

## MINUTES

### HARBOR SAFETY COMMITTEE OF THE SAN FRANCISCO BAY REGION

9:30 a.m., Thursday, March 11, 1993

Port of Richmond, Marina Bay Boathouse, 2580 Spinnaker Way, Richmond, CA

1. The meeting was called to order by Vice-Chair, A. Nottoff at 9:40. The following committee members or alternates were in attendance: David Adams, Port of Oakland; James Faber, Port of Richmond; Alexander Krygsman, Port of Stockton; Roger Peters, Port of San Francisco; Joseph Gaidick, Benicia Industries, Inc.; Margot Brown, National Boating Federation; Morris Croce, Chevron Shipping; Mike Goebel (alternate for Dwight Koops), Exxon Shipping; Lynn Korwatch (alternate for John Gosling), Matson Navigation; James Mes, Transmarine Navigation Corp.; Bob Clinton (alternate for James Macaulay), Harbor Tug and Barge Company; Joan Lundstrom, San Francisco Bay Conservation and Development Commission; Carl Bowler (alternate for Arthur Thomas), San Francisco Bar Pilots; and federal government representatives, Captain J. M. MacDonald, CMDR. Thomas Dolan, and Chief Attaway, U. S. Coast Guard. Also in attendance from OSPR, Bud Leland, Chuck Raesbrook and Tracy Moreno; and a number of attendees from the general public.
2. A. Steinbrugge, Marine Exchange, confirmed that a quorum was present.
3. MINUTES of the previous minutes were corrected. M. Brown noted the following: item #3, language should read "minutes of meeting were adopted as amended. Motion passed;" item #15, line 1 should read "the Coast Guard determined that federal regulations regarding barges carrying petroleum products were not being complied with, item #33 should read 500 "yards." The Chair asked for objections to adopting the minutes as corrected. There were no objections.
4. BRIDGE MANAGEMENT SUB-COMMITTEE. J. Lundstrom reported that she has talked with sub-committee chair D. Koops concerning the placement of a racon on the Golden Gate Bridge. The Chief Engineer and Chief Operations Officer for the bridge district have indicated that they will include the racon in the 93-94 budget. They won't charge for labor for installation, cost will be \$50,000. The issue will be heard in a Bridge District Finance Committee meeting. Highway Transportation funds are not available. A. Nothoff asked about the problem with Navy mine sweeper training at Anchorage 9.
5. PLAN SUB-COMMITTEE, A. Nothoff. On 2-2-93 the Harbor Safety Committee's response to OSPR's comments/response to the plan as submitted went to P. Bontadelli over A. Thomas' signature. Some issues have been designated for attention when the annual review process begins in the Spring. Sub-committee chairs will be notified of areas of concern. B. Leland reported that OSPR will respond to the 2-2-93 letter within the next month. A. Nothoff asked if the Los Angeles/Long Beach Plan is in force/effect. B. Leland responded that the LA/LB plan has been accepted by OSPR. There has been no implementation yet. They are addressing frequency considerations with the FCC.
6. A. Nothoff informed the committee that the Office of the Legislative Analyst in Sacramento has issued a report to the Joint Legislative Committee recommending, among other things, that the State Pilot Commission be eliminated. A. Thomas has asked A. Krygsman, chair of the Pilotage Sub-committee to work up a resolution containing the Harbor Safety Committee's position. A. Krygsman is at a meeting of port representatives today where this issue is being addressed. P. Moloney, Executive Director of the State Pilot Commission, noted that the report states the elimination of the Commission is a cost saving measure, however, the work of the Commission is completely funded by a percentage of pilotage fees. Tomorrow he will be meeting with a representative from the Legislative Analyst's Office and Commissioner W. Figari to address funding, training and other functions of the Commission. Prior to that P. Moloney and W. Figari will be meeting with two pilots from San Diego who are interested in bringing their group under the umbrella of the State Pilot Commission. A. Nothoff asked P. Moloney if having the resolution for the next committee meeting would be timely enough. P. Moloney responded, yes. A. Nothoff added that it would be useful to the committee to know what budget sub-committees might be involved and what strategies might be useful. She requested a report from P. Moloney or A. Krygsman. C. Raesbrook noted that OSPR was surprised at some of the 23 boards included for elimination. The justification seems to be that state regulations would accomplish the same thing the boards do, which implies that the authors of the report do not

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understand fully what the various boards do. He stated that OSPR has not had the "opportunity to weigh in yet" but it is incumbent that they are contacted for input. A. Nothoff stated that, in the event something is needed from the committee before the April meeting, A. Thomas or A. Krygsman should be contacted.

7. CAPTAIN OF THE PORT'S REPORT, J. MacDonald. There have been incidents of pollution between 2-1-93 and 3-10-93. Most of them were small. Well publicized in the media was the incident involving the pleasure craft BELCANTO. The automatic bilge pump suffered internal leaking. The problem was compounded by the return of an inebriated owner. Despite orders having been given not to use any disbursement, empty Ivory dish soap containers were found lying around. The owner will be charged \$20,000 for the clean-up plus a fine for using disbursement. A majority of marina pollution problems are the result of automatic bilge pump failures and sinkings. There were two hazardous substance spills. One involved APL and Exeltrans and an improperly loaded PCB transformer which broke off the bow of the vessel. The transformer had been listed as empty. The contaminated asphalt is being dug up and affected equipment decontaminated. Rain water from a storm at the time has been gathered up for decontamination. The entire clean-up is very costly. The second involved a hilo towing a sled. The Maltese flag vessel ERATINI at Schnitzer has been released. The life rafts have been rebuilt and the ship has been allowed one trip to Singapore lightly loaded so the integrity of the structure can be restored.

8. At the request of M. Brown, J. MacDonald addressed the Commodores of the Pacific Inter-Club Yacht Association and showed them a video of a race which blocked the Southampton Channel and the turning basin. J. MacDonald asked C. Bowler to take back to the pilots the fact that the pilots involved handled the situation well. The problem was found to have been caused by a glitch in the Coast Guard permitting process which issued 400 yacht race permits. The Yacht Racing Association provided routes, but the smaller club races were not included. The numerous boats in this race appeared as a cloud on the VTS radar. VTS did not have any information on the route for this event and this situation is going to be looked at closely.

9. P. Dolan and representatives of VTS met with representatives of the Pilots and M. Croce, chair of the HSC VTS Sub-committee. The group discussed precautionary recommendations and looked at regulations and the existing traffic separation scheme to make sure all marries up with international standards. A report on this meeting will be presented to the VTS Sub-committee and then the full committee. P. Dolan will initiate steps to separate San Francisco from national regulations concerning traffic separation schemes and VTS because the systems in place here are ahead of the regulations being proposed. The upgrade of San Francisco VTS is slated for completion by August, 1994.

10. A. Nothoff asked if the Harbor Safety Committee wants to look at making recommendations for bilge pumps. J. MacDonald responded that this is one of the issues in the "parking lot" for consideration a little later. The vessels involved are non-regulated and are not inspected. If you look at a marina, it is impossible to tell which boat is pumping pollutants into the water. A. Nothoff noted that the plan includes recommendations for public education. M. Brown agreed and added that if the \$20,000 charge imposed on an owner for clean-up is publicized through publications like "Latitude 38" which go to recreational boaters it will do a lot more good than regulations. Without automatic bilge pumps you would have a lot of sunken vessels laying on the bottom of the bay. M. Goebel pointed out that the problem discussed earlier originated with a fuel tank failure. M. Brown reported that Underwriters' Laboratories is conducting a study of aluminum fuel tanks and is asking that everyone who has had a problem with an aluminum fuel tank contact them. Major problems with rusting has been reported and replacement of aluminum tanks may be required.

11. OSPR REPORT. B. Leland turned the floor to C. Raesbrook. OSPR's request for emergency tug escort guidelines was denied by the Office of Administrative Law. They cited three deficiencies: (1) necessity was not proven; (2) specific language needed clarification; and (3) documentation was needed in some areas. Taken one-by-one; (1) OAL stated that urgency was not demonstrated; SB 2040 did not drive a need for emergency regulations. (2) The language "emergency regulations will become effective with filing" is unclear as to date. No regulation effected as an emergency measure can extend past 120 days. The sunset clause in the regulations says two years and OAL determines that this is inconsistent with an emergency filing. There is a provision for a 120 day extension. The Administrator does not have the authority to allow the Marine Exchange to set fees or provide for a standard for same. The language dealing with exclusion of vessels less than 5,000 tons and the language excluding escort requirements for certain zones was unclear. Perhaps if the Harbor Safety Plan had been included with the request

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for emergency regulations, this language would have been okay.

12. Carl Moore, OSPR's Action Officer, has prepared a revised timeline. A revised package will be submitted for regular treatment early next week. The emergency package will take longer to prepare because the need for emergency action needs to be demonstrated. It must be shown that emergency regulations are needed to preserve the public peace, health, safety or general welfare. T. Moreno or OSPR distributed the revised timeline which is made a part of these minutes. M. Goebel asked C. Raesbrook if he is confident he can demonstrate that an emergency exists. M. Croce and M. Goebel both expressed doubt. C. Raesbrook responded that he can argue that a large spill will negatively affect the area significantly. The language in the request for emergency regulations stated that SB 2040 drove the need for emergency regulations. There needs to be more regarding the general welfare, etc. M. Goebel asked if C. Raesbrook's argument would demonstrate that tug escort will do this. A. Nothoff responded that that has already been agreed to. M. Goebel replied that the Harbor Safety Committee dealt with tug escorts because SB 2040 mandated that it do so. M. Glazer asked about the 4-5-93 scheduled hearing. T. Moreno responded that it has been canceled. D. Luce, Bay and Delta Towing asked for the best case/worst case for implementation of interim regulations. M. Croce referred to the timeline distributed earlier and responded, best case - 17 weeks, worst case - 30 weeks. T. Moreno reviewed the steps for each case. D. Luce asked for the best case/worst case for emergency regulations. T. Moreno responded, 45 days.

13. J. Faber asked the status of the permanent guidelines. B. Leland responded that OSPR's response to the permanent package should be back to the HSC by 3-19-93; then there will be a 45-day period for public comment. J. Lundstrom asked about the timeline for permanent guidelines once OSPR has completed draft. She referred to an earlier estimate by R. Dunstan of one year. B. Leland responded that the time frame would be shorter. The same process/timeline presented by T. Moreno for the interim guidelines would apply to permanent guidelines, i.e., best case 17 weeks, worst case 30 weeks from submission to OAL. The one year estimate is counting from the beginning, but considerable work has been done and we are now looking at 30 weeks from 3-16-93. J. Lundstrom clarified that she is asking how long it will be before permanent regulations could be in effect, given that they have not been drafted for OAL yet. B. Leland responded one year. M. Glazer suggested the timeline be made available to the public. M. Croce asked what the goal of that move would be. M. Glazer responded "so the public can follow the process." T. Moreno stated that the OAL has re notified the public. J. McCarthy added that the Marine Exchange has furnished the Harbor Safety Committee mailing list to the state.

14. W. Capasso stated that he would like to document for the record the frustration he feels for the hours spent on this process. Committee members will be replaced by new appointees and committees will be disbanded long before anything happens - it is if we are back to square one. A. Nothoff asked if it is wise for OAL and OSPR to spend so much staff time on review of the interim guidelines when we have drafted permanent guidelines. M. Goebel noted that this exact point was raised six months ago and the HSC elected to send the state interim guidelines after being advised that the process would unfold just as it has. He asked the OSPR representatives if there is any way to pull the interim guidelines back and submit only the permanent ones to OAL. B. Leland responded that there is still a long way to go on the permanent regulations. They have to go through due process, which includes an informal hearing before submission. J. Faber asked if the same staff is doing the work to move the two separate packages forward. C. Raesbrook suggested that the status of emergency interim, interim and permanent regulations would be clearer if it was demonstrated graphically in timeline form. A. Nothoff expressed the opinion that it would be more expeditious to follow the permanent guidelines and withdraw the interim ones. M. Croce stated that this committee has done its job putting forward the guidelines and now it is up to P. Bontadelli to decide which recommendations to work from or with. A. Nothoff does not agree that P. Bontadelli has flexibility in process as long as we have put forth the three different packages for him to address. R. Peters responded that there is content flexibility. There are three processes out there; all with different completion dates. We have done what we can do; we have done what we were tasked to do. Now it is up to the state to move forward. If they ask us to simplify, we can.

15. M. Glazer asked what the group thought would result if everyone wrote to OSPR expressing the opinion that the interim guidelines were not adequate, taking language from the proposed permanent regulations as recommended improvements in language. M. Croce and M. Goebel both stated that the HSC is not a regulatory body. M. Goebel suggested that the committee move ahead with the agenda. J. Mes added that it is unfortunate that we couldn't get emergency regulations on a fast track. D. Adams asked how the Administrator (P. Bontadelli) will

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proceed if SB 2040 doesn't give him the authority to authorize the Marine Exchange to assess fees. C. Raesbrook responded that this would not fatally flaw the package; it can go forward without that language. M. Croce repeated the idea that this is not a regulatory body and can not be concerned with issues such as this one. C. Raesbrook stated that it can be done another way and he will confer with the Marine Exchange. L. Korwatch asked OSPR representatives for guidance as to what would happen if this body withdrew the interim and emergency packages; would there be any gain in time for the permanent regulations package? C. Raesbrook responded that this implies that the environmental community would be happy with dropping support for interim guidelines. M. Goebel added that this group always knew that the interim guidelines were a "band-aid". S. Shaeffer, State Lands Commission, noted that emergency regulations can be extended while the permanent ones move forward. J. Luce asked what parallel activity is happening in Los Angeles/Long Beach. B. Leland responded that they don't have their plan does not include the same regulatory-type language. R. Peters reminded the committee that the process is going along. A. Nothoff requested that OSPR provide a comparison of the three packages to the committee with an opinion as to whether pieces can be taken from the proposed permanent guidelines during the adoption process for the interim guidelines. C. Raesbrook noted that a response would constitute a legal opinion and he can't give one now. G. Waitz, IBU, questioned whether making changes might mean that additional hearings would be required. C. Raesbrook stated that OSPR would respond to these questions in communication addressed to the chair of the HSC. D. Adams stated that interim guidelines was what statute required.

16. CLEARINGHOUSE REPORT, S. Gibbs, Operations Manager, Marine Exchange. Voluntary compliance began on 3-1-93. Complying companies include ARCO, Chevron, Exxon, carriers represented by Kerr Steamship, and West Coast Shipping. Looking at the arrivals for the month of February, 48 are represented by companies which are complying voluntarily and 35 by those who don't. B. Clinton noted that Crowley is escorting its barges. S. Gibbs reported that there have been 45 escorts since 3-3-93. A question was raised as to the safety of having deckhands aboard barges being escorted to sea and the resultant necessity of removing them at Alcatraz, a possibly dangerous transfer. A second question addressed the publishing of a tug inventory. Companies hiring tugs are confused by the total inventory presentation because it shows all tugs tested but doesn't indicate what tugs are in the area on any given day. M. Croce noted that the fact that an arriving or departing vessel is owned by a non-complying company doesn't necessarily mean that the vessel in question is non-complying. P. Buttner echoed W. Capasso's frustration with the process. He noted that it is important that the Marine Exchange as Clearinghouse concept be kept. The pilot association can not be in the business of monitoring the ordering/hiring of tugs. J. McCarthy stated that the Marine Exchange will continue to provide the service of Clearinghouse while the question of funding is addressed. He is concerned with the fee being removed from the regulations, but is confident that with the help of C. Raesbrook the matter can be resolved in some way.

17. M. Croce asked if the Marine Exchange has had to hire additional people to do Clearinghouse work. J. McCarthy replied that one person has been added and the rest of the work is being covered with overtime for existing staff until permanent guidelines are in effect and procedures established. M. Croce noted that if additional staff is hired, this must be justified. M. Goebel added that escorting has occurred in Puget Sound without a Marine Exchange type function for years now. Here the cost is being placed on industry and must be justified. What service/benefit does the added cost provide industry - why is the Marine Exchange in the loop? M. Croce stated that the responsibility for compliance was or will be placed on industry and then the Marine Exchange came into the process. M. Goebel asked if the Marine Exchange can determine exactly which regulated vessels are not complying, i.e., take out the numbers that refer to "non-complying companies" with vegetable oil or ballast. J. McCarthy stated that the Marine Exchange could do that. S. Gibbs noted that the Marine Exchange has not been in the business of knowing what cargo a vessel is carrying and doesn't always know if the information is not volunteered. Sometimes cargo can be inferred when you know the destination of the vessel. M. Goebel reiterated that the Marine Exchange must justify its presence in the system. J. Mes added that the major oil companies are all in voluntary compliance, the others are not because of the cost of tugs.

18. M. Croce asked if the Marine Exchange has a definition for what constitutes petroleum products in order to respond to question of whether or not a particular vessel transit is regulated. He also wanted to know if this definition is in the Marine Exchange data bank; the monitoring body needs to know what it is monitoring. J. McCarthy responded that voluntary compliance is voluntary and the Marine Exchange is not a policing entity. Under mandatory regulation the Marine Exchange/Clearinghouse will only be able to work with the information provided. M. Croce made a MOTION that the Enforcement Sub-Committee look at the question of what constitutes

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a regulated vessel. Motion seconded by B. Clinton. M. Goebel stated that the Marine Exchange has to come to the HSC with a list of what they will clear. S. Gibbs responded that the Marine Exchange/Clearinghouse monitors conditions of escort, not cargo. M. Croce stated that somebody is going to ask, "Is this cargo regulated?" and someone is going to have to have the answer. C. Adams asked if the state can provide the HSC with a statement of regulated substances. B. Leland responded that OSPR will have to identify those substances. M. Croce withdrew his MOTION and B. Clinton withdrew his second, subject to a request in MOTION form that the state provide a definitive list of regulated products. Motion seconded by M. Goebel and passed unanimously. B. Clinton asked for a clarification of what we are voluntarily complying to. M. Goebel responded, Interim Tug Escort Guidelines, as submitted to the Administrator and forwarded to OAL. M. Croce concurred referring to the letter distributed by the Marine Exchange requesting voluntary compliance.

19. A. Nothoff announced that the Pilotage Sub-Committee has scheduled a meeting for Thursday, 4-1-93, at 10:00. Issues to be discussed will include the recommendation of the legislative analyst to eliminate the State Pilot Commission and maybe underkeel clearances. The sub-committee is open to suggestions for other issues as well as the prioritization of issues already on the table.

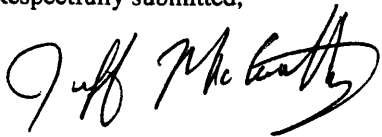
20. UNFINISHED BUSINESS. None.

21. NEW BUSINESS. None.

22. J. McCarthy announced that the next full committee meeting will be held at the Port of Oakland on 4-8-93, at 9:30, with A. Thomas, chair.

23. MOTION to adjourn by M. Brown, seconded by M. Croce. Meeting was adjourned at 11:55 a.m.

Respectfully submitted,



Jeff McCarthy  
Acting Executive Secretary

