



State of California,
Business, Transportation and Housing Agency

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



2012

Annual Legislative Report

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I. Introduction

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

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

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

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

- Allen Garfinkle, Executive Director
- Knute Michael Miller, President of the Board
- Gabor Morocz, Ex Officio Board Member
- Kelly Dolcini, Staff Services Analyst

II. Summary of Major Board Activities in Calendar Year 2012

Overview

In January 2009, pursuant to SB 1627 (2008, Wiggins), the Board became a constituent department of the Business, Transportation, and Housing Agency (BTH). While in 2009, 2010 and 2011, much of the focus and activities of the Board were the result of this important change, the transition to the new status was completed by the end of 2012.

Discussion

1. Pilot Fitness.

Following the findings in the COSCO BUSAN incident in which prescription drug use was found to be a factor, weaknesses in the pilot fitness (physical examination) process were also identified. After contracting with the University of California, San Francisco Medical Center Department of Occupational Medicine to conduct a pilot fitness study and prepare a report, the Board initiated to construct a new pilot fitness regime by administrative regulations. The study, consideration the recommendations, and drafting new regulations went on for three years and the work has been almost completed by the end of 2012.

The draft regulations focus on the following key components recommended by the study:

- The Board institutes the newest U.S. Coast Guard medical guidelines as the medical standard for conducting the fitness for duty determinations of pilot and pilot trainees;
- The Board identifies minimum and desired qualifications for Board appointed physicians and make sure that the physicians are personally familiar with the physical and cognitive challenges encountered by pilot licensees;
- The Board establishes requirements that go beyond a traditional physical examination pilots and pilot trainees undertake an agility test that simulates the physical demands of providing pilotage service and submit to toxicological tests that include testing for anti-depressants, anti-psychotics, anti-convulsants, barbiturates, amphetamines, benzodiazepines, sedative hypnotics, opiates and other pain medications;
- The Board establishes a requirement that pilots and pilot trainees inform the Board of the onset of a new medical condition diagnosed by a physician or a current medical condition which impairs, to an appreciable degree, the ability of the individual to conduct his or her piloting duties;
- The Board appoints a Medical Review Officer whose duties will be reviewing fitness for duty determinations, undertaking annual peer review of the Board-appointed physicians, and providing advice to the Board on matter relating to pilot fitness.

The Board expects the regulations to be submitted to the formal rule making process in the spring of 2013.

2. Personnel Matters.

In 2012, the Assistant Director position remained unfilled. Recruiting and appointment of an Assistant Director by the Secretary of BTH is expected to conclude by the spring of 2013.

Both the Staff Services Analyst and the Office Technician positions were filled during 2012.

3. Legislation and Legislative Hearing Affecting the Board in 2012.

In response to a 2011 request from Assemblymember Huber that the Board conduct a self-assessment and provide it to the Joint Sunset Review Committee in a timely manner, the Board produced an extensive report and provided it to the Committee. At the February 15, 2012 Committee hearing Elaine Howell, the State Auditor and head of the Bureau of State Audits noted that the Board had swiftly implemented 25 of the 27 BSA recommendations that originated from a 2009 audit. Board representatives spoke of the referenced ongoing activities to improve the Board's performance in various sectors of its operations and responsibilities.

During 2012, three bills were considered in the Legislature related to the Board:

- AB 2042, sponsored by Assemblymember Huber, would have sunset the Board and transferred all of its functions to the Secretary of Business, Transportation and Housing in year 2022 in the absence of legislative action subsequent to the bill's enactment. The Legislature did not act on the bill.
- SB 1408, sponsored by Senator Blakeslee, establishes several new provisions in the Harbors and Navigation Code with regard to pilot safety and allows the Board to participate in the DMV "pull notice" program to check on the driver's license status of the licensees and trainees. The bill was signed by the Governor on September 29, 2012 and became effective on January 1, 2013.
- AB 2287, sponsored by Assemblymember Swanson, would have enacted changes in pilotage rates for certain classes of vessels. The Legislature did not act on the bill.

4. Litigation Involving the Board.

During 2007-2011, the Board was a party in five different lawsuits stemming from the M/V COSCO BUSAN accident in 2007. The lawsuits sought damages directly against the State or set-off with respect to claims by the State against the vessel owner and operator for damages to the Bay Bridge and environmental damages. On January 27, 2012, a consent decree was entered in federal District Court that embodies a comprehensive settlement of the litigation. Under the settlement, no damages or other relief will be awarded against the Board and the claims against the Board will be dismissed. Those claims have since been dismissed and the lawsuits finally terminated.

III. Number of Vessel Movements in 2012

Subdivision (a) of Section 1157.5 of the Harbors and Navigation Code mandated 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 statistics:

Number of vessel movements across the San Francisco Bar <i>(Includes 13 movements for Monterey Bay)</i>	6,463
Number of vessel movements within the Bays of San Francisco, San Pablo and Suisun	1,214
Number of vessel movements on the Sacramento and San Joaquin Rivers	427

IV. List of Status of Pilot Licensees and Trainees in 2012

Pilot name	Date of Original Licensing	Licensed and Fit for Duty	Licensed and Not Fit for Duty	Licensed and Absent for Medical Reasons	Licensed and On Authorized Training	Licensed and On Active Military Duty	Licensed and On Leave of Absence	Licenses but License Suspended
Alden, Bruce	7/2/1993	1/1/12 - 12/31/12						
Anderson, Chris	1/17/1994 Retired 8/1/2012	1/1/12 - 1/4/12 3/14/12 - 7/29/12	1/12/12 - 3/13/12 7/30/12 - 7/31/12	1/5/12 - 1/11/12				
Aune, Drew	4/1/2009	1/1/12 - 12/31/12						
Boriolo, Dan	10/1/1995	1/1/12 - 12/31/12			4/13/12 - 4/21/12 Combination			
Bridgman, Daniel	4/1/2010	1/1/12 - 12/31/12						
Burger, Tom	9/4/1991	1/1/12 - 12/31/12						
Carlier, John	1/20/1989	1/1/12 - 12/31/12			6/21/12 - 7/1/12 Manned Model			
Carlson, Kenneth	1/1/1988	1/1/12 - 12/31/12						
Chapman, David	5/26/1997	1/1/12 - 7/9/12 8/29/12 - 12/31/12		7/10/12 - 8/28/12				
Cloes, Don	6/26/2009	1/1/12 - 12/31/12						
Coney, Blake	9/1/1993	1/1/12 - 12/31/12						
Coppo, George	1/1/1992	1/1/12 - 12/31/12						
Dowdle, George	11/1/1993	1/1/12 - 12/31/12						
Favro, Orrin	12/14/2012	1/1/12 - 12/31/12						
Fawcett, Erik	6/24/2011	1/1/12 - 9/28/12 12/18/12 - 12/31/12	11/1/12 - 12/17/12	9/29/12 - 10/31/12	5/17/12 - 5/27/12 Manned Model			
Fuller, Peter	5/1/1998	1/1/12 - 12/31/12						
Gabe, Sean	5/1/1995	1/1/12 - 3/25/12 6/27/12 - 12/31/12	3/26/12 - 6/26/12					

Greig, William	2/9/1989	1/1/12 - 12/31/12			6/21/12 - 7/1/12 Manned Model			
Haggerty, Mark	7/1/1998	1/1/12 - 12/31/12						
Hoburg, Morgan	2/24/2006 Retired 7/1/2012	Not applicable	1/1/12 - 4/30/12					
Holl, Tim	9/22/2005	1/1/12 - 10/10/12	10/30/12 - 12/31/12	10/11/12 - 10/29/12	4/13/12 - 4/21/12 Combination			
Horton, Bruce	5/8/1991	1/1/12 - 12/31/12			6/21/12 - 7/1/12 Manned Model			
Hurt, Richard	9/26/2003	1/1/12 - 12/31/12			4/13/12 - 4/21/12 Combination			
Johnson, Eric	12/14/2012	1/1/12 - 12/31/12						
Kellerman, Zachary	1/28/2011	1/1/12 - 12/31/12			5/17/12 - 5/27/12 Manned Model			
Kelso, Arnold	1/20/1989	1/1/12 - 5/23/12 6/10/12 - 12/31/12		5/24/12 - 6/9/12				
Kenyon, Hugo	7/1/1998	1/1/12 - 8/29/12	9/19/12 - 12/31/12	8/30/12 - 9/18/12				
Kirk, Roger	4/1/2007	1/1/12 - 12/31/12			5/4/12 - 5/12/12 Combination 5/17/12 - 5/27/12 Manned Model			
Kleess, Guy	11/1/2005	1/1/12 - 12/31/12						
Laakso, Kristopher	8/26/2011	1/1/12 - 12/31/12			5/17/12 - 5/27/12 Manned Model			
Larwood, Dan	7/1/1998	1/1/12 - 12/31/12						
Lemke, William	4/1/1993	1/1/12 - 12/31/12						

Livingstone, George	4/24/2008	1/1/12 - 12/31/12			5/4/12 - 5/12/12 Combination			
Long, Joe	7/1/2008	1/1/12 - 11/8/12 11/24/12 - 12/31/12		11/9/12 - 11/23/12				
MacLachlan, Steve	1/14/1987	1/1/12 - 12/31/12						
Manes, Mark	6/28/2012	1/1/12 - 12/31/12			4/13/12 - 4/21/12 Combination 5/17/12 - 5/27/12 Manned Model			
Martin Jr., Carl	4/1/2010	1/10/12 - 12/31/12		1/1/12 - 1/9/12				
McCloy, Dave	6/1/2008	1/1/12 - 12/31/12						
McIsaac, Peter	1/1/1994	1/23/12 - 12/31/12		1/1/12 - 1/22/12				
Melvin, Eddie	4/1/1988	1/1/12 - 12/31/12			4/13/12 - 4/21/12 Combination			
Merritt, David	8/27/2010	1/1/12 - 12/31/12						
Miller, Tom	7/1/1987	1/1/12 - 12/31/12			4/13/12 - 4/21/12 Combination			
Nyborg, Einar	7/1/1995	1/1/12 - 12/31/12						
Pate, David	4/1/2007	1/1/12 - 12/31/12			5/4/12 - 5/12/12 Combination 6/21/12 - 7/1/12 Manned Model			
Pinder, Robert	4/1/1997	1/1/12 - 12/31/12						
Pinetti, Randall	2/1/2004	1/1/12 - 12/20/12		12/21/12 - 12/31/12				
Ridens, Ray	1/1/2007	1/1/12 - 12/31/12			5/4/12 - 5/12/12 Combination			
Roberts, Steve	2/11/1985	1/1/12 - 12/31/12			6/21/12 -			

					7/1/12 Manned Model			
Robinson, Eric	1/1/2004	1/1/12 - 12/31/12						
Rocci, Reuben	1/1/2008	1/1/12 - 12/31/12			5/4/12 - 5/12/12 Combination Course			
Ruff, Paul	1/28/2011	1/1/12 - 12/31/12			5/17/12 - 5/27/12 Manned Model			
Slack, Dustin	7/1/2008	1/1/12 - 12/31/12						
Stultz, Joshua	2/24/2012	1/1/12 - 12/31/12			5/17/12 - 5/27/12 Manned Model			
Sweeney, Michael	3/28/1985	1/1/12 - 12/31/12						
Teague, Steve	1/1/2007	1/1/12 - 12/31/12			4/13/12 - 4/21/12 Combination 6/21/12 - 7/1/12 Manned Model			
Tylawsky, Greg	5/28/2010	1/1/12 - 12/31/12						
Wagner, Nancy	3/1/1990	1/1/12 - 8/28/12 9/26/12 - 12/31/12		8/29/12 - 9/25/12				
Wainwright, David	7/1/1991	1/1/12 - 12/31/12						
Wehr, Shane	6/1/2008	1/1/12 - 9/11/12 9/26/12- 12/31/12		9/12/12 - 9/25/12	5/4/12 - 5/12/12 Combination			
Weiss, David	9/10/1993	1/1/12 - 12/31/12						

Active Pilots: 58

Retired Pilots: 2

Pilot Trainees in 2012			
	Name of Trainee	Date of Beginning Training	Status
1	Stultz, Joshua	01/01/2011	Completed training on 2/23/12
2	Manes, Mark	01/01/2011	Completed training on 6/28/12
3	Carr, Robert	01/01/2011	in training
4	Johnson, Eric	01/01/2011	Completed training on 12/13/12
5	Lingo, Matthew	10/01/2011	In training
6	Favro, Orrin	10/01/2011	Completed training on 12/13/12
	2 trainees remaining at the end of 2012		

V. Summary of Reports of Navigational Incidents and Pilot Ladder Safety Standard Violations That Occurred in 2012

Subdivision (c) of Section 1157.5 of the Harbors and Navigation Code calls for providing 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 are required to provide details including the descriptions of findings made by the Incident Review Committee (IRC) and of the resulting action taken by the Board, as well as stating prior reportable incidents of the pilots involved. Accordingly, the navigational and safety equipment incidents that occurred in 2012 are listed below.

M/V BERLIN TRADER, Interaction, January 19, 2012 Pilot: Capt. Don Cloes

This incident occurred on the afternoon of January 19, 2012 while the M/V BERLIN TRADER was transiting from Anchorage 9 to Stockton under the direction of Capt. Don Cloes.

As the M/V BERLIN TRADER passed the Calaveras River at its minimum speed, Capt. Cloes noticed the ship begin to set to the right. He took corrective action to avoid deviating further from his course and passed the M/V GLOBAL PIONEER, which was moored at the ore dock in the Port of Stockton. Once the M/V BERLIN TRADER had passed the M/V GLOBAL PIONEER, Capt. Cloes received a radio call, originating from the M/V GLOBAL PIONEER, reporting that she had sustained damage to her gangway.

When the M/V BERLIN TRADER had been docked, Capt. Cloes returned to inspect the damage and noted that the outer step rail was bent, but that the roller at the bottom of the gangway was out of place and inoperable, which appeared to be a long-standing condition. He also reported that the lines had been very slack, with one actually lying on the dock.

The IRC concluded that there was no pilot error and that Capt. Cloes had proceeded with caution and had reduced the speed of the vessel to the minimum with which he could control it. It further concluded that the damage to the M/V GLOBAL PIONEER's gangway was, in part, due to the pre-existing damage to the gangway roller, preventing the gangway from moving freely along the dock, and partly due to her lines being slack on the passing of the M/V BERLIN TRADER. The IRC recommended that the Board close the case with no further action. The Board accepted the recommendation and closed the case.

Capt Cloes has been a pilot since 2009. He has no prior incidents.

M/V MULBERRY WILTON, Interaction, January 27, 2012
Pilot Capt. Michael Sweeney

The interaction between the M/V MULBERRY WILTON and the M/V OVERSEAS TAMPA occurred on the morning of January 27, 2012 as the M/V MULBERRY WILTON was transiting Pittsburg to sea under the direction of Capt. Michael Sweeney.

On the passing of the M/V MULBERRY WILTON, the M/V OVERSEAS TAMPA experienced a sudden surge, which pulled the ship off the dock approximately four feet, moved her seven feet fore and aft, and separated three mooring pendants. The crew of the M/V OVERSEAS TAMPA reported that they could not see the vessel passing due to the dense fog, however, a crew member positioned on the ship's crane reported that he could see the M/V MULBERRY WILTON and estimated the distance between the two ships to be approximately 150 feet.

The M/V OVERSEAS TAMPA filed a letter of protest stating that the M/V MULBERRY WILTON was traveling at excessive speed when they passed. Capt Sweeney contended that he was proceeding at the minimum speed with which he could control the vessel.

The issues at hand were 1) was the M/V OVERSEAS TAMPA properly moored, and 2) was the M/V MULBERRY WILTON proceeding in a reasonable and cautious manner as it passed the M/V OVERSEAS TAMPA. On the issue of whether the M/V MULBERRY WILTON was proceeding in a reasonable and cautious manner, the IRC concluded that Capt. Sweeney did not avail himself of all his options to control the speed of the ship, that he did not alter course to place his ship at the farthest point in the channel away from the M/V OVERSEAS TAMPA, and that there was little or no evidence of route planning that allowed for contingencies such as the poor handling of the ship, reduced visibility, and moored vessels along the route. The committee therefore recommended pilot error and further recommended that the Board distribute a copy of the IRC report to all pilots and let it serve as lessons learned.

The Board, after hearing the IRC report and counter arguments from Capt. Sweeney's counsel, determined in closed session that no pilot error had been established regarding Capt. Sweeney. The Board also ordered that the report be delivered to the Pilot Evaluation Committee and that, within 90 days, Capt. Sweeney present a presentation to the current pilot trainees on what can be learned from the incident.

Capt Sweeney has been licensed as a pilot since 1985 and has been involved in 12 incidents. Seven of the investigations may have resulted in reports prepared by the board prior to June 1993, which have been archived and are no longer available.

- M/V COLUMBIA STAR/TUG TITAN, 1994, allision with buoy 3, Oakland. No pilot error.
- M/V MUNDOGAS EUROPE, 1998, grounding off of New York Point. No pilot error.
- M/V SAKURA, 1999, allision with rice loading arm in the Port of Sacramento. No pilot error.

- M/V CEFALONAIA, 2003, grounding on the San Joaquin River. No pilot error
- M/V TATJANA, 2011, grounding at birth in Stockton. No pilot error.

M/V THEOTOKOS, Allision, January 30, 2012
Pilot: Capt. Kristopher Laakso

Capt Laakso was guiding the M/V THEOTOKOS from Anchorage 9 to New York Point when the ship's mast allided with the Union Pacific Railroad (UPRR) Bridge, destroying one INMARSTAT-C antenna and damaging another.

When the ship reached New York Point, Capt Laakso disembarked and another pilot took over the river portion of the journey. When the M/V THEOTOKOS arrived in Stockton, a surveyor boarded the ship to assess the damage. He determined that one INMARSTAT-C antenna needed to be replaced and the other needed a new dome cover. He concluded that the construction drawings of the ship did not accurately represent the mast height.

Capt. Laakso reported that he had done air draft calculations several times with the information provided to him on the Pilot Card. During his transit of the UPRR bridge, Capt. Laakso heard a bang and a scraping sound but, due to the treacherous nature of the transit, he did not investigate until he was safely through the bridge. Once on the other side, he called Vessel Traffic Service and the UPRR Bridge tender to report apparent contact. The bridge tender had heard a sound, but felt nothing as the M/V THEOTOKOS passed under the bridge. All of the vessel's systems were operational and there was no apparent damage or injury, so Capt Laakso disembarked the ship as planned.

The IRC concluded that Capt. Laakso had made every effort to calculate the air draft clearance accurately but was unable to due to the inaccurate nature of the information provided by the ship. They recommended that the Board find no pilot error. The Board voted to accept the IRC's findings and the case was closed with no further action.

Capt. Laakso has been a pilot since 2011. He has no previous incidents.

M/V OVERSEAS TAMPA, Near miss incident, February 18, 2012
Pilot: Capt. David Chapman

On February 18, 2012, the Board of Pilot Commissioners received a report of a "near miss" incident involving the M/V OVERSEAS TAMPA while it was departing Richmond Long Wharf Berth #2 at maximum ebb tide under the direction of Capt. David Chapman.

In the pre-departure Master/Pilot information exchange, Capt. Chapman discussed the route with the Captain of the ship prior to departure from the dock and there was an agreement on the route that would be taken as the ship departed the berth.

While the ship was departing the berth, various communications issues between the assist tugs and the pilot arose, resulting in the ship not following the intended route, with the

result being that the M/V OVERSEAS TAMPA nearly grounded on a shallow area north of the berth. In an effort to prevent grounding and to recover from being in an unexpected position, Capt. Chapman accelerated the ship to a speed that rendered the assist tugs unable to respond effectively should a need arise.

Regulations enacted under California's Lempert-Keene-Seastrand Oil Spill Prevention and Response Act require tugboat escorts for all tank vessels in San Francisco, San Pablo, and Suisun Bays carrying 5,000 or more long tons of oil in bulk. The regulations state the purpose of the escort requirement: Regulations enacted under California's Lempert-Keene-Seastrand Oil Spill Prevention and Response Act require tugboat escorts for all tank vessels in San Francisco, San Pablo, and Suisun Bays carrying 5,000 or more long tons of oil in bulk. The regulations state the purpose of the escort requirement as: The escort tugs will be available, and shall respond as needed to influence the speed and direction of travel of the tank vessel in the event of a casualty, or steering or propulsion failure, thereby reducing the possibility of groundings or collisions and the risk of oil spills from these tank vessels.

The regulations also set forth speed limits for tankships, which in relevant part, state the speed or speeds selected by the tanker for the transit must permit stationing the escort tug(s) to allow the tug(s) to effectively influence the tanker's movement in the event of a casualty.

The incident with the M/V OVERSEAS TAMPA was reported as a near miss by the operator of the assist tug AMERICA, who felt that, although an incident had not occurred, the M/V OVERSEAS TAMPA was operated at such a speed as to render his tug ineffective.

The IRC concluded that Capt. Chapman violated the law by using excessive speeds and made the loaded tanker liable for damage by placing it in danger of grounding on more than one occasion. Although the M/V OVERSEAS TAMPA was stopped without grounding, the maneuver was conducted in a manner inconsistent with prudent seamanship and that Capt. Chapman's actions constituted misconduct.

The IRC recommended that the Board find pilot for pilot error in this case and that Capt. Chapman be issued a warning letter of reprimand. The Board concurred with the IRC recommendation and added the requirement that Capt. Chapman complete a "bridge resource management course that involves use of a computer simulator to simulate operations between a pilot and tugboat masters in maneuvering a vessel at his own expense.

Capt. Chapman has been a pilot since 1997. He has one prior incident where pilot error was found:

- On February 21, 2008, the M/V MORNING STAR allided with the dock while Capt. Chapman was docking in Benicia.