

<p><b>Meeting Date:</b> <b>September 27, 2018</b></p>	<p><b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b></p> <p><b>BOARD MEETING MINUTES</b></p>	<p><b>Page 1 of 17</b></p>
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**Board Members Present**

Jennifer Ferrera Schmid, President, Public Member  
 Dave Connolly, Vice President, Public Member  
 David Hoppes, Dry Cargo Industry Member  
 Captain George Livingstone, Pilot Member  
 Captain Einar Nyborg, Pilot Member  
 John Schneider, Wet Cargo Industry Member  
 Marlon Flournoy, Ex Officio Member, Deputy Secretary for Transportation Planning,  
 Representing the Secretary of the California State Transportation Agency

**Board Members Absent**

Vacant, Public Member

**Staff Present**

Allen Garfinkle, Executive Director  
 Roma Cristia-Plant, Assistant Director  
 Dennis Eagan, Board Counsel  
 Luis Cruz, Associate Governmental Program Analyst

**Public Present**

Captain Joseph Long, San Francisco Bar Pilots (SFBP) President and Port Agent; Ray Paetzold, SFBP Business Director-General Counsel; Captain David Cvitanovic, SFBP; Karen Fuller Tynan, Attorney-at-Law.

**OPEN MEETING**

**1. Call to Order and Roll Call – President Schmid**

President Schmid called the meeting to order at 9:31 a.m. Associate Governmental Program Analyst Cruz called the roll and confirmed a quorum.

**2. Review and approval of Board meeting minutes – President Schmid**

**Board action to approve the minutes from the Board meeting held on August 23, 2018.**

Board members were presented with the draft minutes from the Board meeting held on August 23, 2018. Commissioner Livingstone requested minor edits to the draft minutes.

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- MOTION:** Commissioner Hoppes moved to approve the draft minutes of the meeting held August 23, 2018, as amended. President Schmid seconded the motion.
- VOTE:** YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg, and Schneider.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

### **3. President Announcements and Activities – President Schmid**

President Schmid announced the following:

- On August 27, 2018, she attended a lunch meeting with past Board President and Fitness Committee Chairman Mike Miller.
- On August 30, 2018, she met with Senior California State Transportation Agency (CalSTA) advisor Bob Franzoia and Ex-Officio Marlon Flournoy in Sacramento. She stated discussions included Board staff retention and general Board activities.
- On September 5, 2018, she attended a lunch meeting with Port Agent Captain Joseph Long.
- On September 22, 2018, she scheduled a meeting with Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel Mike Jacob, to be held September 28, 2018.

### **4. Board Member Announcements and Activities – Board Members**

Commissioner Hoppes announced that he attended a meeting with PMSA President John McLaurin and Vice President and General Counsel Mike Jacob, and discussed Mr. McLaurin’s recent editorial in the August 2018 issue of PMSA’s West Coast Trade Report titled, “Need for More State Oversight of Pilot Monopolies.”

### **5. Directors’ Report – Executive Director Garfinkle/Assistant Director Cristia-Plant**

#### **A) Correspondence and activities since the Board meeting held on August 23, 2018.**

Executive Director Garfinkle reported on the correspondence and activities since the August Board meeting as follows:

- On September 12, 2018, Board staff received the meeting agenda for the Shell Clubhouse Forum, entitled “Navigating the Future,” to be held on October 31, 2018, at the Shell Clubhouse in Martinez.
- Also on September 12, 2018, Bryant’s Maritime Consulting published an Australian Marine Safety Awareness Bulletin from the Australian Government that discussed

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- marine incident reporting such as the incident reporting process, enabling incident reporting, and provided recommendations improvements to incident reporting.
- On September 14, 2018, Bryant’s Maritime Consulting also published an article in the September 2018 edition of the Maritime Reporter and Engineering News. The article discussed the Federal Aviation Administration’s confidential maritime near-miss reporting program, and the resurgence of interest in Congress to revive such a reporting system. The article notes that the Department of Justice has historically objected to confidential near-miss reporting programs.
  - On September 17, 2018, he attended a director’s meeting at CalSTA.
  - On September 24, 2018, Board staff met with Marc Warner, Executive Director of the Oregon Board of Maritime Pilots. He reported that there were discussions of the similarities and difference between the two Boards and their programs.
  - On September 25, 2018, Board staff received the PMSA West Coast Trade Report for the month of September 2018. The report contains the July 2018 container trade and several other articles.
  - On September 26, 2018, he along with Board Counsel Eagan, past Board President Miller, and PMSA Vice President and General Counsel Jacob attended oral arguments in the California Court of Appeal case Reeder v. Board of Pilot Commissioners.
  - Also on September 26, 2018, Board staff received permission from the CalSTA Secretary Annis for the Executive Director to attend a Maritime Accident Investigation course at the National Transportation Safety Board training facility in Ashburn, Virginia, to be held October 29-31, 2018.

Commissioner Connolly referred to the Bryant Marine Consulting article that discussed confidential near-miss reporting, and noted that to his knowledge, Congress has not discussed the Confidential Information Protection and Statistical Efficiency Act of 2002, since it was enacted.

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

- Between the July and August Board meetings, Board staff issued licenses to Captains Laakso, Merritt, and Burger
- Since the August Board meeting the Board issued licenses to Captains LeSieur, Alfes, and Boriolo

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**C) Report on Board surcharges.**

Executive Director Garfinkle reported that the Board received a check from the SFBP in the amount of \$238,212.62, itemized as follows:

- Board Operations Surcharge: \$ 118,342.62
- Continuing Education Surcharge: \$ 17,830.00
- Trainee Training Surcharge: \$ 102,040.00

**D) Report on legislative activities and contractual matters.**

Assistant Director Cristia-Plant reported on Assembly Bill (251), and noted that it was amended on August 6, 2018. She reported that the bill would make non-substantive clean-up changes to several sections of the Harbors and Navigation Code. She further reported that the bill was assigned to the Senate Rules Committee on August 8, 2018, and did not proceed out of committee, and noted that the bill would not go forward this year.

For contractual matters, she reported the following:

- Board staff submitted contract documents to the California Highway Patrol (CHP) contract staff for San Francisco Bar Pilot Pension Plan calculation services. CHP contract staff are working on the Invitation for Bid package for a new 5-year contract, and that Board staff anticipate that the new contract will be effective January 1, 2019.
- CHP continues to work on invitation for bid documents for San Francisco Bar Pilot Pension Plan actuary services.
- Board staff are drafting contract documents for a contract with the California Department of Human Resources for trainee random drug testing services and that Board staff anticipate providing CHP with contract documents in the coming months.

**6. Port Agent's Report – Captain Joseph Long**

**A) Monthly report on San Francisco Bar Pilots (SFBP) pilot availability and absences.**

Port Agent Long reported that Captain Dowdle has been not fit for duty (NFFD) since September 23, 2017, and that Captain Cvitanovic has been NFFD since September 4, 2018.

He reported that the SFBP continually monitors the dispatch list for possible 12-hour minimum rest period (MRP) exceptions, and if the potential exception is likely to result in a rest period of less than 10 hours, mitigating measures are employed by the SFBP. He reported that the mitigating measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings,

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cancelling previously granted compensating-time-off requests, suspending SFBP internal working rules, and calling in off-watch pilots.

He reported that there are currently 56 licensed pilots. He reported that there were 10 MRP exceptions in August 2018, and that the shortest rest period was 7.1 hours. Port Agent Long explained that the shortest rest period was a result from the pilot's previous assignment being delayed before the pilot was subsequently assigned to a special assignment. He also noted that the pilot's assignments were made by a new dispatcher, and that the assignments were during the daylight hours. President Schmid thanked Port Agent Long for the explanation.

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

Port Agent Long reported that the P/V SAN FRANCISCO was out of service since September 4, 2018, for the overhaul of the main engine.

Port Agent Long reported the billed vessel moves for August 2018 as follows:

- Bar Crossings: 571 Moves
- Bay Moves: 124 Moves
- River Moves: 52 Moves
- Total Moves: 747 Moves
- Gross Registered Tons (GRT): 33.2 Million

He reported that when comparing 2018 year to date vessel move data with the same period in 2017, total moves are up 2.2% and GRT was up 4.1%.

Commissioner Connolly noted a national news report reported that the Port of Oakland recently had its busiest month in port history, and Port Agent Long confirmed that the SFBP's movement activity is showing increases. Commissioner Hoppes stated that shipping activity is returning to pre-Great Recession levels, the impacts of new tariffs is unknown, and ship operators will determine whether current shipping activity is ultimately economically viable.

**C) Monthly confidential written report of SFBP pilots who have been absent for medical reasons (AFMR). The Board may go into closed session to discuss contents of the Port Agent's confidential report as authorized by Harbors and Navigation Code § 1157.1.**

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

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## **7. Pilot Evaluation Committee – Captain Teague**

### **A) Report on the Pilot Evaluation Committee (PEC) meetings held on September 19, 2018.**

Captain Teague was unable to attend the meeting. Executive Director Garfinkle read Captain Teague's written report submitted to the Board, and stated the following:

- The PEC met on September 19, 2018, and Committee members Captains Teague, Boriolo, Carlier, Haggerty, and Robinson were present.
- In closed session, all trainees were interviewed and counseled individually on their progress in the Pilot Trainee Training Program.
- The eight current trainees are Captains Burchard, Crawl, Corbett, Freese, Greger, Pullin, Pyne Mercier, and Starnitzky. The range of time in the program for these trainees spans 9 to 21 months.
- All trainees have completed all testing for federal pilotage with the U.S. Coast Guard, and where necessary, are gathering their final route trips to complete their endorsements.
- All trainees are handling vessels as much as possible.
- Two trainees are in evaluation stage.
- All trainees are presently meeting the recommended benchmarks in the training program and are progressing at their individual rates.
- The next PEC meeting is scheduled for October 17, 2018, at 7:30 a.m. at the Board office.

### **B) Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program. Possible Board action to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.**

There was no recommendation.

### **C) Possible PEC recommendation for a determination that a trainee has or trainees have completed the Pilot Trainee Training Program. Possible Board action to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.**

There was no recommendation.

### **D) Possible recommendation from the Executive Director for the appointment of a new pilot or pilots. Possible Board action to accept a recommendation from the**

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**Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state-licensed pilot.**

There was no recommendation.

**8. Reported Safety Standard Violations – Executive Director Garfinkle  
(Reported safety standard violations occurring up to the start of the meeting will be reported on.)**

Executive Director Garfinkle reported that he received a Pilot Boarding Arrangement Deficiency Report submitted by Captain Kellerman concerning the M/V ORION. He stated Captain Keller reported that on August 31, 2018, while embarking the M/V ORION at Anchorage 9, he noticed the pilot ladder had a broken rung and ordered a replacement ladder, and that the ladder was replaced with another in better condition. Captain Kellerman also reported that the M/V ORION’s improper rigging by the crew of the combination ladder made disembarking the ship difficult.

Executive Director Garfinkle stated that due to a delay in receipt of Captain Kellerman’s report, a commission investigator was not dispatched, although he contacted the U.S. Coast Guard at the M/V ORION’s next port of call.

Commissioner Nyborg thanked Executive Director Garfinkle and the Board for the report.

**9. Reportable Piloting Events – Executive Director Garfinkle  
(Reportable piloting events occurring up to the start of the meeting will be reported on.)**

**Progress report on the allision of the M/V ALAM SEJAHTERA with the POSCO Steel dock (PBG 4) in Pittsburg, California, on March 25, 2018. Possible Board action to grant an extension to present the M/V ALAM SEJAHTERA report at the Board meeting to be held on October 25, 2018. If an extension is requested, it is due to the final report being incomplete.**

Executive Director Garfinkle stated that this reportable piloting event would be presented under Agenda item 17.

**10. Loss-of-Propulsion/Low-Sulfur-Fuel Report – Executive Director Garfinkle**

**Report on loss-of-propulsion events arising in July and August 2018, as reported by the U.S. Coast Guard, including those events suspected to be due to low-sulfur-fuel issues.**

Executive Director Garfinkle reported that according the U.S Coast Guard’s Prevention/Response – San Francisco Harbor Safety Statistics report for July 2018, there

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were three loss-of-propulsion and one reduction-of-propulsion incidents, and that none of the incidents were attributed to fuel switching.

Executive Director Garfinkle reported that according to the U.S Coast Guard's Prevention/Response – San Francisco Harbor Safety Statistics report for August 2018, there were three loss-of-propulsion and one reduction-of-propulsion incidents, and that one of the loss-of-propulsion incidents was attributed poor fuel quality.

Commissioner Schneider noted that a large amount of recent propulsion failures may be related to a bad fuel that was recently distributed, and that had worldwide impacts. There was no further discussion.

## **11. Finance Committee – Commissioner Hoppes**

### **A) Report on the Finance Committee meeting held on September 13, 2018.**

Finance Committee Chairman Hoppes stated that the Committee met on September 13, 2018, and reviewed the Board's financial situation, the Operations, Pilot Continuing Education, Pilot Trainee Training, and Navigation Technology Surcharges data, and a SFBP proposal to recover incurred navigation technology expenditures. He stated that the Committee is recommending no changes to the Board's surcharges and explained that the Finance Committee's role is making recommendations to the Board, and that the Board makes the final decisions and authorizations. Vice President Connolly and Executive Director Garfinkle agreed.

### **B) Finance Committee recommendations to the Board on the following Board surcharges:**

- a. That the Board Operations Surcharge rate (currently 2.75% of all pilotage fees) to remain the same. Possible Board action to accept the Committee recommendation for the surcharge rate to remain at 2.75% of all pilotage fees, or to adjust the Board Operations Surcharge rate to an amount approved by the Board.**

Chairman Hoppes stated the Finance Committee reviewed the Board Operations Surcharge rate and data and recommended to maintain the rate at 2.75% of all pilotage fees.

- b. That the Pilot Continuing Education Surcharge rate (currently \$25 per move) remain the same. Possible Board action to accept the Committee recommendation for the surcharge rate to remain at \$25 per move, or to adjust the Board Operations Surcharge rate to an amount approved by the Board.**



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Chairman Hoppes stated the Finance Committee reviewed the Continuing Education Surcharge rate and data and recommended to maintain the rate at \$25/move.

- c. That the Pilot Trainee Training Surcharge rate (currently \$15/trainee/move) remain the same. Possible Board action to accept the Committee recommendation for the surcharge rate to remain at \$15/per trainee/per move, or to adjust the Pilot Trainee Training Surcharge rate an amount approved by the Board.**

Chairman Hoppes stated the Finance Committee reviewed the Pilot Trainee Training Surcharge rate and data and recommended to maintain the rate at \$15/trainee/move.

- d. That the Navigation Technology Surcharge rate (currently at \$40/move) remain the same. Possible Board action to accept the Committee recommendation to the surcharge rate to remain at \$40 per move, or to adjust the Navigation Technology Surcharge rate to an amount approved by the Board.**

Chairman Hoppes stated the Finance Committee reviewed the Navigation Technology Surcharge rate and data and recommended to maintain the rate at \$40/move.

- MOTION:** Finance Committee Chairman Hoppes moved that the Board accept the Finance Committee’s recommendation of no change to the Board Operations Surcharge, Pilot Continuing Education, Pilot Trainee Training, and Navigation Technology surcharge rates. Commissioner Nyborg seconded the motion.  
YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg, and Schneider  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

- e. That the Board authorize the San Francisco Bar Pilots to recover from the Navigation Technology Surcharge monies navigation technology expenditures for use taxes paid to the California Franchise Tax Board in 2018, for software license renewal fees for the precision docking system paid to Trelleborg for in 2018, and for financing costs on financing that was authorized by the Board on June 22, 2017. Possible Board action to authorize the San Francisco Bar Pilots to recover from the Navigation Technology Surcharge monies navigation technology expenditures for use taxes paid to the California Franchise Tax Board in 2018, for software license renewal fees for the precision docking system paid to Trelleborg in 2018, and for financing costs on financing that was authorized by the Board on June 22, 2017.**

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Mr. Paetzold reported the Finance Committee thoroughly reviewed the SFBP's navigation technology expenditures data for use taxes paid to the California Franchise Tax Board in 2018, software license renewal fees for the precision docking system paid to Trelleborg for in 2018, and financing costs on financing that was authorized by the Board on June 22, 2017.

**MOTION:** Finance Committee Chairman Hoppes moved that the Board accept the Finance Committee's recommendation to authorize the San Francisco Bar Pilots to recover from Navigation Technology Surcharge monies navigational technology expenditures for use taxes paid to the California Franchise Tax Board in 2018, for software licenses renewal fees paid in 2018, and for financing costs on financing that was authorized by the Board on June 22, 2017, all totaling \$111,463. Commission Nyborg seconded the motion.

YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg, and Schneider

NO: None.

ABSTAIN: None.

**ACTION:** The motion was approved.

**12. Board discussion of John McLaurin's commentary article titled, "The Need for More State Oversight," published in the August 2018 edition of the Pacific Merchant Shipping Association's *West Coast Trade Report*. Possible Board action to determine how best to respond to John McLaurin's editorial titled, "The Need for More State Oversight," published in the August 2018 edition of the Pacific Merchant Shipping Association's *West Coast Trade Report*.**

President Schmid introduced the agenda item, stated the discussion was requested by Commissioners at the August Board. Board Counsel Eagan stated that it might be helpful for the Board to respond to the article to correct some of article's principal inaccuracies and mis-statements. He noted the following:

- The intended state pilotage commission is not clear, although the Board is mentioned in the article.
- The Board's regulatory efforts are a model for other pilotage organizations, particularly with reference to the pilot/trainee fitness regulations. He also mentioned that the pilot fatigue study is complete, and the Board is proceeding with fatigue regulations.
- Many of the statistics in the editorial are inaccurate, and are skewed to reflect a recurrent theme of PMSA that pilots are well-compensated while working few hours. However, the calculations of hours worked only while on a ship do not include the fact that pilots are on-call 24 hours a day, similar to fire fighters and emergency-room physicians.

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- The non-disclosure agreement involving information shared between the SFBP and the researchers was at the insistence of the SFBP. The Board included a provision in the contract for Board review and approval of the non-disclosure agreement to ensure that the study paid for by the Board would produce a viable work product.
- In regard to PMSA’s litigation against the Board seeking ”pilot logs” under the Public Records Act, the Court of Appeal found that the Board did not have the records sought and so had nothing to produce in response to the request.
- In regard to the article’s claim that the State has no desire to know how or when pilots work, it is important to note that the Board requires both the reporting of certain pilot work information pursuant to California Code of Regulations, Title 7, §237(d), and monthly reports from the Port Agent on minimum rest period exceptions.
- The Board does not oppose and there is no conspiracy against the shipping industry.

Commissioner Hoppes stated that in his opinion, Mr. McLaurin’s editorial was dark, and he explained that PMSA’s concerns revolve around the cost of shipping and transparency of the SFBP pilot work records, and that navigation activity in the Board’s jurisdiction is generally safe. He confirmed that there are no mechanisms in the West Coast Trade Report to print a letter to the editor. He suggested that the Board take no further action to respond to Mr. McLaurin’s article.

Commissioner Nyborg responded stating that the editorial discredits the Board, contained manipulated data and was overall offensive. Commissioner Livingstone concurred and added that in his opinion the article was written in a deliberate attempt to create misinformation between the shipping industry and the pilots.

President Schmid agreed that it appears a response may be necessary to correct misleading use of facts in the article, and that maybe a brief response is appropriate. She then called for a short recess.

**RECESS BEGAN: 11:02 A.M.**  
**RETURN TO OPEN MEETING: 11:13 A.M.**

President Schmid solicited opinions from the Commissioners on how best to proceed with Mr. McLaurin’s article. After a brief discussion, the Commissioners agreed to submit a direct and brief response to Mr. McLaurin.

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**MOTION:** Vice President Connolly moved that the Board staff draft a brief response to John McLaurin’s editorial titled, “The Need for More State Oversight,” published in the August 2018 edition of the Pacific Merchant Shipping Association’s West Coast Trade Report for President Schmid’s review and signature. Commissioner Nyborg seconded the motion.

**VOTE:** YES: Schmid, Connolly, Livingstone, Nyborg, and Schneider.  
NO: Hoppes.  
ABSTAIN: None.

**ACTION:** The motion was approved.

Port Agent Long commented that he found the article disturbing, and noted that the SFBP has the highest transparency standards of any pilotage organization in the United States.

**13. Navigation Technology Equipment and Software Acquisition Update – SFBP Business Director-General Counsel Paetzold**

**Status report on the SFBP’s navigation technology equipment and software implementation.**

Mr. Paetzold stated there was nothing new to report.

**14. Fee and Surcharge Recovery Actions Involving Hanjin Shipping Company – SFBP Business Director-General Counsel Paetzold**

**Status report on the SFBP’s fee and surcharge recovery actions involving pilotage services provided to vessels operated by Hanjin Shipping Company.**

Mr. Paetzold stated there was nothing new to report.

**15. San Francisco Bar Pilot Pension Plan Litigation – Board Counsel Eagan**

**Status report on Craig E. Reeder vs. State Board of Pilot Commissioners litigation. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.**

Board Counsel Eagan reported that on September 26, 2018, oral arguments were heard in the California Court of Appeal, and that a decision on the case is expected within 90 days of the conclusion of oral arguments.

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**16. Board discussion of best practices in Maritime Safety – Vice President Connolly**

**A Board discussion of best practices in maritime safety and/or lessons learned from Incident Review Committee incident reports or other sources, and possible directions to staff to develop safety policies and procedures. Possible Board action to direct staff to develop maritime safety policies and procedures.**

Vice President Connolly stated there was nothing to report.

President Schmid turned the meeting over to Vice President Connolly to chair. Vice President Connolly called for a short recess to prepare for the presentation of the Incident Review Committee report.

**RECESS BEGAN: 11:45 A.M.**  
**RETURN TO OPEN SESSION: 11:53 A.M.**

President Schmid recused herself from her seat on the Board, and assumed her position as a member of the Incident Review Committee along with Executive Director Garfinkle.

**17. Incident Review Committee incident report on the M/V ALAM SEJAHTERA - President Schmid**

**A presentation of the Incident Review Committee report on the event involving the M/V ALAM SEJAHTERA making unintended contact with the pier structure at the USS-POSCO Industries (PBG4) in Pittsburg on March 25, 2018. Board deliberation and decision with respect to possible pilot error. Board determination with respect to further actions, if appropriate. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).**

Executive Director Garfinkle presented the Incident Review Committee (IRC) report to the Board on the event involving the M/V ALAM SEJAHTERA, and stated the event involved Captain Bruce Horton and pilot trainee Captain David Burchard.

Executive Director began the presentation by providing the Board with the set of facts from the M/V ALAM SEJAHTERA event as follows:

1. On the morning of March 25, 2018, the M/V ALAM SEJAHTERA (hereinafter ALAM SEJAHTERA), a 580-foot-long bulk carrier, was scheduled to depart Dow Chemical

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(PBG 6) for Anchorage Nine. San Francisco Bar Pilot Captain Bruce Horton was assigned the job. Board of Pilot Commissioners trainee, Captain David Burchard, was accompanying Captain Horton.

2. Captain Horton and Captain Burchard boarded at 0224 hours and after a short delay, the ship got underway at 0335 hours. Captain Burchard was conning. The tug AMERICA was made fast on the port bow, and the tug CADEN FOSS was made up on the transom center.
3. Following an uneventful undocking and counter-clockwise turn at "Riverview," the tugs were casted off and the ship began its descent down river.
4. Upon passing navigation light "8" with rudder amidship, a helm order of "Starboard 10" was given to check the slow rate of turn that was developing to port. The desired effect was not observed and the order of "Starboard 20" was given. The helmsman repeated the commands as given.
5. When the rate of turn continued to increase to port, both Captain Burchard and Captain Horton simultaneously observed the rudder angle indicator showing the rudder over to port 20 degrees. Upon this realization, Captain Burchard shouted the order "hard to starboard" while grabbing the wheel to change direction as quickly as possible. The pilot, Captain Horton, assumed the conn and ordered "amidships" and "hard to starboard" in quick succession.
6. With the vessel still swinging to port, Captain Horton ordered "full astern" and "drop the starboard anchor." While the commands were repeated back to Captain Horton, neither command appeared to be carried out promptly, with the Chief Officer stepping down the engine revolutions incrementally, and the vessel appearing to be unaffected by an anchor.
7. Captain Horton repeated the order of full astern, adding "now" for emphasis, in hopes of getting the mate to take the engine astern immediately. Following this command the engine was observed turning astern. The master was on the radio with the officer on the bow in an attempt to get the anchor down.
8. The combined actions of reversing the engine and putting the rudder over hard to starboard had the vessel beginning turning to starboard and slowing, but in spite of these efforts, hull contact was made with the USS-POSCO dock face.
9. Still making headway, the ship's bow made contact with the pier fendering and subsequently the whole vessel landed flat alongside, then moved bodily away from pier. The pilot ordered the engines stopped and then ordered half-ahead, with the intent of working the ship back into the center of the channel.
10. The ship's crew inspected for hull breaches and/or flooding, and none was found. The ship proceeded to Anchorage Nine without further incident.

Executive Director stated that finder of fact would need to determine whether the standard of care in this case would be whether a particular pilot exercised that degree of care and skill possessed by the average pilot, a fairly high standard of care one would expect of an expert maritime pilot licensed by the Board, or if the mistake by the helmsman placed the ship "in

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extremus” (a situation where, through no fault of the pilot, the ship is placed in sudden peril) which would allow a more lenient standard.

Executive Director stated the evidence presented here is that Captain Burchard was conning the ship through a routine undocking, a short passage to a location in the river wide enough to perform a turn, and performed a counter-clockwise turn to head back down stream. Once the ship re-entered New York Slough, Captain Burchard gave appropriate orders to check the swing to port. It was at this point that the evidence indicates the helmsman put the helm over in the opposite direction than Captain Burchard ordered. When Captain Burchard did not see the ship responding to the rudder command he gave, he increased the amount of rudder ordered, and the helmsman correspondingly increased the rudder in the wrong direction. When the ship did not respond to the commands as expected, it appears that both Captain Horton and Captain Burchard began to seek out the reason why, and discovered, by viewing the rudder angle indicator, that the helmsman had gone the wrong way.

The evidence also indicates that both Captain Horton and Captain Burchard took immediate actions to ameliorate the mistake, although none of the actions taken by Captain Horton or Captain Burchard were enough to prevent an allision with the USS-POSCO pier, and the ship made contact twice prior to the pilot regaining control and moving back into the channel.

Vice President Connolly noted that statements from the ALAM SEJAHTERA crew indicate the helmsman turned the wheel in the opposite direction of the order and committed an error.

Executive Director Garfinkle stated that while the helmsman’s actions can directly be linked to the unintended contact with the pier, a thorough analysis demanded that the IRC examine beneath and beyond his error. Beneath the helmsman’s error lies an examination of shipboard bridge team management and pilot bridge resource management and beyond the error leads to an examination of Captain Burchard’s and Captain Horton’s responses to the error.

Executive Director Garfinkle stated that this event dealt with a breakdown of the human element and a failure of shipboard bridge team management. He stated that effective bridge team management results in a safe passage, and in this event there was a failure in that the person typically responsible for monitoring the ship’s rudder angle and engine orders got distracted by a lower priority task. He explained that the pilot is also responsible for bridge resource management, and that while the pilot is not a member of the ship’s crew, he/she is expected to come aboard and manage the ship’s available resources. He stated that adequate preparation and training leads to success, and the Board’s pilots complete a Bridge Resource Management course every five years. He noted that it was evident the training came into play, when analyzing the responses of the pilot and trainee.

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The Executive Director stated that the evidence was unclear whether the anchor was actually deployed, as the pilot and trainee did not observe the ship respond to a dropped anchor and that the ship's crew provided conflicting evidence.

Executive Director Garfinkle confirmed for Commissioner Nyborg that the ALAM SEJAHTERA's bell book contained an entry between the lines on the page that stated the starboard anchor was released. This might indicate an entry made after-the-fact.

Executive Director Garfinkle stated that the IRC was presented with the questions of whether the pilot or trainee should have been watching the rudder indicator. He stated that while it is important for a pilot to continually survey all the instruments,, one component of the Board's training program is having the trainee develop a "mariner's eye," a visual sense of relative motion, so it is not unusual that during a maneuver such as this that the trainee was looking out the window and not at the instruments.

Executive Director Garfinkle stated that the IRC is charged with reviewing the evidence in a given event and making a recommendation to the Board. The Board, after reviewing the evidence, report, and recommendation of the IRC, is charged with making a decision as to what action is to be taken. He stated that based on the evidence and analysis, the IRC recommends the following:

1. That the Board find for no pilot error on the part of Captain Horton in this case.
2. That the Board find for no pilot error on the part of Captain Burchard in this case.
3. That the investigation be closed without further action.

Executive Director Garfinkle noted that Captain Horton expressed his regret in a letter to the Board for being unable to attend the meeting due to a conflict with another important personal commitment.

Vice President Connolly thanked the IRC for their thorough investigation, and inquired if the early morning event may have suggested a circadian low effect on the ship's crew. Executive Director stated that the ship's rest logs were not collected as part of the evidence, but that was one possible explanation for the helmsman's error.



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**MOTION:** Vice President Connolly moved that to accept the Incident Review Committee’s recommendation regarding the event involving the M/V ALAM SEJAHTERA making unintended contact with the pier structure at the USS-POSCO Industries (PBG4) in Pittsburg on March 25, 2018, that the Board find that there was no pilot or trainee error, and that the investigation be closed without further action.

**VOTE:** YES: Connolly, Hoppes, Livingstone, Nyborg, and Schneider.  
NO: None.  
ABSTAIN: None.

**ACTION:** The motion was approved.

Commissioner Nyborg noted that this was Captain Horton’s first incident as a pilot in his 27 years of licensure. There was no further discussion.

Vice President Connolly then yielded the Chairman duties back to President Schmid.

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

There were no comments from the public.

**19. Proposals for the next Board meeting agenda.**

There were no proposals for the next Board meeting.

**20. Adjournment.**

**MOTION:** President Schmid moved to adjourn the meeting. Vice President Connolly seconded the motion.

**VOTE:** YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg, and Schneider.  
NO: None.  
ABSTAIN: None.

**ACTION:** The motion was approved and the meeting adjourned at 12:38 p.m.

Submitted by:



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