

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

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E-mail: [brian.vu@bopc.ca.gov](mailto:brian.vu@bopc.ca.gov)website: [www.bopc.ca.gov](http://www.bopc.ca.gov)**Board of Pilot Commissioners  
Monthly Board Meeting****October 21, 2010****9:30 a.m.****MINUTES****OPEN MEETING****Call to Order and Roll Call-9:30 a.m.**

President Miller called the meeting into order at 9:32 a.m. President Miller, Vice President Johnston, Commissioners Tate, Osen, Sullivan, Wainwright and Roberts were present, constituting a quorum. Business, Transportation and Housing (BTH) Secretary Bonner was represented by BTH Deputy General Counsel Morocz telephonically from Sacramento. Executive Director Garfinkle, Board Counsel Deputy Attorney General Dennis Eagan, Port Agent Capt. McIsaac and Staff Services Analyst Brian Vu were also present.

**1) Approval of Minutes**

President Miller requested approval of the minutes of the September 23, 2010 Board meeting. Board Counsel Eagan recommended a clarification of the language from PG&E in regards to their survey on the wires that were the subject of the SANKO INNOVATOR non-incident report. Commissioner Tate moved approval with authority to Board staff to make clerical, non-substantive changes. Commissioner Johnston seconded the motion which passed unanimously on a voice vote.

**2) Announcements - President Miller**

There were none.

**3) Board Member Activities – Board Members**

Vice President Johnston stated that he had brunch last Sunday with Vice Admiral Hunt and wanted to pass on his thanks to Capt. McIsaac and the rest of the San Francisco Bar Pilots for their professionalism and help in connection with their services during Fleet Week. There were no other reports of Board member activities.

#### **4) Executive Director's Report – Executive Director Garfinkle**

##### **A) Correspondences and activities since September 23 meeting.**

Executive Director Garfinkle reported that he had received a Notice of Proposed Rulemaking from the Office of Spill Response (OSPR) within the Dept. of Fish and Game. This rulemaking concerns modifying the Oil Spill Response Plans that are required to be submitted by tank vessels, non-tank vessels and marine facilities. The plans are used in a response effort that would be necessary in the event of a discharge of oil into the marine waters of the state.

The proposal amends the regulations and adds new language establishing a late filing fee for late plan submittals/renewals, helps identify and revoke obsolete plans, requires electronic submittal of plans, more consistent as appropriate, clarifications and corrections. Written comment period runs through November 16, 2010 and the Executive Director has the contact information for that if anyone is interested.

Executive Director Garfinkle reported receiving an application on October 6, 2010 from the San Francisco Bar Pilots (SFBP) to increase the mill rate pursuant to Harbors and Navigation Code §1190(a)(1)(C) and on October 11, 2010 received a response to SFBP's mill rate increase by Pacific Merchant Shipping Association. He noted that these writings will be discussed in more depth under item 23 of today's agenda.

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

Executive Director Garfinkle reported four licenses renewed in September: Capt. Blake Coney, Capt. Thomas Burger, Capt. Timothy Hall and Capt Daniel Boriolo. He reported no licenses issued thus far in October.

##### **C) Report on surcharges received by the Board.**

Executive Director Garfinkle reported the Board collected surcharges totaling \$230,970.25 broken down as follows: Pilot Commission charge \$177,762.25, pilot training surcharges of \$27,180.00, and trainee surcharge of \$26,028.00.

##### **D) Report on status of contracting two additional trainees for training program.**

Executive Director Garfinkle reported that the two highest scoring trainees from the last exam had been contacted and offered positions in the training program. Both verbally accepted the offer and contract requests have been submitted to the California Highway Patrol for processing.

##### **E) Report on legislative activities and contractual matters.**

The Executive Director reported on the following contracts:

Port Revel: A contract amendment has been submitted to CHP and they will require a new Non-Competitive Bid proposal to be prepared and submitted. Staff is working on this.



San Francisco Bar Pilots: A question arose whether money needed to be added to this contract, as there appears to be sufficient funds remaining in the contract. This issue is still open and will be resolved the current fiscal year funds are clearly identified and liabilities established.

Security for Board Offices: Staff Services Analyst Brian Vu has commenced the contracting process for Board office security by collecting bids to provide security monitoring.

Board Investigator Contract: Remains with California Highway Patrol for processing.

Surcharge Audit: Contract is out for bid and bids are due on October 27, 2010.

Ghirardo, CPA: We have a signed amendment good through March 31, 2012 with an additional \$19,000.00 added.

Port of San Francisco office lease: There has been no apparent progress and this is still with the Department of General Services.

Legislative: There is a state budget in place and the trainees are now receiving their stipend.

#### **5) Port Agent's Report - Capt. Peter McIsaac**

President Miller noted that this would be the last report delivered by Port Agent McIsaac who is completing his term of office as President of the San Francisco Bar Pilots Association. The SFBP will elect a new president on November 3, 2010. The Board will have the opportunity to confirm the new president as Port Agent at its November board meeting.

President Miller stated his appreciation for Capt. McIsaac's many contributions to the smooth running of the Board and his availability to the Executive Director and the members of the Board. Other members of the Board expressed their appreciating and wished him well as he returns to his piloting duties.

Commissioner Tate suggested that the Board commend Capt. McIsaac for his service and that the action be included in the minutes of the meeting. There was unanimous agreement among Board members and Capt. McIsaac is herewith commended.

A) Monthly confidential written report on pilots 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 the Harbors and Navigation Code, Section 1157.1.**

Captain Kleess has been absent for medical reasons (AMFR) since August 25, 2010. He is currently awaiting medical clearance from the USCG.

Captain Fuller has been AFMR since September 17, 2010. His physician has cleared him to return to work October 20, 2010.

Captain Lemke has been AMFR since October 7, 2010. He will be working in the operations office during the recovery which is expected to last through the end of the year.

BOPC designated physician Dr. Gunderson contacted Capt. McIsaac on October 15, 2010 to report that he found Captain McBride NFFD. Captain McBride is training as an Operations pilot until such time he is either found fit for duty or permanently unfit.

**B) Recommended Minimum Rest Period Exceptions:**

There were eight during the month of September on two separate days. The shortest rest period was 8.4 hours.

**C) Pilot Vessel Report:**

Pilot Vessel GOLDEN GATE has been out of service since October 18, 2010 due to a steering problem. The repairs are expected to be completed today. Pilot vessel DRAKE has been out of service since October 16, 2010 due to a starboard main engine keel cooler problem. The boat is currently undergoing repairs in the dry dock.

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

Billed moves in September 2010 compared to the three year average were as follows: Bar crossings down 7% (551), bay moves down 25% (96), river moves down 14% (9), total moves down 10% (556) and gross registered tons (GRT) down 5.7% (27.9M.) When compared to the first nine months of 2009 bar crossings, bar crossings are slightly positive, GRT down 1%, and total moves down .3%.

All Commissioners were provided with copies of the Port Agent's confidential written report of pilots who have been absent for medical reasons. After the Board had had the opportunity to read the report, President Miller inquired whether any member wished to go into closed session to discuss the contents of the confidential report. There were no requests.

**6) Pilot Evaluation Committee (PEC) – Commissioner Roberts for Capt. Nyborg**

**A) Report on October 20, 2010 committee meeting.**

The Pilot Evaluation Committee met on October 20, 2010. In closed session, all four trainees were interviewed individually. The current trainees include: Ruff Fawcett, Kellerman and Laakso. Their time in the program ranges from four months to 17 months and all trainees are progressing well at this time.

The Portable Pilot Unit (PPU) training is still a work in progress in terms of training. Currently, three trainees are not trained and will eventually need it. Training with PPU's comes at the end of the trainee training, when the trainee has demonstrated sufficient skill with the senses.



B) Possible recommendation for the appointment of a new pilot or pilots.

There were none.

**7) Reported Safety Standard Violation and Investigations – Executive Director Garfinkle**

No new reports have been received.

**8) Reportable Piloting Events – Executive Director Garfinkle**

A) Report on status of wires that were the subject of SANKO INNOVATOR investigation.

Executive Director Garfinkle provided a follow-up report on the SANKO INNOVATOR non-incident presented at the September meeting. PG&E raised the wires on September 13, 2010. The height was previously 130.4' at MHHW (Mean Higher High Water) and is currently 141.6' at MHHW.

B) Notice of new event involving the October 5, 2010 temporary grounding of the M/V BALTIC LEOPARD.

Executive Director Garfinkle reported that an investigation has been launched and will report more on the November meeting.

**9) Notice and Order of withdrawal of Accusation – Executive Director Garfinkle**

In the matter of the Accusation Against Captain Michael A. Simenstad, Capt. Simenstad has retired, effecting a resignation of his license pursuant to California Harbors and Navigation Code section 1163(a)(3). Therefore the Executive Director recommends to the Board that the Accusation NO. 09-01 be withdrawn and dismissed without prejudice. **Board action to adopt the Order to withdraw Accusation No. 09-01 against Capt. M.A. Simenstad.**

Executive Director Garfinkle addressed the Board and reported that Capt. Simenstad retired on September 30, 2010, effecting a resignation of his license. Accordingly, Board action against his state license is no longer available. Executive Director Garfinkle recommended that Accusation No. 09-01 be withdrawn and dismissed without prejudice. Board Counsel Eagan explained the legal process involved, stating that once action is taken by the Board authorizing the withdrawal of the accusation, Deputy Attorney General Cooper would make a motion before the administrative law judge with jurisdiction over the accusation, and it likely would be dismissed without prejudice to the Board should the Board later wish to re-file the accusation.

After discussion, Commissioner Wainwright moved that Accusation No. 09-01 (against former licensee Capt. Michael Simenstad) be withdrawn and that the Attorney General's office be requested to seek dismissal of the accusation without prejudice. Commissioner Tate seconded the motion. President Miller called for discussion by the Board and comments from the public. There were none.

Whereupon, the motion carried on a roll call vote with six yeas and zero nays with Commissioner Johnston abstaining.

In the public comment response, Mr. George Nowell, an attorney representing Capt. Simenstad, sought recognition. President Miller acknowledged the request and invited him to address the Board. (Please see attachment to Board minutes) President Miller thanked Mr. Nowell and stated that the minutes would reflect his comments.

#### **10) Rules and Regulations Committee – Commissioner Wainwright**

##### **A) Report on September 15, 2010 Committee meeting.**

The Rules and Regulations Committee met on October 13, 2010 at 11:00 a.m. with Commissioner Wainwright presiding and Commissioners Sullivan and Johnston present, constituting a quorum. Also present was Board Counsel Dennis Eagan and retired annuitant, Terri Toohey. Business, Transportation and Housing (BTH) Secretary Bonner was represented by BTH Deputy General Counsel Morocz telephonically from Sacramento.

##### **B) Report on status of various Rules and Regulations Committee agenda items.**

- 1) Portable pilot unit and Commission investigator minimum standard regulations are with the Office of Administrative Law (OAL) with the deadline set for November 15, 2010. These should become regulation 30 days later or December 15, 2010.
- 2) Election and term of office for Commission president and vice-president's draft can now go on to OAL as September's commission meeting minutes have been approved.
- 3) Draft regulations for frequency of pilot training from five years to three years public comment period is complete. There is a 30 day public comment period.
- 4) The adjustment of manned-model training duration from six to five days will require a 15 day public comment period. On completion, it will be combined into the rulemaking package.
- 5) Draft regulations for pilot and trainee annual physicals, section 217 are in public comment period which ends on November 15, 2010.

##### **C) Report on the Conflict of Interest Code as amended by the Fair Political Practices Commission.**

Conflict of interest code guidelines have passed through OAL and are before the Secretary of State.

##### **D) Presentation of draft amendments to 7 CCR sec. 210 concerning the Incident Review Process.**

Commissioner Wainwright presented to the Board a draft of 7 CCR sec. 210 approved by the Rules and Regulations Committee. Commissioner Wainwright moved that the Board authorize staff to initiate formal regulatory amendment process with respect to draft amendments to 7 CCR sec. 210. Commissioner Roberts seconded the motion.



President Miller called for discussion by the Board and comments from the public. Mr. Mike Jacob, Vice President of the Pacific Merchant Shipping Association thanked Commissioner Wainwright and the Committee for their efforts in amending the regulations governing the incident review process and stated his view that the end result was a good product. Whereupon the motion passed on a unanimous voice vote.

- E) Report on regulation regarding the manner and content of a notice provided by the Port Agent to the Executive Director of a suspected violation, navigational incident, misconduct, or other rules violation in conformity with Harbors and Navigation Code Section 1130(c)

Commissioner Wainwright reported to the Board that the Rules and Regulations Committee was still working on Port Agent reporting and had suspended work on rulemaking with respect to notice by the Port Agent to the Executive Director until after the election of a new association president by the membership of the SFBP later in 2010. Port Agent McIsaac will be termed out as president of the SFBP and the Committee believes it will be most appropriate to defer consideration in order to work with the new incumbent after his or her election.

Commissioner Wainwright also reported to the Board of new agenda items encompassing agenda ID cards, pilot licenses and drafting of any pilot ladder regulation upon recommendation by Commissioner Sullivan's Safety Committee.

**The Board then moved to agenda item 17.**

**17. Pilot Safety Committee – Commissioner Sullivan**

Commissioner Sullivan reported that he had made a preliminary report to the Rules and Regulations Committee of his review of the statutory provisions concerning the Board's responsibility for investigating reports of pilot ladder violations. President Miller stated his view that the Rules and Regulations Committee was an appropriate venue to develop recommendations with respect to the Board's responsibilities and had asked Commissioner Wainwright to place the matter on the Committee's agenda. Commissioner Wainwright agreed to do so.

**The Board then moved to agenda item 21.**

**21. Pilot license documentation; trainee identification documentation; identification cards for Board members, Board staff, Board investigators and others – President Miller**

President Miller and Executive Director Garfinkle discussed the recent history of identification documents prepared by Board staff and issued to licensees, trainees, and Board investigators. President Miller noted that there have been frequent calls by pilots for an identification document that is durable and would be the same size as a credit card or Transportation Workers Identification Credential (TWIC) and thus readily carried in a pilot's wallet. President Miller requested the Rules and Regulations Committee to consider what information should be included on documentation issued by the Board to licensees and others. There was discussion that included a suggestion that

microchips could be imbedded in the identification. Commissioner Wainwright agreed to put the question of identification documentation on the Committee's agenda.

**The Board then proceeded to agenda item 11.**

**11) Finance Committee – Commissioner Osen**

**A) Report on October 19, 2010 committee meeting.**

The Board of Pilot Commissioners Pilot Finance committee met on October 19, 2010. All members were present and the Committee reviewed fund conditions and present surcharges.

**B) Report on current Pilot Vessel Surcharge rate, revenue, expenditures, and reserve balance.**

Commissioner Osen reported that CHP did not have any new numbers beyond the Fiscal Year 2009-2010 Statement of Fund Condition presented at September's Board meeting. In addition, with no budget previously in place, there were no hard numbers on the expenditure side to work with. As a result, the committee directed staff to liaison with CHP and have projections for next month's meeting.

**C) Report on adjustments to authorized pilotage rates, if any, including Board Operations surcharge, Pilot Training surcharge, Trainee Training surcharge or Navigation Technology surcharge.**

Commissioner Osen reported that the Navigation Technology surcharge would reach the limit very shortly. Consequently SFBP will stop collecting soon and staff was directed to tell Capt. Slough to stop collecting as of October 19, 2010.

**D) Receive recommendations from Committee concerning proposals for inclusion in Spring Finance letter for FY 2011/2012.**

Commissioner Osen reported noted that Board Operations has a large surplus and that this should be reviewed with CHP to determine whether this is consistent with content of Spring Finance Letter and future Board needs. Commissioner Osen also reported the Finance Committee has reviewed the proposals for the Spring Finance letter and suggested that staff provide more detail for further cost analysis. It was also noted that staff should work with the Department of Finance to keep them informed of any revenue stream changes.

**12. Pilot Fitness Committee – Commissioner Roberts**

**A) Report on September 21, 2010 and October 6, 2010 Committee meeting.**

Commissioner Roberts reported that the Board's Pilot Fitness Committee met on September 21, 2010 and October 6, 2010. All members were present and the Committee's full agenda was considered.



- B) Report on Committee review of current procedures for determining fitness for duty, appeal procedures (7 CCR sec. 217).

Commissioner Roberts reported that Dr. Kosnik walked the committee through eleven draft recommendations.

- C) Report on Committee review of budgetary requirements related to projects concerning this Committee.

Commissioner Roberts stated that there were no recommendations related to his Committee at this time.

### **13. Pilot Pension Committee – Commissioner Tate**

Commissioner Tate stated that there was no report.

### **14. Low Sulfur Fuel – Commissioner Osen**

Commissioner Osen stated that there was no report.

### **15. Ad Hoc Working Group on Trainee Recruitment – President Miller**

President Miller announced the formation of a working group to review current Board regulations with respect to qualifications required of applicants who wish to sit for the trainee selection examination and to develop recommendations to the Board with respect to retention or modifications of current regulations. He noted that the Board's regulations were revised in 1999 and again in 2005 and observed that periodic review of the qualifications required of potential future trainees is an important oversight and policy function of the Board.

President Miller stated that he had appointed Commissioner Tate to chair the working group, and that he had appointed Commissioners Osen and Wainwright to the working group as well as an additional member from the Pilot Evaluation Committee to be determined.

### **16. Continuing Education Committee – Commissioner Roberts**

- A) Report on October 13, 2010 Continuing Education Committee meeting.

The Continuing Education Committee met on October 13, 2010 at 9:30 a.m. and all agenda items were considered. Commissioner Roberts noted that the Combination Course extension to a five year cycle is currently at OAL and the amendment to make the Manned Model Training a five day course is in the rulemaking process.

B) Report on status adequacy of manned model training and contracting process.

Commissioner Roberts reported that the amendment to the Port Revel contract was in the approval process to add funds to cover a multi-year shortfall due to currency fluctuations and that the Board had previously approved this amendment. There was discussion concerning the appropriate contractual language to be utilized and the interpretation of the current contract. Commissioner Roberts also noted that a two year contract for the next manned model training with an option to extend, would be a favorable course to provide a time frame to investigate other training facility options.

**(Item 17 addressed out of agenda order earlier in the meeting)**

**18. Ad Hoc Committee on Incident Investigations – Commissioner Osen**

Commissioner Osen stated there was no report.

**19. Report of the Attorney General's Office – Board Counsel Eagan**

Board Counsel Eagan stated there was no report.

**20. Regional Regulator Meeting – President Miller**

President Miller reported that he had corresponded with the Pacific Pilotage Authority in Vancouver and that thus far no agenda has been developed for the December meeting. However, Pilotage Authority staff believes that a draft agenda will be forthcoming soon.

President Miller stated a condition precedent to a delegation from the Board traveling to Vancouver and participating in the meeting is for the Board to authorize the participation and payment of travel expenses of participants, program fees, and per diem.

President Miller stated his belief that sufficient funds and expenditure authority were available in the Board's operations budget. Executive Director Garfinkle noted that it is his belief that adequate funding exists within the current budget.

President Miller stated that he had polled the Board and that it presently appears that five Board members and the Executive Director wish to attend. Executive Director Garfinkle estimated that the cost per participant would be approximately \$1150, as follows: Airfare, \$500; hotel (2 nights @ \$200) \$400; per diem (2 days @ \$50) \$100; program fee, \$150. The total for all participants would be approximately \$6900.

President Miller stated his view that meeting with counterpart regulators from other jurisdictions is an invaluable opportunity to discuss "best practices" and identify opportunities to improve the Board's operations and oversight of pilots and pilotage in the Board's waters.



Following some discussion, Commissioner Johnston moved that the Board authorize five Board members and the Executive Director to participate in the regional regulators meeting scheduled for December 7 and 8, 2010 in Vancouver, British Columbia and that the Board allocate \$7000 from its operations budget for the purpose. Commissioner Tate seconded the motion. President Miller called for discussion by the Board and comments from the public. There were none. Whereupon the motion passed unanimously on a voice vote.

**21. Presentation by Mr. Arthur De Graauw, Director of Port Revel Center – Arthur De Graauw.**

President Miller then welcomed Mr. Arthur De Graauw and asked Continuing Education Committee Chairman Roberts to introduce him to the Board.

Commissioner Roberts introduced Mr. De Graauw, who expressed his appreciation to the Board for the opportunity to make a presentation.

**President Miller stated that the Board would recess to allow for the set up of audio/visual equipment. The Board stood in recess at 10:58 A.M.**

**The Board returned to open session at 11:20 A.M. President Miller noted that all members were present, constituting a quorum.**

Mr. De Graauw shared a presentation video and PowerPoint on the manned model facilities and training offered at Port Revel Center in France.

At the conclusion of his presentation, Mr. De Graauw and members of the Board discussed the Board's manned-model training program.

President Miller thanked Mr. De Graauw for his presentation and for arranging his schedule in order to meet with the Board. He asked Mr. De Graauw to convey to his colleagues at Port Revel how valuable the manned-model training program has been for the Board's licensees and how much the Board appreciates Port Revel's service to the pilotage world.

**President Miller stated that the Board would recess for 75 minutes. The Board stood in recess at 12:15 P.M.**

**The Board returned to open session at 1:38 P.M. President Miller noted that all members were present, constituting a quorum.**

**23) San Francisco Bar Pilots (SFBP) request for mill rate adjustment due to catastrophic cost increase – President Miller**

Discussion and decision on the process applicable to a Board hearing and determination in response to a rate adjustment request due to catastrophic cost increase.

President Miller reported to the Board that resolving the meaning and application of the statute before proceeding further was paramount. As a result, he recommended setting a hearing date to see if Harbors and Navigation Code section 1190(a)(1)(C) was properly invoked by SFBP. After discussion, Commissioner Roberts moved for a special meeting to be held on November 15, 2010 at 9:30 a.m. Commissioner Wainwright seconded the motion. President Miller called for discussion by the Board and comments from the public. Commissioner Osen and Commissioner Sullivan objected to this motion, citing a lack of time and questioning the necessity of the special meeting. Following the discussion a roll call vote was taken. The motion carried on a roll call vote with Commissioners Miller, Johnston, Tate, Roberts and Wainwright for and Commissioners Osen and Sullivan against. The Board directed SFBP's attorney Kevin Davis to have his response submitted by November 1, 2010. The Board then directed Pacific Merchant Shipping Association attorney Conte Cicala to submit his response by November 8, 2010.

President Miller also recommended setting a tentative date in December for a rate adjustment hearing in the event the Board decided at the November 15 hearing that one was required under section 1190(a)(1)(C). After discussion among the board, December 13, 2010 was agreed upon as the tentative date. Commissioner Johnston moved that December 13, 2010 be the tentative date for a meeting in regards to a mill rate adjustment. Commissioner Tate seconded the motion which passed unanimously on a voice vote.

**24) Public Comment on Matters not on the Agenda.**

There were none.

**25) Proposals for Additions to Next Month's agenda.**

There were none.

**26) Adjournment**

The Board agreed to meet on November 18, 2010 at 9:30 A.M. at the Board offices.

There being no further business to come before the Board, the Board adjourned at 2:32 p.m.



## **ATTACHMENT**

### **GEORGE W. NOWELL, ESQ.'s STATEMENT TO BOPC** **(OCTOBER 21, 2010)**

In the public comment response time for Agenda Item No. (9), a motion before the Board to "withdraw" the Accusation against Captain Simenstad "without prejudice" following the retirement of Captain Simenstad, George W. Nowell made the following presentation to the Board (attempted to be recounted herein as presented):

- A. I am George Nowell of the Law Offices of George Nowell, representing Captain Simenstad, and with me is John Cigavic of my office. We want to ensure the minutes reflect that Captain Simenstad's retirement is independent of the Board of Pilot Commissioners' charges pending and the proposed dismissal without prejudice. The 'suspension and revocation' efforts of the Board are separate from any considerations upon which Captain Simenstad based his decision to retire.
- B. It is apparent that the Board's actions today confirm the results of the Board's actions taken two months ago in seeking a continuance of the hearing of the pending charge against Capt. Simenstad. We note that the Board's decision to continue the hearing a couple months ago deprived Captain Simenstad and us of the opportunity to produce evidence that Captain Simenstad did not violate any statutes.

On a substantive note, the engine room computer print out of M/V XIN NIN BO's bell logger/RPM log was brought before the Board last year when the IRC brought this matter before the Board. That document has been described several months ago by the vessel operator as "complete". A careful examination of that document confirms the vessel's propulsion system failed to deliver shaft RPM in a timely, proper manner: the vessel's engines performed irregularly and slowly in responding to speed orders: the engines took from ½ - 3 ½ minutes to deliver design RPMs moving from stop to dead slow ahead, dead slow ahead to slow and slow to half ahead bells: the vessel took over 3 minutes on several occasions.

I rely on the experienced ship handlers on the Board and am confident the Board will agree that irregular and slow performance:

1. Can cause very significant problems in piloting situations; and
2. Make it almost impossible to obtain a feel for how a vessel maneuvers.

Despite these challenges, Capt. Simenstad expertly maneuvered XIN NING BO right on track under both the Bay Bridge and the Golden Gate Bridge.

C. Closing on a hopeful, very positive note:

I believe that I have observed during the last several months a distinct, constructive effort by the Board and the IRC, especially Capt. Garfinkle, to obtain the critical vessel documents from the vessels involved in pilot incidents before the vessels leave port.

I too have spoken intensely with the most senior Coast Guard officers in Washington, D.C. in charge of obtaining and sharing such vessel documents. Other maritime attorneys around the country have done so as well and we are continuing to do so.

I hope that by working in parallel (and together as we can) that we will succeed more often than before in obtaining the basic information we all need to do our respective jobs.

In truth there is light.

Thank you.

Respectfully Submitted,  
**LAW OFFICES OF GEORGE W. NOWELL**

  
George W. Nowell

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