

## **Minutes October 28, 2004**

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun regular meeting was held in the Board of Pilot Commissioners office, Pier 9, Suite 102, San Francisco, CA, commencing at 9:35 a.m. on Thursday, October 28, 2004 Commissioner Falaschi presiding. A quorum was present, including Commissioners Bayer, Lundeborg, Rosequist, Wagner, Welch and Winn. Also in attendance were Port Agent Captain McIsaac, Board Counsel Raymond Paetzold, Executive Director Moloney and Secretary Alice Evans and various members of the public.

Request approval of Minutes of the September 23, 2004 regular Board meeting.  
The minutes were unanimously approved.

Correspondence and Activities since the September meeting -- Executive Director Moloney

1. The Board received a letter dated October 7, 2004 from Kenneth E. Leverich, Supervisor, Field Office Northern California State Lands Commission, noticing a Customer Service Meeting on Wednesday, November 3, 2004 at 8:30 a.m. in the Shell Clubhouse located at the corner of Pacheco and Arreba Streets in Martinez.

It was noted that the USCG is a co-sponsor of this meeting.

Other Pilot Matters--Secretary Executive Director Moloney

1. The Board issued a license renewal to SFBP Captain Boriolo during the month of October.
2. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through August and Inland Pilot Slough through September 2004. Copies are available in the Board office.

Port Agent's Report -- Port Agent Captain McIsaac

1. There are currently four pilots NFFD.  
Captain Rhodes is being treated for a condition not related to work.  
Captain Dohm has been NFFD while caring for a terminally ill family member.  
Captain Anderson fell while boarding a tug on October 20 suffering multiple contusions and injuring his shoulder and wrist. He is expected to be FFD on November 15.  
Captain Cota has been NFFD since October 14 for medical evaluation.
2. There was one 12-hr MRP violation on September 30 with the shortest rest period being 10.25 hours. Five pilots were off the board, three NFFD, one on pilot business and one on bereavement leave.  
  
There were two 12-hr MRP violations on October 5 with the shortest rest period being 10.5 hours. Three pilots were off the board, two NFFD and one on jury duty.
3. P/V DRAKE was out of service from October 18 through 27 for annual dry docking.
4. Earlier this month the SFBP hosted the Biennial American Pilots Association national convention for the first time in 34 years. In spite of a last minute venue change caused by the hotel labor lock out, close to 500 attendees participated in various professional and social events. Keynote speakers included Commissioner Falaschi, VADM Harvey Johnson, Mayor Gavin Newsom and USCG RADM Thomas Gilmour.
5. Vessel movement numbers through September 2004, compared to three-year daily average:

Bar Crossings	+0.7%
Gross Tons	+7.6%
Bay Moves	-3.6%
River Moves	-8.4%
Total Moves	-0.5%

6. Captain McIsaac concluded that this is his last report to this Board. Next week his four years as Port Agent will come to an end. He thanked all the Commissioners and the staff for their dedication in serving the Board. "You serve on a commission that has the important missions of safety, quality of service, consumer protection and safeguarding the environment. This service is not glamorous, it is frequently not recognized and it is often tedious and is certainly not immune to the criticisms of Monday morning quarterbacks, but the service is vital nevertheless." He noted his appreciation and thanked the Board.

Commissioner Falaschi thanked Captain McIsaac for his report and his dedication as Port Agent for the past four years. He then noted that Captain McIsaac had received a Certificate of Merit from the USCG and introduced USCG Cdr. Loebel who gave the following presentation.

*The Commandant of the United States Coast Guard takes great pleasure in presenting the United States Coast Guard Certificate of Merit to Captain Peter "Pete" McIsaac as a tribute for sustained meritorious service to the San Francisco Bay maritime community and in support of the Coast Guard's Maritime Homeland Security effort, while serving as President and Port Agent of the San Francisco Bar Pilots from November 2000 to November 2004. Captain McIsaac actively participated with the San Francisco Bay Captain of the Port and Pacific Area Commander to create the first ever United States Coast Guard Sea Marshal program following the terrorist attacks on September 11, 2001. Captain McIsaac's strong leadership played a major role to bring together a unique and innovative combination of Coast Guard and Bar Pilot assets to stand up an effective Sea Marshal escort program to secure the ports and critical infrastructure of San Francisco Bay. This Sea Marshal initiative for high interest vessels was an outstanding success and became the national standard. Captain McIsaac was also an active leader with the Coast Guard, Army Corps of Engineers, the National Oceanographic and Atmospheric Administration, and the maritime community in the formulation of an information sharing partnership to ensure safe and efficient navigation on the waters of the San Francisco Bay. His proactive approach to port problems and Maritime Transportation System issues played a major role in the success of San Francisco Bay Harbor Safety Committee and its Navigation, Vessel Escort, Safety, and Community Outreach Subcommittees. From Captain McIsaac's career beginnings on the Great Lakes in tugs and tow boats to his leadership position as President of the San Francisco Bar Pilots, his career is a legacy of significant contributions to maritime safety, security and environmental protection. Captain McIsaac's contributions are most heartedly commended and are in keeping with the highest traditions of the Piloting profession and the United States Coast Guard. Signed by VADM Harvey Johnson, USCG.*

Captain McIsaac thanked Cdr Loebel. Commissioner Falaschi congratulated Captain McIsaac on the service award.

#### Unfinished Business

1. Open Incidents --Commissioner Executive Director Moloney
  - a. S/S MAUI, grounding, entrance to Oakland Estuary, January 28, 2003 SFBP Captain J. Weiss; administrative proceedings dismissed pursuant to stipulation; report by IRC

Executive Director Moloney provided a summary of the procedural history. In view of Captain Weiss' retirement for reasons unrelated to the grounding, this report is solely for informational purposes and lessons learned. Executive Director Moloney then gave the following report.

#### PROBABLE CAUSE

At about 0224 on 28 January 2003, Capt John Weiss boarded the SS MAUI in the vicinity of the Sea Buoy along with two USCG sea marshals. After a pilot/master conference, he piloted the vessel into San Francisco Bay uneventfully.

At about 0326 the vessel passed under the D/E span of the Bay Bridge, reduced speed from full ahead to half ahead and began to turn to port to line up for the Oakland Bar Channel. After a brief confusion regarding the vessel's heading, Buoy 1 at the entrance to the bar channel was passed close aboard to port and a right turn was started to line up for the Oakland Inner Harbor Entrance Channel.

Capt Weiss ordered full ahead for about 30 seconds to assist the turn, then half ahead for about 30 seconds, then slow ahead. As the vessel turned into the Inner Harbor Entrance Channel, fog obscured Buoy 6 on the south side of the channel, but the center and north side of the channel remained clear and Buoy A was visible.

By about 0336 the vessel was too close to the south side of the channel and at 0336:20, Capt Weiss ordered hard left rudder and increased speed to half ahead, causing the vessel's head to swing to port. The vessel's head swung across the channel until Capt Marshall (MAUI's master) observed Beacon 7 off the starboard bow and it appeared the vessel was in danger of grounding on the north side of the channel. At about 0337, Capt Weiss ordered hard right rudder and full ahead. Capt Marshall believed a grounding or allision with Beacon 7 was imminent and ordered successive astern bells to slow the vessel and minimize possible damage. Capt Weiss placed the bow thruster at full power to starboard and ordered the tug *Silver Eagle* to push on the starboard quarter. At about 0340 the MAUI stopped moving on a heading of 125°T with her stern aground outside the channel and her bow in close proximity to Beacon 7.

Initial attempts to refloat the vessel using the engine, bow thruster and two tugs on the scene caused the bow to move further into the channel, blocking it while the stern remained aground.

Immediately following the grounding the vessel was enshrouded in fog. The USCG Vessel Traffic Service (VTS) was unable to confirm the vessel's position and status and made several attempts to contact Capt Weiss on VHF radio. Capt Weiss was informed of these attempts but did not respond to VTS, nor did he ask anyone else to notify VTS of the situation.

At the time of the grounding, Capt Weiss as a "person directing the movement of a vessel", was required to monitor VHF radio channel 14, to promptly respond when hailed, and to notify VTS as soon as was practicable of the vessel's grounding and the hazard it posed to vessel traffic bound to or from the Oakland Inner Harbor Entrance Channel. The purpose of this requirement was to reduce the risk of collisions and groundings.

At the time of grounding, two tugs towing barges were enroute to the Oakland Estuary and the 981' container ship NYK LIBRA was preparing to get underway outbound. All would have to pass MAUI's position. A Coast Guard sea marshal in MAUI's wheelhouse recognized the potential danger to the NYK ship and the pilot's failure to respond to VTS' repeated calls, used his cell phone to inform VTS that the vessel was blocking the channel and asked VTS to hold the NYK LIBRA at her berth.

Capt Weiss first notified VTS of the grounding by cell phone sometime between 0409 and 0412.

The MAUI remained grounded until 0538 when she was refloated with the assistance of five tugs and the rising tide. The vessel proceeded to dock uneventfully

## OPINIONS

1. Weather conditions were fair. Fog was developing but did not cause the incident.
2. The vessel was too far south lining up for the Oakland Inner Harbor Entrance Channel. Capt Weiss overcompensated for the position, causing the vessel to veer to the north side of

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the channel. He was about to head back into the Channel when Capt Marshall lost confidence in his ability to successfully do so.

3. Capt Marshall considered the vessel to be in extremis and ordered a succession of astern engine orders to take the way off the vessel and minimize possible damage. This may have contributed to the grounding.
3. After the vessel grounded, Capt Weiss attempted to refloat it using the tugs intended for docking the vessel. While preparing for this, he failed to advise VTS of the situation, creating a potentially hazardous situation for other traffic in the vicinity. In 33 CFR 161.2, a VTS User is defined as a vessel, or an owner, operator, charter, master, or person directing the movement of a vessel. A pilot is a person directing the movement of a vessel. 33 CFR 161.12 states "subject to the exigencies of safe navigation, a VTS User shall comply with all measures established or directions issued by a VTS." It further states: "As soon as is practicable, a VTS User shall notify the VTS of any of the following: (1) A marine casualty as defined in 46 CFR 4.05-1;" In 46 CFR 4.05-1, the marine casualty definition includes: "An unintended grounding."

### RECOMMENDATIONS

1. Close this case. The IRC considered the grounding and failure to notify VTS in a timely manner to be misconduct and filed an accusation against Capt Weiss on August 28, 2003. He subsequently retired for medical reasons on October 1, 2004.
2. Lessons learned from this case are the importance of prompt communications with VTS in the event of an incident so VTS may initiate response procedures. In this case it would have been advising other traffic heading in or out of the Inner Harbor to delay until the Channel was cleared. VTS maintains emergency response contact numbers and have the capability for the fastest dissemination of information. Additionally, there is the possibility that VTS could interpret a failure to respond to radio calls to be a potential security issue.

It was moved and seconded to accept the IRC Report. Commissioner Falaschi asked for discussion. Cdr. Cook, VTS USCG, who was in the audience, added that this was a good example of the necessity to call VTS **by radio** to alert everyone of an incident. Most tug companies monitor VTS and would be able provide prompt assistance. The USCG could have assumed this incident to have involved terrorist activity because of the failure to respond to repeated calls and delay in reporting. She then distributed copies of 33 CFR Section 161.13 on reporting guidelines to the Board and audience. Commissioner Falaschi thanked Cdr. Cook. Port Agent Captain McIsaac noted that this incident would be used as lessons learned at the SFBP monthly meeting and that the upcoming Port Agent would report back to the Board on the response. There being no further discussion the motion passed unanimously.

- b. S/S KENAI, allision with dock, Amorco, March 11, 2004 -- SFBP Capt. M. Sweeney

Executive Director distributed copies of the Findings of Facts and noted that this is a continuation of the IRC Report given at the last Board meeting on this incident. SFBP Captain Sweeney had asked for additional time to present additional information to the IRC. Executive Director then continued with the following report.

### PROBABLE CAUSE

At about 2120 on the evening of 10 March, Capt M. Sweeney boarded the steam turbine tanker SS KENAI in the vicinity of Harding Rock Buoy to relieve the pilot who had brought the vessel in from sea. Capt Sweeney was to pilot the vessel to the Amorco Wharf in Martinez to dock it portside to. The tug *Arthur Foss* was tethered astern as escort tug.

The transit of San Francisco and San Pablo Bays was routine. Off Oleum the tug *Liberty* joined and off Benicia the tug *Marauder* joined and was directed to standby the port bow to assist in the starboard turn. The *Liberty* was directed to put up a line to the starboard bow and the *Arthur Foss* was let go from the tether and directed to put up a line on the starboard side just forward of the vessel's bridge.

At about 0032 the vessel began the turn to starboard. It was downstream from the wharf to allow for the flood current and Buoys 2 and 3 off the Benicia/Martinez Bridge. The turn was completed in about 10 minutes and the *Marauder* was repositioned to the starboard side midship and told to push dead slow ahead.

Capt Holman of the KENAI was concerned about the proximity of the buoys at the bridge. Capt Sweeney advised him that he would land the vessel well forward of its final berthing position, hold it with the tugs then slip it back into position. This is not an unusual maneuver.

When the vessel was about a ship width off the wharf, Capt Holman noted that the bow was closing the wharf faster than the stern. Capt Sweeney corrected it but briefly confused the names of the fore and aft tugs. This was corrected and several minutes later with the vessel stopped, close to and parallel with the pier, Capt Sweeney directed the fore and aft tugs to come up to slow ahead to push the vessel up to the pier and pin it as intended. It touched down lightly on first the forward fender, then the after one. At the stern, the springlines were lowered directly down to the pier.

While the lines were being passed, Capt Sweeney noted that the vessel was being lifted off the fenders several inches by the current. He had the fore and aft tugs increase power to half ahead to pin the vessel to the pier. As the stern resumed contact with the fender it compressed to its full length of travel.

A witness on the pier noted the vessel landed with the after fender about 25 feet behind the parallel midbody and the fender was riding the vessel's side at an angle. The third mate standing at the springline chocks forward of the house noted the fender compression, but was able to pass the lines directly down to line handlers, which would have the vessel laying on the parallel midbody. The vessel and fender rebounded and lay along the pier. Once the springlines were run, power on the fore and aft tugs was reduced and the current pushed the vessel slowly into position about 150 feet down the pier where it was moored uneventfully. Capt Sweeney left the vessel at 0218, unaware that there had been any problem with the after fender.

At 0820 the vessel was advised that there had been damage to the fendering system. Capt Sweeney was also advised and later that day he returned to find out what had happened. He requested to have a marine surveyor inspect the fendering on his behalf but was denied by the terminal. Later after the vessel had departed and repairs were in progress he was invited to the terminal to see the repairs but was not allowed to take photographs. He again requested to have the marine surveyor take a look and was denied. He was provided a copy of the divers report on the dolphins of the pier but nothing on the fendering.

## OPINIONS

1. Weather and tide/current conditions were favorable for this job.
2. Master/pilot exchange were very thorough. Capt Sweeney noted the attention to detail in both the vessel's transit and berthing plans.
3. Tug use in turning and docking the vessel were appropriate.
4. Capt Sweeney addressed Capt Holman's concerns on the proximity of Buoys 2 and 3 marking the Benicia/Martinez Bridge by planning to land the vessel on the wharf well ahead of the berthing position, then let the current push the vessel into position.

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5. The vessel was landed about 150 feet ahead of docking position with no way on over the ground. As soon as the vessel landed, spring lines were passed ashore (0103). At that time Capt Sweeney observed that the vessel was drifting off the fenders in the current and had the fore and aft tugs increase speed to half ahead.
6. As the tugs came up to power the vessel closed on the fenders. The second landing was more forceful than the first because of the increase in tug power. As the fender compressed, the shell plating contacted the edge of the wharf and displaced some light dock edge plating. The dock and fender rebounded and the vessel settled alongside.
7. If the vessel did land aft of the parallel midbody, the combination of the uneven loading of the fender in contact with a curved part of hull and the increase to half power by the tugs at the ends of the vessel caused the compression of the fender. Capt Holman noted later to Capt Sweeney that the vessel was at an unusually light draft and that had it been at the normal draft, it would have landed on the parallel midbody. The IRC is unable to determine with certainty the position of the landing with two credible but conflicting reports.

#### RECOMMENDATIONS

1. Close this case, no attributable pilot error. Capt Sweeney was purposely landing the vessel short to allay the Master's concerns about the proximity of buoys near the stern. He was unable to see where the parallel midbody ended and was under the impression he was landing on the flat hull side. The third mate was standing at the springline chocks over the fender and was able to lower lines directly onto it with the vessel in its initial docking position on the flat of the ship. It is noteworthy that the tugs were only increasing to half power. It is sometimes necessary to use full power to hold a vessel alongside.
2. It should be noted that the insurance adjuster observed pre-existing damage to the fendering system. It was not noted what percentage of damage claims were due to this incident.

It was moved and seconded to accept the IRC Report. Commissioner Falaschi asked for discussion. Commissioner Bayer recused himself from participating. There was no further discussion. The motion passed unanimously.

- b. M/V PACIFIC HIGHWAY allision with fendering W. Span, Richmond-San Rafael Bridge following maneuver to avoid sailboat July 11, 2004

Executive Director Moloney noted that this incident is still under investigation and requested an extension until the next Board meeting. It was moved and seconded to extend the IRC Report until the next Board meeting. Commissioner Falaschi asked for discussion. There was none, the motion passed unanimously.

#### 2. Pilot Ladder reportable incidents -- Executive Director Moloney

VESSEL	PILOT	DATE	DISCREPENCY
TARAWA	COTA	10/10/04	Pilot ladder rigged with tag lines/recovery Lines

Executive Director reported that this incident is under investigation and that the report had been forwarded to the USCG.

3. Rules and Regulations Committee -- Commissioner Welch -- report on status of proposed rulemaking re amendments to Continuing Professional Development Program and Pilot Trainee Selection Procedures

Commissioner Welch reported that the final rulemaking package was submitted to the Office of Administrative Law for review.

4. Finance Committee -- Commissioner Winn report -- report on October 28, 2004 meeting - possible recommendations to adjust Board Operations Surcharge/reserve, Pilot Vessel Surcharge, Pilot Training Surcharge and/or Pilot Trainee Surcharge, if warranted -- **possible Board action re same**

Commissioner Winn reported that the Committee met today and reviewed the SFBP September 30 variance report. Income remains strong in part because of the rerouting of vessels from LA/Long Beach. Income is up 8%, expenses up 7%, net up 5%.

BOPC expenses were reviewed. There are no recommendations to change the Board Operations Surcharge, the Pilot Training Surcharge or the Pilot Trainee Surcharge at this time.

Pilot Vessel Surcharge – current surplus is \$157K. The Committee recommends no change at this time but will review this surcharge at the next Committee meeting.

The next Finance Committee meeting is scheduled for December 16 at 9:15 a.m.

5. Pilot Training Curriculum Committee -- Commissioner Wagner said there is no report.
6. Pilot Evaluation Committee--Capt. Melvin -- Report on October 20 meeting and trainees' progress in training program

Captain Melvin reported that the Committee met October 15 with Dr. Hertz to continue development of the simulator exercise at CMA. He noted that the Committee is approximately 3/4 of the way finished with this portion of the testing preparation. The Committee held its regular meeting October 20. The trainees are progressing well. Trainee Holl started with all of the pilotage and trainees Kleess and Spencer completed their pilotage and are training in all areas.

7. Pension Committee -- Commissioner Bayer -- Report on status of the review of statutory pension plan recommendations for the plan's interpretation and implementation, developing proposed procedures for submitting and handling requests for disability determination under the pension plan, and fiduciary oversight. Commissioner Bayer said there is no report.
8. Ad Hoc Pilot Power Committee -- Commissioner Wagner said there is no report.
9. Vessel Interactions -- Review incident frequency, Board's role in addressing the problem-- Commissioner Falaschi/Executive Director Moloney -- report on 2-year summary, possible reasons for decline in frequency of incidents. Executive Director Moloney said there is no report at this time and that the report would be completed for the next Board meeting.
10. Pilot Security -- Commissioner Falaschi said there is no report.
11. Ad hoc Committee for Pilot Fitness -- Commissioner Falaschi -- status of appointments of committee members – Commissioner Falaschi said there is no report.
12. California Performance Review -- recommendations re Pilot Commission -- Executive Director Moloney -- review status of CPR recommendations following public hearings -- **possible Board action re same**

Commissioner Falaschi asked all Committee chairs to determine possible Board action on matters in event that Board loses quorum after February 2005 and report back to the Board.

13. UPRR-Bridge Working Group - Executive Director Moloney -- report on October 26, meeting

Executive Director reported that the Committee met October 26 and reviewed the communication protocol and that there were no complaints. The protocol system is working. The protocol pamphlet will be reprinted at the courtesy of the BOPC. The next Committee meeting is scheduled in six months. Commissioner Rosequist noted the importance of this Committee's work and urged the Committee to continue to meet on a regular basis. It was also noted that currently there are 54 trains daily that utilize the UPRR Bridge and that rail traffic is expected to increase.

New Business

1. M/V CMA-CGM YANTIAN, alleged violation of RNA speed restrictions, San Francisco Bay, September 19, 2004 – Executive Director Moloney said this incident is under investigation.
2. Public Comment on matters not on the agenda – there were none.
3. Proposals for additions to next month's agenda

Schedule next regular meeting – the next meeting is scheduled for November 18, 2004 at 9:30 a.m.

Adjournment – the meeting was adjourned at 10:35.

Respectfully submitted,

Alice A. Evans  
Secretary