

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 1 of 18</p>
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Board Members Present

Dave Connolly, President, Public Member
 Joanne Hayes-White, Public Member
 Captain Oscar Prada, Tanker Company Industry Member
 Captain Einar Nyborg, Pilot Member
 Captain Robert Carr, Pilot Member
 Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Matt Brooks, Vice President, Public Member
 David Hoppes, Dry Cargo Industry Member

Board Staff Present

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

Public Present

Captain Joseph Long, Port Agent and San Francisco Bar Pilots (SFBP) President; Ray Paetzold, SFBP Business Director-General Counsel; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captains Steve Teague and Gregory Tylawsky, SFBP; and Captain Dennis Plant, Chevron and retired BOPC-licensee.

OPEN MEETING

1. Call to Order and Roll Call (President Connolly)

President Connolly called the meeting to order at 9:30 a.m. Administrative Assistant II Wong called the roll and confirmed a quorum.

2. Review and approval of Board meeting minutes (President Connolly)

Board action to approve the minutes from the Board meeting held on August 22, 2019.

Board members were presented with draft minutes from the August 22, 2019, meeting. There was no comment or discussion.

<p>Meeting Date: September 26, 2019</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 2 of 18</p>
---	---	---

- MOTION:** Commissioner Hayes-White moved to approve the draft minutes of the meeting held on August 22, 2019. Commissioner Prada seconded the motion.
- VOTE:** YES: Connolly, Hayes-White, Prada, and Nyborg.
NO: None.
ABSTAIN: Carr.
- ACTION:** The motion was approved.

3. President Announcements and Activities (President Connolly)

President Connolly welcomed Commissioner Captain Robert Carr. He noted that Commissioner Carr has been a pilot with the San Francisco Bar Pilots since 2011, that he previously worked for Chevron Shipping Company, and also served in the United States Navy Reserve.

He also announced that today is World Maritime Day and noted that the theme is gender diversity. He referenced an International Maritime Organization (IMO) media brief, and read the following statements from the brief:

“Gender equality has been recognized as one of the key platforms on which people can build a sustainable future. It is one of the 17 goals that underpin the UN's Sustainable Development Agenda, which countries all over the world have pledged to implement,” said IMO Secretary-General Kitack Lim.”

“Women in the maritime world today are strong, powerful and constantly challenging old-fashioned perceptions. Experience tells us that diversity is better; it's better for teamwork, better for leadership - and better for commercial performance. The maritime world is changing. And for the better. With help from IMO, and other organizations, exciting and rewarding career opportunities are opening up for women. And a new generation of strong and talented women are responding. They are proving that in today's world the maritime industries are for everyone. It's not about your gender, it's about what you can do,” Mr. Lim said.”

4. Board Member Announcements and Activities (Board Members)

There were no announcements.

5. Directors' Report (Executive Director Garfinkle/Assistant Director Cristia-Plant)

A) Correspondence and activities since the Board meeting held on August 22, 2019.

Executive Director Garfinkle reported the following:

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 3 of 18</p>
---	---	----------------------------

- On August 27, 2019, Board staff received a Final Update from the United States Coast Guard regarding extensions on Merchant Mariner Credentials and medical certificates. Credentials expiring in December 2018 through July 2019 were automatically extended until August 31, 2019.
- On September 12, 2019, Board staff received a Marine Safety Information Bulletin titled, *Passenger vessel compliance and operational readiness*, and noted that the bulletin was issued in response to the fire on the dive vessel M/V CONCEPTION that occurred off Santa Cruz Island on September 2, 2019.
- On September 12, 2019, he attended a Harbor Safety Committee meeting held at the Port of Oakland.
- On September 16, 2019, he and Assistant Director Cristia-Plant attended the *California Leads as an Employer 2019* forum in Sacramento that advised chief state decision makers to commit and make decisions to ensure the state is a respectful, unbiased, inclusive and professional workplace.
- On September 19, 2019, Board staff received a copy of the National Transportation Safety Board's (NTSB) *Safer Seas Digest 2018*, which covers marine accident investigations. He noted that there were 30 incidents mentioned that involved allisions, capsizing, collisions, contacts, fire/explosions, flooding, and groundings.
- On September 24, 2019, Board staff received a copy of the PMSA *West Coast Trade Report* for July 2019.
- Also, on September 24, 2019, Board staff received a United States Coast Guard Marine Safety Alert, *Prevent Passenger High-Risk Behaviors*, and stated that this alert warns against passengers standing or sitting on rails, or intentionally jumping into the water from a commercial passenger vessel.
- On September 25, 2019, Board staff received a copy of a letter from the major U.S. West Coast ports to President Trump expressing concern that his trade policy will create long lasting negative economic harm to employers, workers, residents, and international partnerships along the west coast and throughout the country.

B) Report on pilot licensing matters since the Board meeting held on August 22, 2019.

Executive Director Garfinkle reported that since the August 2019 Board meeting, the Board renewed the licenses of Captains Alfery and Boriolo.

C) Report on Board surcharges.

Executive Director Garfinkle reported that since the August 2019 Board meeting, the Board received a check from SFBP in the amount of \$168,460.34, itemized as follows:

- Board Operations Surcharge: \$101,230.34
- Trainee Surcharge: \$ 43,200.00

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 4 of 18</p>
---	---	----------------------------

- Continuing Education Surcharge: \$ 24,030.00

D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant stated that there were no legislative activities to report.

Assistant Director Cristia-Plant reported the following on contractual matters:

- Board staff decided to change direction regarding contracting for trainee random drug testing. She stated that although the California Department of Human Resources agreed to allow the Board to enter into an interagency agreement for trainee random drug testing under their master drug testing contract, the state's model contract and federal regulations made that process not workable. Board staff held discussions with the SFBP's President and the General Counsel-Business Director, and it was agreed that the SFBP would conduct trainee random drug testing for the Board. She stated that the current contract with the SFBP, along with the contract budget, will be amended for this additional workload.
- The contract for limited information technology support with the California Department of Transportation (Caltrans) expired at the end of August. However, Caltrans has agreed to provide the Board full information technology (IT) services. She stated the Board will transition from receiving email, electronic file storage, and software programs and support from the California Department of Technology to Caltrans in mid-October, and will transition the Board's website from the Department of Technology over to Caltrans later this year or early next year. She stated the Board will be incorporated into Caltrans' IT disaster recovery plan, and cyber security processes and procedures, and Caltrans will be responsible for ensuring that the Board is in compliance with the copious and ever-changing state information technology policies and reporting requirements. She noted that the Board will enter into a new interagency agreement with Caltrans once the cost of the services can be determined.
- The State Controller's Office has begun the 2018 audit of pilotage rates and surcharges. An audit completion date is not yet known.
- Board staff is in the process of completing the collection of data to provide to Precision Actuarial Inc. for the actuarial study of the San Francisco Bar Pilot Pension Plan.

Executive Director Garfinkle and Assistant Director Cristia-Plant explained to the Board that trainees need to be subject to random drug testing as a requirement to hold their federal mariner's license issued by the U.S. Coast Guard, and while the Board is not a trainee's employer, the federal regulations allow a sponsor to conduct a drug testing program.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 5 of 18</p>
---	---	----------------------------

Executive Director Garfinkle confirmed for President Connolly that while the U.S. Coast Guard issued several extensions to mariners to address the delay in mariner license renewals related to the federal government shutdown, he was not aware of any pilot that had to rely on the extension to obtain federal license renewal.

President Connolly commented on the *Safer Seas Digest 2018* and the Marine Safety Alert, *Prevent Passenger High-Risk Behaviors*, and noted that the safety issues identified are safety risks that pilots also need to protect against.

6. Port Agent’s Report (Port Agent Long)

A) Monthly report for August 2019 on San Francisco Bar Pilots (SFBP) pilot availability and absences.

Port Agent Long reported the following pilots have been absent for medical reasons (AFMR) and their initial absence date:

- Captain Kleess – November 26, 2018.
- Captain Coppo – August 13, 2019.
- Captain Carlier – September 11, 2019.
- Captain Pate – September 18, 2019.

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 less than 10 hours, mitigation measures are employed by the SFBP. He reported that the mitigation measures include, but are not limited to, suspending continuing professional development protocols, canceling scheduled meetings, canceling previously granted compensated time off requests, suspending SFBP internal working rules, and calling in off-watch pilots.

He reported that there are currently 57 licensed pilots, that there were 3 MRP exceptions in August, and that the shortest rest period was 11.3 hours.

B) Monthly report for August 2019 on SFBP ship-piloting business activity.

Port Agent Long reported that P/V CALIFORNIA has been in the shipyard since August 21, 2019, for scheduled maintenance, that reduction gear overhauls have caused some delays, and that the vessel is expected to be out of service for another month.

Port Agent Long reported that the billed vessel moves for August 2019 were as follows:

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 6 of 18</p>
---	---	----------------------------

- Bar Crossings: 530 moves
- Bay Moves: 151 moves
- River Moves: 39 moves
- Total Moves: 720 moves
- Gross Registered Tons (GRT): 31.6 million

He also reported that when comparing 2019 year-to-date vessel move data with the same period in 2018, total moves were up 0.2% and GRT was down 3.4%.

C) Monthly confidential written report for August 2019 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.

Port Agent Long reported that the P/V EAGLET is currently not being chartered, but has been in the recent past, and that he will provide the Board with an On Hire Vessel Survey for the P/V EAGLET. President Connolly requests that when action items are listed in the Pilot Vessel Condition and Valuation Surveys, it is assumed that the recommendations were fixed or about to be fixed and he would like to hear from the Port Agent about the final resolution of the recommendations contained in pilot boat condition surveys previously reviewed by the Board. Assistant Director Cristia-Plant volunteered to work with Port Agent Long to obtain the requested information.

7. Pilot Evaluation Committee (Captain Teague)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on September 19, 2019.

PEC Chair Captain Teague reported the following for the September 19, 2019, PEC meeting:

- The PEC met on September 19, 2019, and in attendance were Committee members Captains Boriolo, Carlier, Haggerty, Robinson, and Teague.
- All trainees were interviewed and counseled individually in closed session by the PEC members on their progress in the Pilot Trainee Training Program.
- The six current trainees include Captains Benedict, Burchard, Nelson, Pyne Mercier, Rogers, and Stevens. The range of time in the program for these trainees spans one month to 26 months.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 7 of 18</p>
---	---	----------------------------

- Two of the six trainees have their full unlimited federal pilotage endorsement with the U.S. Coast Guard. Two other trainees have completed all testing and are finalizing the requirement for route trips. These four trainees are handling vessels as much as possible now, with one trainee being in evaluation stage.
- The two newest trainees, Benedict and Rogers, are acquiring route trips and are testing for unlimited tonnage pilotage routes and are currently starting to handle vessels in areas where they have their endorsements.
- All trainees are presently meeting the recommended benchmarks in the program and are progressing at their own rate.
- Two new trainees are scheduled to start the Pilot Trainee Training Program on October 1, 2019, and he provided the Board with resumes of the new trainees.
- The next PEC meeting is scheduled for October 16, 2019, 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 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 stated that there were no safety standard violations to report on.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 8 of 18</p>
---	---	----------------------------

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

- A) Progress report on the unintended contact between the M/V ALYARMOUK and a temporary buoy marking the Fleet Week parade boundaries on October 7, 2018. Possible Board action to grant the Incident Review Committee an extension to present the M/V ALYARMOUK report at the Board meeting to be held on October 24, 2019.**

Executive Director Garfinkle stated that this agenda item will be discussed under agenda item 14.

- B) Progress report on the M/V ARCTIC making unintended contact with the AMORCO dock (MRZ5) on December 2, 2018. Possible Board action to grant the Incident Review Committee an extension to present the M/V ARCTIC report at the Board meeting to be held on October 24, 2019.**

Executive Director Garfinkle reported that on December 2, 2018, the M/V ARCTIC was mooring portside at the AMORCO pier (MRZ5) when the bow made unintended contact with the pier structure, resulting in minor damage to the pier structure. He reported that the Incident Review Committee (IRC) report is not available for presentation at this Board meeting because the investigation is still ongoing. He stated that the IRC is requesting an extension to present this report at the October Board meeting. He also noted that there is no risk to the public safety due to the delay of this report.

Executive Director Garfinkle explained to Commissioner Prada that he has photographic evidence of the damage to the pier, and that former Commissioner John Schneider was assisting him with obtaining additional incident information. He also explained that the Board does not have the necessary proprietary software that would allow him to view and interpret Voyage Data Recorder (VDR) evidence, that he typically obtains relevant VDR evidence from the U.S. Coast Guard via a Freedom of Information Act request, and that he has obtained VDR evidence in the past when it has been critical to an investigation. He stated that he often cannot obtain information from the U.S. Coast Guard until they have completed their investigation, which can cause delays in the completion of IRC reports.

Meeting Date: September 26, 2019	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 BOARD MEETING MINUTES	Page 9 of 18
---	--	---------------------

MOTION: Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V ARCTIC at the October 24, 2019, Board meeting. Commissioner Hayes-White seconded the motion.

VOTE: YES: Connolly, Hayes-White, Prada, Nyborg, and Carr.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

C) Progress report on the alleged hard landing of the M/V WASHINGTON at the Valero pier (BNC4) on August 12, 2019.

Executive Director Garfinkle reported that on August 12, 2019, the M/V WASHINGTON was alleged to have landed hard at the Valero pier (BNC4), resulting in minor damage to the structure. He reported that the 90-day statutory deadline for the report is November 9, 2019, and that no Board action is required at this meeting.

Executive Director Garfinkle stated that an event occurred after the agenda for this meeting was disseminated, and reported that he was notified on September 21, 2019, that an event took place on that day in which the M/V OCEAN GLORY was mooring at the southside of Pier 50, San Francisco, when the ship appeared to go aground momentarily. He stated the pilot was able to free the ship and moved it to a different pier without further issues. He reported that the 90-day statutory deadline for the report is December 20, 2019, and that no Board action is required at this meeting.

10. Loss-of-Propulsion/Reduction in Propulsion Report (Executive Director Garfinkle)

Report on loss-of-propulsion and reduction in propulsion events arising in August 2019, as reported by the U.S. Coast Guard.

Executive Director Garfinkle reported that according to the U.S. Coast Guard's Prevention/Response-San Francisco Harbor Safety Statistics report for the months of June 2019, July 2019, and August 2019, none of the events were due to fuel switching. He noted the following events were reported by the U.S. Coast Guard for the three months:

	June 2019	July 2019	August 2019
Loss of Propulsion Events	2	2	3
Reduction of Propulsion Events	0	3	0

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 10 of 18</p>
---	---	-----------------------------

The Board discussed if this agenda item is still necessary since there has been a marked decrease in loss of propulsion events due to fuel switching. It was agreed to retain the agenda item, but focus the item on the safety and security cases included in the U.S. Coast Guard's safety statistics report.

11. Finance Committee (Commissioner Hoppes)

A) Report on the Finance Committee meeting held on September 11, 2019.

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

- 1. To adjust or not adjust the Board Operations Surcharge rate (currently 2.75% of all pilotage fees) to remain the same. Possible Board action to adjust the Board Operations Surcharge rate.**
- 2. To adjust or not adjust the Pilot Continuing Education Surcharge rate (currently \$35 per move). Possible Board action to adjust the Pilot Continuing Education Surcharge rate.**
- 3. To adjust or not adjust the Pilot Trainee Training Surcharge rate (currently \$10/trainee/move). Possible Board action to adjust the Pilot Trainee Training Surcharge rate.**
- 4. To adjust or not adjust the Navigation Technology Surcharge rate (currently at \$40/move). Possible Board action to adjust the Navigation Technology Surcharge rate.**

Mr. Paetzold reported on the Finance Committee meeting held on September 11, 2019, and presented the Finance Committee's recommendations on behalf of Finance Committee Chair Hoppes. Mr. Paetzold reported that the Finance Committee reviewed the Board's FY 2019-20 financial statements and budget, along with fiscal data for the Board Operations, Pilot Continuing Education, Pilot Trainee Training, and Navigation Technology Surcharges. He stated the Finance Committee voted to recommend to the Board to maintain the current surcharge rates of 2.75% of all pilotage fees, \$35/move, \$10/trainee/move, and \$40/move, respectively.

Commissioner Nyborg and Mr. Jacob, also members of the Finance Committee, confirmed the committee's recommendation. Board Counsel Eagan suggested that the Board does not necessarily need to vote if the current surcharges are to remain the same, although it has been the Board's past practice to vote on surcharge rates every quarter.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 11 of 18</p>
---	---	-----------------------------

MOTION: Commissioner Nyborg moved that the Board Operations, Pilot Continuing Education, and Pilot Trainee surcharges remain the same as noted in the agenda. Commissioner Hayes-White seconded the motion.

VOTE: YES: Connolly, Hayes-White, Prada, Nyborg, and Carr.
NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

12. 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 reported that the route piloting and precision docking equipment and software continue to work well.

13. Incident Review Committee incident report on the M/V XING ZUN HAI interaction with the M/V WENCHE VICTORY (Committee Chair Connolly)

A presentation of the Incident Review Committee report on the event involving the M/V XING ZUN HAI interaction with the M/V WENCHE VICTORY in the Port of Stockton, on October 4, 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).

Board Counsel Eagan advised the Board that even though this IRC report was already presented at the August 2019 Board meeting, there was not a quorum of voting members when President Connolly vacated his position on the Board to take his position on the IRC, which left three voting members to consider and vote on the IRC report that month. He referenced §210(f) of the Board’s regulations, which states Board action on IRC reports is to be taken by a majority of those present and voting. However, he further discussed that §1150 (c) of the Harbors and Navigation Code states, “A quorum of the board members consists of four members.”

He stated that Executive Director Garfinkle should re-present the M/V XING ZUN HAI IRC report again at this Board since there is a quorum present after President Connolly relinquishes his Board member seat to represent the IRC, and since there is a Board member

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 12 of 18</p>
---	---	-----------------------------

present at this meeting that was absent at last month's Board meeting and did not hear the IRC presentation last month.

Board Counsel Eagan clarified for President Connolly that it was his opinion that as a member of the IRC, President Connolly should not sit at the head of the Board table for the presentation of IRC reports since he is not judging the item. President Connolly then recused himself from his seat on the Board, assumed his position as a member of the IRC along with Executive Director Garfinkle, and turned the meeting over to Commissioner Hayes-White to chair.

Commissioner Hayes-White called for a short recess.

RECESS BEGAN: 10:35 a.m.
RETURN TO OPEN SESSION: 10:47 a.m.

Executive Director Garfinkle presented the Incident Review Committee (IRC) report to the Board on the event involving the M/V XING ZUN HAI (XING ZUN HAI) interaction with the M/V WENCHE VICTORY (WENCHE VICTORY) as follows:

1. On the afternoon of October 4, 2018, the M/V XING ZUN HAI (XING ZUN HAI) was entering the Port of Stockton, bound for Berth 2, with Captain Bruce Alden supervising and Board of Pilot Commissioners (BOPC) trainee Captain Casey Crawl conning the vessel. The ship was inbound from sea.
2. The M/V WENCHE VICTORY (WENCHE VICTORY) was alongside in Port of Stockton, Berth 9, in the process of mooring when the XING ZUN HAI was entering the harbor. The pilot on the WENCHE VICTORY was Captain Erik Fawcett, accompanied by BOPC trainee, Captain Christopher Pyne Mercier.
3. The berthing instructions to the WENCHE VICTORY pilot were to spot the ship so as the cargo manifold on the dock lined up with the ship's manifold, but to leave room for a ship located at Berth 7/8 to back out.
4. When the WENCHE VICTORY was spotted as directed, it became apparent that there was not enough room for the ship at Berth 7/8 to safely back out, so Captain Fawcett was directed to move the WENCHE VICTORY down the dock to the west.
5. The WENCHE VICTORY had just shifted down the dock, and the spring lines and breast lines had been made fast on the dock. The two after spring lines had short leads. One witness reported that some of the spring lines (not clear which ones) were "semi-slacked" and that the vessel was "in the middle of tying up."
6. The pilot on the XING ZUN HAI had slowed to allow more time for the WENCHE VICTORY to complete the mooring operation, but was told that there were difficulties with the dock line-up and that the mooring was not complete, but that the XING ZUN HAI was clear to come by, as the WENCHE VICTORY had spring lines fore and aft, had breast lines out, and both tugs working.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 13 of 18</p>
---	---	-----------------------------

7. The XING ZUN HAI proceeded to pass the WENCHE VICTORY at approximately three knots. As it passed the stern of the WENCHE VICTORY, the winch brakes were overcome and the mooring lines surged. The stern of the WENCHE VICTORY came off the dock by about ten feet and the two after spring lines parted at the fairlead chocks.
8. There were no injuries to persons and no damage to the dock. None of the other ships moored in Stockton experienced any damage. The only damage was to the two spring lines. There was no dollar estimate of the damage. Both ships proceeded to complete mooring with no further issues.

Executive Director Garfinkle then discussed the evidence and the IRC's analysis of the passage of the XING ZUN HAI, the mooring of the WENCHE VICTORY, whether the XING ZUN HAI was proceeding in a reasonable and cautious manner, and whether Captain Alden's and Captain Fawcett's actions were reasonable and prudent and made using their best judgment.

Executive Director Garfinkle stated that based on the evidence and analysis, the IRC recommends the following:

1. That the Board find for no pilot error for Captain Alden and Captain Fawcett in this case.
2. That this case be closed with no further action.

Executive Director Garfinkle addressed a concern of Commissioner Hoppes that the IRC report did not contain any comment about lessons learned and noted that the pilots typically review all IRC reports. He also confirmed for Commissioner Prada that interaction was the root cause of the event, that the Commission Investigator did not review the maintenance records for the winches, and that the lines had paid out. He also noted that the lines were synthetic and may have been smaller lines.

He also commented that the IRC conducts inquiries regardless of the damage amount since there could be safety issues involved in spite of low damage costs.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 14 of 18</p>
---	---	-----------------------------

MOTION: Commissioner Prada moved to accept the Incident Review Committee’s recommendation regarding the event involving the M/V XING ZUN HAI interaction with M/V WENCHE VICTORY in the Port of Stockton on October 4, 2018, and that the Board find that there was no pilot error, and that the investigations be closed without further action. Commissioner Nyborg seconded the motion.

VOTE: YES: Hayes-White, Carr, Nyborg, and, Prada.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

14. Incident Review Committee incident report on the M/V ALYARMOUK allision with a temporary buoy (Committee Chair Connolly)

A presentation of the Incident Review Committee report on the event involving the M/V ALYARMOUK allision with a temporary buoy marking the Fleet Week airbox on October 7, 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 report to the Board on the event involving the M/V ALYARMOUK allision with a temporary buoy marking the Fleet Week airbox on October 7, 2018, and stated that the event involved Captain Matthew Lingo.

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

1. On the morning of October 7, 2018, the tank vessel M/V ALYARMOUK (ALYARMOUK) was inbound for Martinez from sea. Captain David Weiss was piloting the ship from the offshore pilot station to the city front, where a pilot change took place.
2. At approximately 1018 hours on October 7, 2018, Captain Matthew Lingo boarded the ALYARMOUK south of Alcatraz Island to relieve Captain Weiss and take the ship from the city front to the American-Oriental Refining Company (AMORCO) Terminal in Martinez.
3. After a pilot-to-pilot exchange of information, Captain Lingo took the conn, provided the helmsman with a new course to steady upon, and ordered the engines half-ahead. He then proceeded to supervise the disembarkation of Captain Weiss and relieved pilot Joshua Stultz (who was off-duty and was heading into the bay from the pilot station) and checked in with Vessel Traffic Service (VTS) via radio.

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 15 of 18</p>
---	---	-----------------------------

4. After completion of these instructions, Captain Lingo ordered “port 10” on the rudder to continue the swing to port toward North Channel Buoys 1 and 2.
5. At approximately 1028, Captain Lingo received a call on his cell phone from Captain Weiss, who was on the pilot boat, informing him that the ALYARMOUK made unintended contact with a temporary buoy marking the northeast corner of the Fleet Week Airbox. Based on the visual observation of Captain Weiss from the pilot boat, as the ship swung to port, the starboard quarter of the ship made contact with the buoy, which went under the ship and reappeared after the ship passed over it.
6. Captain Lingo confirmed that the ship made contact with the buoy via a radio call to the assigned escort tug VALOR, and he then notified the U.S. Coast Guard VTS of the contact.
7. The ship proceeded to its destination at Martinez without further incident. There was no damage reported to the ship and there were no injuries associated to this event.
8. The pilot participated in post-incident drug, alcohol and toxicology testing and the results were reviewed by the Board Medical Review officer and found negative for controlled substances and negative for substances that might induce drowsiness.
9. The pilot’s work and rest history statement covering the two days prior to the incident shows ample opportunity for rest.

Executive Director Garfinkle then thoroughly discussed the evidence and the IRC’s analysis of the ALYARMOUK’s allision with the temporary buoy marking the Fleet Week airbox, whether the ALYARMOUK was proceeding in a reasonable and cautious manner, and if Captain Lingo was negligent in his pilot duties. He stated that the pilots were provided ample information from the U.S. Coast Guard in a *Local Notice to Mariners*, and noted that it is up to each pilot to read the information provided. He also stated that a representative of the U.S. Coast Guard Sector San Francisco also sent emails to the SFBP’s Operations Pilot notifying of the five temporary buoys marking the Regulated Area in support of the Blue Angels Flight Box, that the temporary buoys would be partially obstructing the east bound traffic lane, that each buoy was outfitted with synthetic automatic identification systems (AIS) Aids to Navigation (ATON) to assist in marking these positions, and noted that the emails were forwarded to all pilots the same day they were received.

Executive Director Garfinkle noted that there were many factors that contributed to the ALYARMOUK’s allision with the temporary buoy. Some of the factors included: a pilot exchange took place within the location of the temporary buoys; the buoys are located in the route where vessels pass; there were multiple vessels in the bay that day, not all had AIS aids onboard; and, some of the ALYARMOUK staff may have been called away to assist with Captain Weiss’ disembark process instead of serving as bay lookout and/or distracted by the Fleet Week vessel traffic in the bay.

The IRC recommended the following:

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 16 of 18</p>
---	---	-----------------------------

1. That the Board find for pilot error in this incident.
2. That the Board refer to the Pilot Safety Committee the issue of how real-time risk mitigation during Fleet Week activities can be implemented along with the issue of how local navigation information is distributed and assimilated by licensees.
3. That the incident be closed with no further action.

Executive Director Garfinkle confirmed for Commissioner Prada that he did not dispatch a Commission Investigator for this event. Commissioner Nyborg commented that it would be helpful if the airbox was moved up north about 200 yards, so that vessels can pass instead of navigating around the temporary buoys. Commissioner Carr noted that Captain Carl Martin is the SFBP's liaison with the United States Navy, and that he receives helpful information regarding the temporary buoys. Port Agent Long commented that he can reach out to Captain Martin and try to find a resolution on temporary buoy locations, but that this year's Fleet Week plans have already been made.

Board Counsel Eagan confirmed for Commissioner Hayes-White that pilot error is short for negligence and means insufficient degree of care. He noted that the sanction to the pilot is the finding of pilot error, and that there are other sanctions in the regulations that the Board can consider, including a letter of reprimand, additional training, and to the extreme, suspension or revocation of their license. President Connolly noted that the IRC report noted that the pilot was given adequate notice of the risk posed by the Fleet Week airbox buoys by multiple sources, and that the pilot failed to exercise the diligence that other pilots similarly situated ordinarily would have exercised.

Commissioner Nyborg noted several circumstances that the Board members might want to consider including: there were many vessels on the bay that day that did not have AIS, the ship's lookout did not do his job, and the Fleet Week temporary buoys could be in better locations. It was his opinion that having a temporary buoy dropped in the normal shipping lane is unreasonable.

Commissioner Hayes-White called for the meeting to resume in closed session.

CLOSED SESSION BEGAN: 12:05 p.m.

OPEN SESSION RESUMED: 12:27 p.m.

Board Counsel Eagan reported out of closed session that the Board, after viewing all circumstances, found that the pilot did not fail to meet the standard of care that other pilots similarly situated ordinarily would have exercised. He stated the Board is requesting that both Captains Lingo and Weiss make a presentation to the other pilots regarding lessons learned, and that the Board refer to the Pilot Safety Committee the following matters: whether the location of pilot exchanges during Fleet Week should be done elsewhere, whether the location of the temporary buoys can be adjusted to avoid intruding on shipping

<p>Meeting Date: September 26, 2019</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 17 of 18</p>
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routes used by pilots, how real-time risk mitigation during Fleet Week activities can be implemented, and how local navigation information can best be distributed and assimilated by licensees.

Board Counsel Eagan stated that he will draft a written Board decision inclusive of the above findings and recommendations for consideration by the Board at a future Board meeting.

Commissioner Hayes-White yielded the Chair duties back to President Connolly.

15. Board discussion of best practices in Maritime Safety (President Connolly)

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 Pilot Safety Committee to develop maritime safety policies and procedures.

President Connolly commented that the Board meaningfully deliberated on the IRC report involving the air box event and in making its determination, and noted their efforts will have positive impacts to the best practices of maritime safety.

16. Public comment on matters not on the agenda.

There were no comments from the public.

17. Proposals for the next Board meeting agenda.

There were no recommendations for the next meeting agenda.

Meeting Date: September 26, 2019	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 BOARD MEETING MINUTES	Page 18 of 18
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18. Adjournment.

MOTION: Commissioner Nyborg moved to adjourn the meeting. Commissioner Prada seconded the motion.

VOTE: YES: Connolly, Carr, Hayes-White, Nyborg, and Prada.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved, and the meeting adjourned at 12:37 p.m.

Submitted by:



Allen Garfinkle
Executive Director