

BOARD OF PILOT COMMISSIONERS

Minutes November 20, 2003

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 9:30 a.m. on Thursday, November 20, 2003, Commissioner Falaschi presiding. A quorum was present, including Commissioners Rosequist, Wagner, Welch and Winn. Also in attendance were Port Agent Pete McIsaac, Board Counsel Ray Paetzold, Executive Director Patrick Moloney and Secretary Alice Evans and various members of the public.

Request approval of Minutes of the October 23, 2003 regular Board meeting. The minutes were unanimously approved as amended: Page 2, Unfinished Business 2. Pilot Ladder reportable incidents -- add under the vessel EVER DIADEM "CYGNUS VOYAGER and many others".

Correspondence and Activities since the October meeting--Executive Director Moloney reported that there was no correspondence to report.

Other Pilot Matters--Executive Director Moloney

1. The Board issued license renewals to Captains Dowdle and Simenstad during the month of November.
2. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through September and Inland Pilot Slough through October 2003. Copies are available in the Board office.

Port Agent's Report -- Port Agent Captain McIsaac

1. There are currently three pilots NFFD; Captain J. Weiss is recovering from a non-work related condition and will require an undetermined period of time to recover; Captain Greig has been NFFD since undergoing surgery on November 11, he is expected to return to work in December; Captain Hoburg injured his knee on November 10 while disembarking from the tanker ASIA STAR. The extent of the injury has not been determined. He will have an MRI next week. Captain Atthowe was NFFD due to a back ailment from October 15 through November 11.
2. The P/V GOLDEN GATE was taken out of service on November 4 when metal shavings were found in the strainer on the port gear box. A new gearbox was shipped from Seattle and installed. The boat was out of service for two weeks. On November 19 the boat was taken out of service again due to lack of fuel pressure. As the fuel tanks' system was completely cleaned during the recent dry-docking, an obstruction is suspected. The P/V DRAKE was taken out of service on November 11 when she snapped a shaft. Both the tailpiece and the propeller were lost. We are having trouble getting dry-dock space but hope to have it repaired by the end of the month. This is the first time that the SFBP has had such a casualty.
3. Vessel movement report through October 2003; compared to three-year daily average:

Bar Crossings	+4.8%
Bay Moves	+8.5%
River Moves	-8.8%
Total Moves	+4.9%
Gross tons	+9.0%

Unfinished Business

1. Open Incidents --Executive Director Moloney

- a. S/S MAUI, grounding, entrance to Oakland Estuary, January 28, 2003 SFBP Captain J. Weiss; hearing scheduled for January 7, 8, & 9, 2004 at Office of Administrative Hearings, 1515 Clay St., 2nd floor, Hearing Room 7, Oakland -- updated hearing information as necessary

Executive Director Moloney reported that the hearing is on schedule as noted above and that there was nothing further to report.

- b. M/V S/R GALENA BAY, possible grounding approaching San Francisco Dry Dock and allision with Dolphin 6, August 26, 2003

Executive Director Moloney reported that the incident is still under investigation and that the IRC requests the Board to approve an extension until the next regular Board meeting as the 90-day period since the incident will have expired before then. It was moved and seconded to extend the due date for the IRC report on the incident until the next Board meeting. Commissioner Falaschi asked for discussion. There was none. The motion then passed unanimously.

- c. M/V WAN HAI 306, Near Miss near Golden Gate Bridge, September 14, 2003 -- Executive Director Moloney requested to defer this item and referred to #10 on the agenda.

2. Pilot Ladder reportable incidents --Executive Director Moloney said there are no reportable pilot ladder incidents to report.

3. Rules and Regulations Committee--Commissioner Welch said there is no report.

4. Finance Committee--Commissioner Winn said there is no report and noted that the next Finance Committee will be December 18, 2003, at 10:00 a.m.

5. Pilot Training Curriculum Committee--Commissioner Wagner said there is no report.

6. Ad Hoc Committee on Trainee Selection--Commissioner Bayer -- Status report on review of trainee selection process -- no report

7. Pilot Evaluation Committee--Capt. Melvin--Report on trainees' progress in training program -- Report on November 19, 2003 Committee meeting:

Executive Director Moloney reported that the Committee met November 19 and that trainees Pinetti and Robinson are progressing very satisfactorily with continuing improvement in their grades. The Committee will discuss possible recommendation(s) to license additional pilot(s) at the next meeting. The two new trainees, Kleese and Gurry, are currently riding trips to obtain their Coast Guard pilotage endorsements.

8. Vessel Interactions--Review incident frequency, Board's role in addressing the problem-- Commissioner Falaschi/Executive Director Moloney -- no report

9. Security assessment covering pilots' operations -- Commissioner Falaschi -- no report

10. Capt. Donald Hughes - ability to comply with standards of health or physical condition requisite to a pilot's duties - hearing scheduled for December 3, 2003, Office of Administrative Hearings, 1515 Clay St., 2nd floor, Hearing Room 7, Oakland -- updated hearing information; consider proposed stipulation pursuant to Title 7, Calif. Code of Regulations, §221(c) to resolve pending accusation; **possible Board action re same**

Commissioner Falaschi asked Board Counsel to report: Board Counsel Ray Paetzold referred to a memo dated November 13, 2003 to all Board Members, copies of which were provided to Capt. Hughes' counsel, who was in the audience, in advance of the meeting. A summary follows:

At the Board's October 23, 2003 meeting, the Board voted to summarily suspend Captain Hughes' state pilot license pending a hearing on charges of inability to comply with health or physical condition requisite to a pilot's duties. On October 29, 2003, the Board Incident Review Committee filed and served on Captain Hughes the Accusation as authorized by Section 210 of the Board's regulations. (Copies available in the Board office.)

In its accusation, the IRC alleged that, following an extended period of being Not Fit For Duty, Captain Hughes sought to return to active piloting, and that, during a period of the re-entry process, while piloting with various supervisory pilots, Captain Hughes repeatedly demonstrated an inability to maintain situational awareness, to adequately keep track of assist tugs, radar contacts, VTS communications and other necessary navigational information, and placed the vessel he was piloting in danger, requiring repeated prompting or intervention by the supervisory pilot, all as further detailed in the Accusation.

The IRC further alleged that, during the pendency of its investigation of the above incidents, Captain Hughes informed the Port Agent and the Board that he had been diagnosed with a severe, uncorrectable hearing deficiency.

The IRC alleged that the above constituted grounds for suspending or revoking Captain Hughes' state pilot license; that, taken together, the evidence demonstrates that Captain Hughes is unable to comply with the standards of health or physical condition requisite to the duties of a pilot, and that Captain Hughes' alleged conduct while piloting violated the Board's regulation requiring pilots to obey the applicable Rules of the Road and to perform their duties so as not to endanger persons, property or the marine environment.

Following the service of the Accusation and before the due date for Captain Hughes' Notice of Defense, the IRC and Captain Hughes agreed on a proposed stipulation for the termination of this matter, as authorized by Section 221(e) of the Board's regulations. In essence, the stipulation calls for Captain Hughes, without admitting misconduct, to retire effective January 1, 2004, and for the continuing suspension of his state pilot license until his retirement.

Captain Hughes has informed the Board's fiduciary for pension matters that he may wish to explore whether he may be entitled to a disability pension in lieu of a regular retirement pension. It is the intent of the parties to the proposed stipulation that, if Captain Hughes chooses to formally request a disability determination for purposes of calculating his pension benefits, that such a request be determined on its own merits, and is not a part of this stipulation.

It was moved and seconded to accept the Stipulation as written. Commissioner Falaschi asked for discussion. There was no discussion. The motion passed unanimously. Board Counsel Paetzold will notify the ALJ and take the hearing off calendar.

New Business

1. Public Comment on matters not on the agenda -- there was none
2. Proposals for additions to next month's agenda -- there was none

Schedule next regular meeting

December 18, 2003 -- 10:45 a.m.

December 18, 2003 -- 10:00 a.m. Finance Committee meeting

Adjournment -- the meeting was adjourned at 9:50 a.m.

Respectfully submitted,

Alice A. Evans
Secretary