCUSS AGENDA ITEMS 13, 15 and 17.**

**BEGIN CLOSED SESSION: 11:30 a.m.**  
**END CLOSED SESSION: 12:32 a.m.**

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**13. Review of Findings on Capt. Craig Reeder’s appeal of the Board’s denial of his application for an inland pilot pension.**

Board Counsel Eagan reported that Board members had reviewed and approved the draft findings on the appeal in closed session.

**15. Report on Fair Political Practices Commission decision to include the Port Agent in the Board’s Conflict of Interest Code. – Board Counsel Eagan**

This item was discussed in closed session. No report out of the closed session.

**17. (Continued)** Mr. Eagan reported that Board members discussed the IRC investigation into the USNS PONCHATOULA incident and accepted the IRC recommendation to close the case with no Pilot error. Additionally Board members recommended that portable external navigational aids such as personal piloting units should be used in dead ship tows, and that tug configuration should also be studied. Board Counsel Eagan stated that he will prepare findings consistent with the decision and present them at the October Board meeting.

**20. Adjournment**

There being no further business before the Board, the meeting was adjourned at 12:35 p.m.

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Allen Garfinkle, Executive Director