

Harbor Safety Committee

of the San Francisco Bay Region

*Mandated by the California Oil Spill
Prevention and Response Act of 1990*

HARBOR SAFETY COMMITTEE OF THE SF BAY REGION

Thursday, September 11, 2003

Port of Oakland, 530 Water Street, 2nd Floor Board Room, Oakland, CA

Grant Stewart, American Ship Management, Chair, called the public meeting to order at 10:00 and welcomed those in attendance. The following committee members or alternates were in attendance: **Len Cardoza**, Port of Oakland; **Denise Turner** (alternate for **John Davey**), Port of San Francisco; **Capt. Doug Lathrop**, Chevron Texaco; **Captain John Karakoulakis**, (alternate for **Stuart McRobbie**), SeaRiver Maritime; **Scott Merritt**, Foss Maritime Company; **Capt. Margaret Reasoner**, Crowley Maritime Services; **Capt. Larry Teague**, San Francisco Bar Pilots; **Joan Lundstrom**, Bay Conservation and Development Commission; **Margot Brown**, National Boating Federation; and **Kathy Zagzebski**, The Marine Mammal Center. Also present were U. S. Coast Guard representatives, **Capt. Jerry Swanson** (MSO) and **Cmdr. Pauline Cook** (VTS); U. S. Army Corps of Engineers' representative, **David Dwinell**; **Al Storm**, OSPR; **Ken Leverich**, State Lands Commission; and **Capt. Lynn Korwatch**, Marine Exchange. In addition, more than 25 people from the interested public were in attendance.

The Secretariat confirmed the presence of a quorum. The Chair noted that lacking 2/3 of the members in attendance, the vote on the proposed By-Laws would be postponed until the October meeting.

The following corrections were made to the draft minutes of the August 14, 2003 meeting. **L. Teague**: Page 2, COE Report, correct spelling of the dredge vessel is Yaquina. **A. Storm**: Page 2, OSPR Report, should indicate that second call for the tanker operators' representative was announced. Motion by **J. Lundstrom**, seconded by **M. Brown** to "accept the minutes as corrected." Motion passed without objection.

USCG REPORT, J. Swanson. (1) On the second anniversary of the September 11th terrorist attacks, **J. Swanson** expressed pride in the accomplishments of the SF Bay Area maritime community and the HSC, including significant progress in security upgrades. (2) On March 1, 2003, the CG became part of the Department of Homeland Security. (3) In November, the No. California Port Security Committee was formalized. (4) Commendable progress has been made in the Sea Marshal Program, CG Port State Control vessel inspections and vetting and security of cruise ships. (4) Yesterday at the Port Security meeting, **L. Korwatch** received the CG Certificate of Merit for her leadership of the HSC during her term as Chair and her work as Executive Director of the MX, including contributions to development of SF Bay security infrastructure and administrative support of HSC and the SF Bay Port Safety and Security Committee. (5) **G. Phillips** read a citation that accompanied a commendation medal awarded to **CMDR. S. Thompson** for his contributions to the SS JACOB LUCHENBACH oil recovery

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project, development of oil spill contingency plan regulations, PORTS, and updating and distribution of nautical charts. (6) **G. Phillips** reported on port operations statistics for pollution response and investigations and significant port safety events for the period August 1, 2003 through August 31, 2003. A written report is made a part of these minutes. (7) **G. Phillips** reported that a story would be featured on ABC news this evening describing their staff's success in breaching container security in LA/LB. A GAO report auditing Homeland Security issues includes a criticism of the vendor processing security risk assessments. CG SF has conducted its own independent assessments. (8) Sometime shortly after September 15, 2003, the former USS MIDWAY will be at Howard's Terminal for repairs and cosmetic work before heading to the San Diego Maritime Museum. (9) **P. Cook** reported on a brainstorming meeting held on August 27, 2003 with management representatives of the ferry operators to find ways to get better compliance with reporting requirements and still allow the companies to operate efficiently. There was good buy-in to meet the reporting requirements as they stand and there has been a marked increase in reporting since the meeting, although it is not at 100% yet. The group also discussed AIS and how it can help meet reporting needs. Another meeting will be scheduled for the end of September. At this point, there is no need for the HSC Ferry Operations Work Group to meet, unless the HSC Chair deems it necessary. (10) **J. Swanson** introduced **Lt. Cmdr. Ed Westfall** of the buoy tender Aspen, who will regularly attend HSC meetings.

CLEARINGHOUSE REPORT, A. Steinbrugge. A written report with statistics for the month of August 2003 is made a part of these minutes. There were no calls to OSPR during the month of August for a possible escort violation or from pilots to report a vessel arriving at the pilot station without escort paperwork. Year-to-date, there have been three calls to OSPR regarding escort violations. There were two calls regarding escort violations in 2002; six calls in 2001 and five calls in 2000.

OSPR REPORT, A. Storm. (1) One application was received for the Ferry Operators seat from **M. Beatie** and one application was received for the position of his alternate from **Paul Bishop**. They will be sworn in at the October HSC meeting. (2) The third call was announced for the tanker operators' seat, currently held by **S. McRobbie**. One application has been received to date. The application period will close on September 19, 2003. (3) The second call was announced for the dry cargo representatives' position, currently held by **D. Watters**. The application period closes on October 24, 2003.

NOAA REPORT, S. Thompson. (1) **S. Thompson** thanked the CG for the award presented and for the kind words. (2) As noted, **S. Thompson** is up for promotion to Captain, but this is a year out. (3) There are no new chart editions. (4) Several requests have been received, including those from BCDC and USGS, for a complete bathometric survey of SF Bay for environmental reasons. Currently, this is low on the NOAA project priority list. If navigational issues arise,

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conducting a bathometric survey would move up the list. (5) The new *Coast Pilot* will be published soon. The book, which includes Oregon, Washington, California, Hawaii and the Pacific Islands, has gotten very big. **S. Thompson** has suggested that Hawaii and the Pacific Islands be broken out. (6) PORTS. NOAA has been authorized by Congress to operate PORTS nationally, but has not received an appropriation to fund this. That means operation and maintenance falls to local interests. This year, SB 1585 was supposed to clarify provisions of the Hydrographic Improvement Act. However, there is no funding recommendation at this time. (7) Weather. We are in a no-Nino episode. This means there are no large-scale triggers for major weather patterns.

COE REPORT, D. Dwinell. The text of the COE Report is made a part of these minutes by attachment.

STATE LANDS COMMISSION REPORT, K. Leverich. (1) After eight months with no spills from terminals, there were two so far in September. One was caused by a pipeline leak and the other occurred when a tug over-filled while loading bunkers. (2) On September 24, 2003 at 10:00 at the Shell Clubhouse, there will be a static liquid pressure test workshop. Anyone interested in attending should advise **K. Leverich**. (3) The last security plan reviews will be completed by the end of September. The CG is thanked for their participation.

NAVIGATION WORK GROUP REPORT, L. Teague. (1) **Eric Dohm**, San Francisco Bar Pilots, reported that, as a result of personnel changes, sounding data from COE surveys are not being forwarded to the pilots as quickly as they have been. A meeting with COE representatives has been scheduled for next week to address getting back on track. **E. Dohm** will report back at the October HSC meeting. (2) Avon Turning Basin. **E. Dohm** and **Marc Bayer** of Tesoro met with the COE last week regarding the dumping of dredge materials in the turning area. The charted dumpsite in the Avon Basin was recently used by the Yaquina. Tesoro and the pilots requested that the COE discontinue use of this site. The COE declined and wants to keep this site as an option. They are not dumping in the area in the near future by agreement. **L. Teague:** With the COE maintaining the ability to dump at Avon Basin, placement and maintenance of day beacons will be impacted. **M. Bayer:** The COE unofficially agreed not to dump at the site. They can't officially deactivate the site without a study.

UNDERWATER ROCKS WORK GROUP REPORT, L. Cardoza. (1) The COE is to be congratulated for putting in place critical contracts to continue the Port of Oakland's 50' Project. The port doesn't expect Congressional funding by October 1st, which means work will move forward under continuing resolution authority. The federal channel maintenance project in Oakland Outer Harbor is on-going and 1/3 complete. (3) The report of the Underwater Rocks

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Work Group is made a part of these minutes by attachment. (4) The work group will meet in about two weeks to review the COE report on the rock removal project when it is completed.

FERRY OPERATORS WORK GROUP REPORT. No report.

HUMAN FACTORS WORK GROUP REPORT. No report.

PREVENTION THROUGH PEOPLE WORK GROUP, M. Brown. (1) The group met two days ago to hear the voice-over for the video. **Dana Michaels** is to be thanked for the superb job of voice-over. Now the videographers can tailor the video to the completed narration. The Big Boat Sail is today, and with excellent weather, the videographers are in place to film it for the project. (2) The next work group meeting is scheduled for October 10, 2003 in Hercules at 9:30. Question: When will the video be completed? **M. Brown:** The group would still like the video to be completed by the end of the year, but the California budget constraints may delay completion until April 2004.

TUG ESCORT WORK GROUP REPORT, J. Lundstrom. The group met Tuesday at State Lands' offices at the request of **L. Teague** to address the statutory requirement that the pilot on a loaded tanker is responsible for the master having a completed tug escort checklist. The issues are safety and the regulatory requirement that the responsibility lies with the pilot rather than the owner/operator. If the master is not prepared when the vessel reaches the pilot station, the transit can be delayed and it can also result in distraction on the bridge while vessels are entering shipping lanes. The group discussed procedures for getting tug escort information to operators. The group will submit a preliminary recommendation for a vote at the next HSC meeting to change regulation requiring that the pilot be responsible for the pre-escort paperwork, placing the responsibility with the owner/operator. Regulatory change takes nine months. In the meantime, it will be recommended (1) that the HSC send another letter through the MX to agents of tanker companies regarding the requirement that the escort plan form be completed before the pilot boards; (2) that **A. Storm** meet with VTS regarding VTS, on Channel 12, asking the vessel if the escort form is complete, and advising them that one should be obtained from the MX or their agent if they don't have one; and (3) that the escort form be included in the *Coast Pilot*. **A. Steinbrugge** stated that the MX would look internally at how the MX dispatcher may be able to reiterate the escort requirements when they are in contact with vessels. It was suggested that terminal operators and the pilots also emphasize the escort form requirement in their communications with vessels. **L. Teague:** There is no question regarding the escort conference being conducted; the issue is the master having the form ready for the pre-escort conference when the pilot arrives. **M. Reasoner:** The form is not good for inclusion in the *Coast Pilot*. However, language in the *Coast Pilot* can be amended to direct vessels to the MX or their agent to get the form. **E. Dohm:** The pilots' dispatchers have already been directed to include

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information about the required pre-escort form in their discussions with agents when the order for a pilot is placed. There will be forms on the pilot boats. **P. Cook:** VTS can ask the question and get a 'yes' or 'no', but VTS generally avoids asking non-traffic related questions on the radio. **L. Teague** noted that some vessels and companies still think they have to check in to report non-escorted vessels. That they don't need to report non-escorted tanker transits needs to be reiterated. **A. Steinbrugge** responded that the MX is aware that non-escorted vessels aren't required to check-in, but likes to have the additional information regarding their movements.

PORTS REPORT, A. Steinbrugge. (1) The new side-looking meter for the Benicia Bridge has been received. **A. Steinbrugge** is coordinating with the vendor who built a platform for this unit in other areas. The proposed deployment will allow the unit to be maintained without the use of divers. Installation is tentatively scheduled for about six weeks from now. (2) The data systems hardware has been re-located from CMA to the MX, which facilitates maintenance because the MX is staffed 24 hours a day, allowing someone on-site to reboot when necessary.

The Chair referred back to #4 on the meeting's agenda. With the term of the Ferry Operator representative expiring, the HSC needs to re-request this position from the Administrator. MOTION by **L. Teague**, seconded by **S. Merritt** that "the Administrator be asked to appoint a Ferry Operators representative to a member-at-large position." Motion passed unanimously.

PUBLIC COMMENT. None.

OLD BUSINESS. None.

NEW BUSINESS. (1) **Kenny Levin**, San Francisco Bar Pilots, reported on a recent incident at the pilots' Pier 9 station. Kayakers in two rental boats tied up in the dark to the pilings where the pilot boat docks. This is an issue of both safety and security. Pilot boat crew helped the kayakers, who were too tired to return the boats to Pier 38, get their boats out of the water. SFBP advised the rental company of the possibility of injury to the kayakers posed by the pilot boat as well as the security issues associated with tying up on the pilots' dock. The kayak renters didn't know how to use the radios that they were provided to call the rental company or VTS for help, nor did they know anything about bay currents. **M. Brown:** There are existing regulations that personal watercraft lessors must advise renters of safety equipment issues. This should go to Boating and Waterways. Renters should be advised that there are strong currents in the bay. **M. Brown** stated that any time a critical situation such as the one reported here occurs, it should go to the press in order to educate the public. The Chair requested a written report from **K. Levin**, who agreed to submit one. Question: Does Boating and Waterways have enforcement authority? **M. Brown:** B&W has no enforcement arm, but does establish regulations that are to be enforced by sheriffs. Question: Is there an avenue to target the largest groups of recreational

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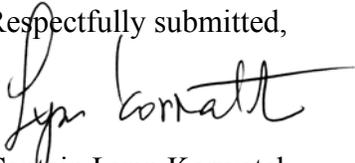
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boaters? **M. Brown**: There is an association of harbormasters, but they don't see kayakers. There is good communication with recreational boaters who have registered vessels. She added that she has been unsuccessful in getting a regulation that all vessels on the water, including wind surfers, kayaks and canoes, be registered. That would at least provide a name and contact number, for the registration fee of \$5 a year. The Chair asked **D. Turner** if the Port of SF can do anything. **D. Turner** responded that she has no information on the incident. The responsibility is on the lessors to inform their customers. Since the company is a tenant of the port, perhaps the port can look into the safety aspects. **M. Brown**: Another kayak-related issue was taken up at the last NavSac meeting. Kayaks are made in colors that can't be easily recognized in the water. There was an attempt to pass a resolution that kayak manufacturers be asked to construct the boats in orange or yellow. **K. Levin**: Beyond the safety issues, this was raised as a security issue. With port security plans in place, an incident like this could result in an armed CG response. It was noted that there is a Bay Area Kayak Association that could be contacted. (2) **L. Korwatch** announced the following: On September 18, 2003, the No. California MTS meeting will be held at the Port of Oakland in the 7th floor conference room (a change of venue from CMA). On October 11, 2003, CMA will hold homecoming events. This is also the same time as Fleet Week. The National HSC Conference will be held in Port Everglades, Florida, February 23-25, 2004. (3) **M. Reasoner** noted the anniversary of the September 11th attacks and the subsequent impact on the industry. She requested a moment of silence for the victims and their families. At the direction of the Chair, a moment of silence was observed.

The next meeting of the HSC will be held on October 9, 2003 at 10:00 at the Port of Richmond.

MOTION by **M. Brown**, seconded by **J. Lundstrom**, to "adjourn the meeting." Motion was passed without objection. Meeting adjourned at 1120.

Respectfully submitted,



Captain Lynn Korwatch
Executive Secretary

**USCG Marine Safety Office San Francisco Bay
Port Operations Statistics
August 2003**

PORT SAFETY:	TOTAL
• SOLAS Interventions/COTP Orders:	06
• Marine Casualty: Allision/Collision (0) Grounding/Sinking (0) Fire (0)	00
• Marine Casualty (Mechanical): Propulsion (2) Steering (0)	02

POLLUTION RESPONSE:	MSO
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Total oil pollution incidents within San Francisco Bay for the month:	12
▪ Source Identification; Discharges and Potential Discharges from:	
Deep Draft Vessels	00
Facilities (includes all non-vessel)	02
Military/Public Vessels	00
Commercial Fishing Vessels	03
Other Commercial Vessels	00
Non-Commercial Vessels (e.g. pleasure craft)	04
Unknown Source (as of the end of the month)	03
▪ Spill Volume:	
Unconfirmed	02
No Spill, Potential Needing Action	00
Spills < 10 gallons	08
Spills 10 to 100 gallons	01
Spills 100 to 1000 gallons	01
Spills > 1000 gallons	00

Significant Cases:

08AUG – M/V HYUNDAI KINGDOM posed a risk of part of the crew absconding in Oakland. COTP Order was issued directing the vessel obtain proper security for the vessel. Vessel obtained proper security and departed Oakland without incident.

15AUG – M/V CIELO DEL CANADA suffered a loss of electrical power during its outbound transit from the Port of Oakland. A COTP Order was issued directing the vessel to anchorage 8 with a tug stand-by to affect repairs to the satisfaction of class society. Repair were made and the COTP Order was rescinded. The vessel departed SF Bay without incident.

25AUG – T/V SEA RIVER GALENDA BAY experienced mechanical problems with the main propulsion engine, resulting in a 50% speed reduction. A COTP Order was issued directing the vessel to maintain tugs in attendance while the vessel transited SF Bay. The vessel affected repairs to the satisfaction of class society and the COTP Order was rescinded.

San Francisco Bay Clearinghouse Report For August 2003

San Francisco Bay Region Totals

			2002
Tanker arrivals to San Francisco Bay	66		73
Tank ship movements & escorted barge movements	306		284
Tank ship movements	185	60.46%	220
Escorted tank ship movements	92	30.07%	114
Unescorted tank ship movements	93	30.39%	106
Tank barge movements	121	39.54%	64
Escorted tank barge movements	68	22.22%	30
Unescorted tank barge movements	53	17.32%	34

Percentages above are percent of total tank ship movements & escorted barge movements for each item.

Escorts reported to OSPR 0 0

Movements by Zone	Zone 1	%	Zone 2	%	Zone 4	%	Zone 6	%	Total	%
Total movements	186		282		0		157		625	
Unescorted movements	89	47.85%	138	48.94%	0	0.00%	69	43.95%	296	47.36%
Tank ships	67	36.02%	92	32.62%	0	0.00%	44	28.03%	203	32.48%
Tank barges	22	11.83%	46	16.31%	0	0.00%	25	15.92%	93	14.88%
Escorted movements	97	52.15%	144	51.06%	0	0.00%	88	56.05%	329	52.64%
Tank ships	58	31.18%	84	29.79%	0	0.00%	49	31.21%	191	30.56%
Tank barges	39	20.97%	60	21.28%	0	0.00%	39	24.84%	138	22.08%

Notes:

1. Information is only noted for zones where escorts are required.
2. All percentages are percent of total movements for the zone.
3. Every movement is counted in each zone transited during the movement.
4. Total movements is the total of all unescorted movements and all escorted movements.

San Francisco Bay Clearinghouse Report For 2003

San Francisco Bay Region Totals

			<u>2002</u>
Tanker arrivals to San Francisco Bay	548		709
Tank ship movements & escorted barge movements	2,732		3,015
Tank ship movements	1,669	61.09%	1,981
Escorted tank ship movements	836	30.60%	996
Unescorted tank ship movements	833	30.49%	985
Tank barge movements	1,063	38.91%	1,034
Escorted tank barge movements	563	20.61%	564
Unescorted tank barge movements	500	18.30%	470
Percentages above are percent of total tank ship movements & escorted barge movements for each item.			
Escorts reported to OSPR	2		2

<u>Movements by Zone</u>	<u>Zone 1</u>	<u>%</u>	<u>Zone 2</u>	<u>%</u>	<u>Zone 4</u>	<u>%</u>	<u>Zone 6</u>	<u>%</u>	<u>Total</u>	<u>%</u>
Total movements	1,683		2,558		1		1,412		5,654	
Unescorted movements	788	46.82%	1,259	49.22%	1	100.00%	652	46.18%	2,700	47.75%
Tank ships	548	32.56%	811	31.70%	0	0.00%	387	27.41%	1,746	30.88%
Tank barges	240	14.26%	448	17.51%	1	100.00%	265	18.77%	954	16.87%
Escorted movements	895	53.18%	1,299	50.78%	0	0.00%	760	53.82%	2,954	52.25%
Tank ships	550	32.68%	792	30.96%	0	0.00%	408	28.90%	1,750	30.95%
Tank barges	345	20.50%	507	19.82%	0	0.00%	352	24.93%	1,204	21.29%

Notes:

1. Information is only noted for zones where escorts are required.
2. All percentages are percent of total movements for the zone.
3. Every movement is counted in each zone transited during the movement.
4. Total movements is the total of all unescorted movements and all escorted movements.

**Harbor Safety Committee
Of the San Francisco Bay Region**

**Report of the
U.S. Army Corps of Engineers, San Francisco District**

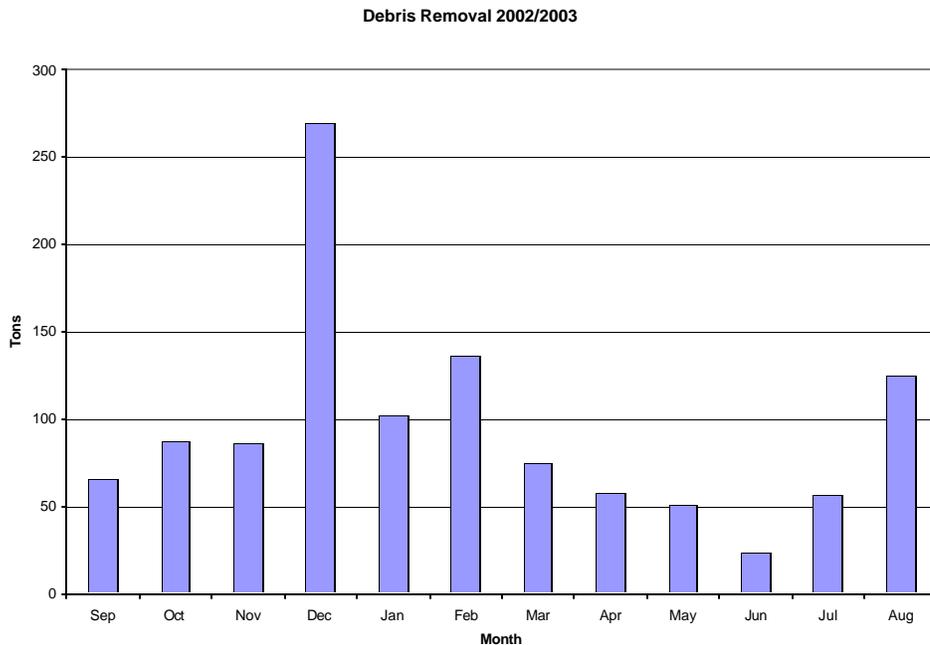
September 11, 2003

1. CORPS 2003 O&M DREDGING PROGRAM

- a. *Main Ship Channel* – Complete
- b. *Richmond Outer and Southampton Shoal* – Complete.
- c. *Richmond Inner* – Complete – Awaiting post dredge survey
- d. *Oakland (Inner & Outer)* – Contractor is dredging. Corps is coordinating O & M dredging with the deepening project time line. Material is scheduled to go to the ocean. The Corps performed emergency dredging on some portions of the Oakland channel.
- e. *Suisun Bay Channel* – The contractor is dredging. The material will not go to Sherman Island as planned because the material when tested did not meet the requirements for Sherman Island. However, the Corps will try to take some of the material to Winter Island. The remainder of the material will go in bay. The government dredge “Yaquina” has finished dredging Bullshead Reach and the high spots of Point Edith and these areas are complete. This material was not scheduled to go to Sherman Island because it was not include in the Central Valley Regional Water Quality Control Board’s Waste Discharge.
- f. *Redwood City* – Complete
- g. *San Rafael* – Complete.
- h. *Petaluma* – Contractor is dredging. Dredging stopped February 5, 2003 due to the Endangered Species Act. Contractor has demobilized for the site. There is approximately 30,000 cubic yards of material remaining on this project.
- i. *Pinole Shoal/Suisun Bay Channel/New York Slough* – Complete

2. DEBRIS REMOVAL

The total tonnage of debris collected on the San Francisco Bay for August 2003 was 125 tons. This is up from the 56 tons collected in the month of July.



3. UNDERWAY OR UPCOMING HARBOR IMPROVEMENTS

a. Oakland 50-ft –

Construction has been continuing. We have awarded two more contracts. The first one was for the Montezuma Wetland tipping fee and the second one was for the dredging where the material will be taken to Montezuma. The actual dredging should start the first part of October. We continue to work on the contract for the storm water treatment unit in the Middle Harbor area and for purchase of sheet piling. This contract should be let by the end of September. The contract for the demolishing of a building should also be let before the end of September.

b. S.F. Rock Removal Feasibility Study

As previously reported, based on the present information, the decision has been made to put out a final report so the work that has been accomplished can be of use in the future and then to stop work. Corps is presently working on the final report providing a summary of the work accomplished to date. Final Report should be out in a week or two.

c. Avon Turning Basin

The Corps has stopped work on this project and plans no further actions based on the lack of funding required from the sponsor. The sponsor has not been able to secure the funding required because of liability issues.

4. EMERGENCY DREDGING

Oakland Inner Harbor – The emergency dredging of Oakland is complete and the post dredge survey is complete.

5. CORPS' BUDGET

We have sufficient funds for our O & M projects this year by being able to use the government dredges for some of the projects.

6. OTHER WORK

San Francisco Bay to Stockton.

Status unchanged.

The San Francisco District is looking at a General Re-evaluation Report (GRR) to deepen the John F. Baldwin Ship and Stockton Deep Water Ship Channels. This would be only 1 or 2 feet. Division has given ok to proceed with study. The Corps signed the Pre-construction Engineering Design agreement with the Port of Stockton on July 11, 2002. This started Phase 1 of the GRR on salinity and economics. The Department of Water Resources is performing model studies in support of the GRR. We are performing the peer review of the salinity model and finishing up the economic analysis. They are scheduled to be completed in the October time frame.

Sacramento River Deep Water Ship Channel Deepening

Status unchanged.

The San Francisco District has taken over the Sacramento River Deep Water Ship Channel Deepening Project from the Sacramento District. This project is looking to continue the authorized deepening project of the channel from 30 feet to 35 feet. The Corps developed a Project Management Plan (PMP) and the Port concurred to initiate the study in July 2002. We are doing a Limited Re-evaluation Report (LRR) that focuses on economics and updating the environmental documentation. The studies should take approximately 24 months (July 2004). We are continuing to work on this project. At present, the economic study does show that the deepening to 35 feet is justified. We are planning to start work on the salinity model in FY 2004.

Memorandum

Date: September 10, 2003

To: Harbor Safety Committee, San Francisco Bay Region

From: Len Cardoza

Subject: Underwater Rocks Work Group Report

The Underwater Rocks Work Group did not meet during the last month.

As previously reported, the Corps of Engineers (CoE) is in the process of preparing a Reference Report reflecting the status of the Corps of Engineers (CoE) Feasibility Study (FS) for the project. The Reference report will summarize all work accomplished to date on the project. The CoE has compiled the sections of the report and is in the process of preparing a draft report. The draft report is scheduled to be completed by the end of September, reflecting a two-month schedule slip. An Underwater Rocks Work Group meeting will be scheduled to review the report.

As previously reported, The Project Team, led by the CoE, arrived at following conclusions:

1. The risk assessment model for the study resulted in a cost benefit analysis significantly below the 1:1 ratio required to proceed with CoE projects under the concept of National Economic Benefit (NED). Therefore, it is extremely unlikely that the Chief of Engineers will provide a positive recommendation for the proposed project.
2. It is also unlikely that the Corps of Engineers will pursue the project's structural alternative (rock removal) under the Federal objective for National Ecosystem Restoration (NER). The FS documented that an oil spill in the San Francisco Bay will have devastating environmental impacts. However, characterizing the prevention of these impacts as environmental restoration is problematic, from the perspective of the CoE. Although prevention of these impacts is a potential project output, CoE Principles and Guidelines for project formulation might not consider these outputs as environmental restoration. The outputs result from preventing an accident rather than restoring the environment.
3. The project proponents should consider expanding the scope of the study to consider means to prevent oil spills as a result of all causes (not limited to grounding on the submerged rocks to the northwest and southeast of Alcatraz Island).
4. The study will likely conclude that other, non-structural measures (such as employing additional tractor tugs) should be pursued. It is unlikely that the Federal Government will fund these non-structural measures as a CoE civil works project.

The Work Group agreed on the following measures with respect to completing the Feasibility Study:

Terminate the Study. Complete work nearing completion to a logical (useful) point. Prepare Feasibility Study document (Reference Report) stating conclusions noted above. Recommend that the CoE Commander/Division Engineer issue a Public Notice stating that the Feasibility Study is complete with the recommendation that there is no Federal interest due to the low benefit to cost ratio.

HARBOR SAFETY COMMITTEE OF THE SAN FRANCISCO BAY REGION

INTERIM BYLAWS

August 29, 2003

Article I: Name

Section 1. The Harbor Safety Committee of the San Francisco, San Pablo and Suisun Bays (hereinafter referred to as the Committee).

Article II: Purpose

Section 1. The Committee is established pursuant to Section 8670.23 of the Government Code and Title 14, California Code of Regulations, Sections 800-802; and is responsible for planning for the safe navigation and operation of tank ships, tank barges, and other vessels within the harbor, and making recommendations to the Administrator of the Office of Spill Prevention and Response (OSPR), hereinafter referred to as the Administrator.

Article III: Membership

Section 1. Membership Categories

- a. Members shall be selected from local representatives of organizations or companies in the San Francisco Bay Area region whenever possible.
- b. The Committee shall consist of members appointed by the Administrator as follows:
 1. Four designees representing Port Authorities;
 2. Two representatives of tank ship operators;
 3. One representative of pilot organizations;
 4. Two representatives of dry cargo vessel operators;
 5. One representative of commercial fishing or pleasure boat operators;
 6. One representative of a recognized nonprofit environmental organization that has as a purpose the protection of marine resources;
 7. One representative of the San Francisco Bay Conservation and Development Commission;
 8. One representative from a recognized labor organization involved with operations of vessels;

9. One representative of tug operators and one representative of tank barge operators, neither of whom shall also be engaged in the business of operating either tank ships or dry cargo vessels; and

10. One representative from each of the following: Captain of the Port from the U.S. Coast Guard; U.S. Army Corps of Engineers; and the U.S. Navy, to the extent that each consents to participate on the Committee.

- c. Appointees filling membership categories identified in items b1 through b9, above, are specified as appointed members.

Section 2. Membership Qualifications

The members appointed from the categories listed in Section 1b (1), (2), (3), (4), (8) and (9) above shall have navigational expertise. An individual is considered to have navigational expertise if the individual meets any of the following conditions:

- a. Has held or is presently holding a Coast Guard Merchant Marine Deck Officer's license;
- b. Has held or is presently holding a position on a commercial vessel that includes navigational responsibility;
- c. Has held or is presently holding a shoreside position with direct operational control of vessels;
- d. Has held or is currently holding a position having responsibilities for permitting or approving the docking of vessels in and around harbor facilities.

Section 3. At-Large Members

The Harbor Safety Committee may petition the Administrator to request up to five at-large membership categories that are needed to conduct the Harbor Safety Committee's business and which reflect the make-up of the local maritime community. One at-large member shall represent ferry operators who shall have navigational expertise as defined in Section 2, above, and who is specified to be an appointed member consistent with Section 1c, above. The Committee may also petition the Administrator for the removal of any at-large membership category. The approval of such petitions shall be at the sole discretion of the Administrator.

Section 4. Term of Membership for Appointed Members and their Alternates

- a. A member shall be appointed for a three-year term.
- b. A member's appointment shall be terminated as a result of any of the following circumstances:
 - 1. The member retires from, or otherwise leaves employment under which he was appointed. Members who leave their employer may, if qualified under their new employment, apply for the seat they vacated or, if qualified, apply for another Committee seat that becomes vacant.

2. The member undergoes a change in work responsibilities, which alters the constituency that he represents, or alters his qualifications for the position.
 3. The member voluntarily resigns for any reason.
 4. A member is removed by the Administrator for any reason under Section 7, below.
- c. A member impacted by any of the conditions identified in items 1-4 above is expected to submit his resignation to the Chair (with a copy to the Administrator) within five working days.
 - d. Any incumbent completing his three-year term may re-apply.
 - e. Except as noted in Section 5c, below, an alternate's term expires when the primary member leaves service for any reason.

Section 5. Alternates for Appointed Members

- a. The alternate representative shall be appointed by the Chair. Only one alternate shall be appointed for each primary member, and only the appointed alternate is accorded proxy powers. The alternate shall be selected from the same membership category as the primary member, and shall meet the same qualifications. The appointed alternate may vote, participate in, or take any other action on behalf of the primary member consistent with the Committee's bylaws and any applicable statutory or regulatory provisions.
- b. An alternate may vote only in the absence of the primary member.
- c. When a primary member resigns or is removed, his alternate may continue to serve until such time as the new primary member is appointed and sworn in.
- d. The Chair shall be guided by the following when appointing alternates:
 1. When possible, the primary member should be allowed to recommend his alternate;
 2. If there is more than one applicant for a position, the primary member and Chair should consider the other applicants when selecting alternates. The Chair shall consider diversity of organizations within each membership category when selecting alternates.

Section 6. Attendance of Appointed Members

- a. Attendance of scheduled Committee meetings is expected. The standard of attendance is determined as follows:
 1. For each appointed membership category team consisting of a primary member and alternate, meeting either condition (a) or (b) is considered to be not meeting the standard of attendance:
 - (a) The primary member of the team missing four consecutive meetings, or a total of six meetings in a calendar year.
 - (b) The team missing three consecutive meetings, or a total of four meetings in a calendar year.

2. For an appointed primary member with no alternate, meeting condition (a) is considered to be not meeting the standard of attendance:
 - (a) Missing four consecutive meetings, or a total of six meetings in a calendar year.
 - b. The Committee Chair shall review the meeting attendance records on a regular basis and shall inquire about members and teams with excessive absences.
 - c. The Chair may make an exception to the attendance standards for a member experiencing extenuating circumstances.

Section 7. Appointed Member Removal

- a. Circumstances may arise which require that a Committee member voluntarily resign or be removed from their position. Such events include:
 1. Failing to meet the attendance standards, as set in Section 6,
 2. Falsifying application materials,
 3. The member's term ending prematurely due to meeting one of the conditions described in Article III, Section 4, items b1 and b2.
- b. A member who demonstrates any of the three criteria listed above is expected to voluntarily tender his written resignation to the Chair (with a copy to the Administrator) within five working days of being informed of this condition. If the expected resignation is not forthcoming, the Chair shall privately contact the member, explain which bylaw(s) has been violated, and seek the member's written resignation. If the request is not honored within ten working days, the Chair shall write to the member (with a copy to the Administrator), explaining which bylaw(s) has been violated and, again, request a written resignation. If the resignation is not offered within 15 working days the Chair shall notify the Administrator in writing (with a copy to the member) of the situation, identify which bylaw(s) has been violated, and seek the Administrator's assistance in removing the recalcitrant member.
- c. The Chair shall announce at the next full meeting the resignation or removal of any member.

Article IV: Officers

Section 1. The Administrator shall appoint a Chairperson for the Committee from the membership specified in Article III.

Section 2. The Chair shall select a Vice-chairperson for the Committee from the membership specified in Article III. The selection shall be from a membership category other than his own.

Section 3. An Executive Secretary (Secretariat) for the Committee shall be contracted by the Administrator. The Secretariat shall serve as the Administrative staff to the Committee.

Article V: Subcommittees and Work Groups

Section 1. The Committee may establish Subcommittees and Work Groups, as it deems necessary. Meetings shall be duly noticed and open to the public in accordance with Article VII to receive maximum participation.

Section 2. The Chair of the Harbor Safety Committee shall appoint the chairperson of Subcommittees and Work Groups. The Chair may appoint Subcommittee members.

Section 3. Subcommittees should be composed of an uneven number of voting Committee members with no fewer than three people on a subcommittee. Vote by the majority of the subcommittee members present shall be necessary to pass a recommendation of the subcommittee. If a majority of Committee members are voting at a subcommittee meeting, that meeting should be noticed as a meeting of the full Harbor Safety Committee.

Section 4. Work Groups may be composed of any number of participants. Work Groups should operate by consensus of those present, including interested members of the public.

Section 5. Subcommittees and Work Groups may make recommendations to the full Committee, which will vote on the recommendations as detailed in Article VIII. Recommendations should be made in writing and provided to the Committee prior to any vote on the matter.

Article VI: Recommendations from Committee

Section 1. The Committee shall make recommendations or requests to the Administrator on rules, regulations, guidelines and policies on Harbor Safety. The Committee may make recommendations or requests to other federal, state or local agencies.

Section 2. The Committee shall prepare and submit a Harbor Safety Plan and annual updates to the Administrator by July 1 of each year or as directed otherwise by the Administrator.

Article VII: Meetings

Section 1. Governing rules for meetings shall be the Ralph M. Brown Act (Open Meetings for Local Legislative Bodies), the San Francisco Bay Region HSC bylaws, and Robert's Rules of Order.

Section 2. Each Committee member and alternate shall be provided a copy of the San Francisco Bay Region HSC bylaws and the Harbor Safety Plan. Upon request, Committee members and alternates, as well as interested parties, shall be provided a copy of the Brown Act.

Section 3. The Committee normally meets at 10:00 a.m. on the second Thursday of each month and rotates meeting locations to include the Ports of Oakland, Richmond and San Francisco or other relevant locations within the San Francisco Bay Region.

Section 4. Quorum

In order for a meeting to take place, a quorum of appointed members or their alternates consisting of nine (9) individuals shall be present. Should a quorum not be present, the Committee can proceed as a committee of the whole, take public testimony, receive input on any agenda item duly noticed, but cannot take action on any item.

Section 5. Agenda for Meetings:

- a. An agenda drafted by the Secretariat in consultation with the Committee Chair shall be prepared for each meeting of the Committee. The agenda shall be distributed to members, alternates, and interested parties no fewer than seven (7) days prior to the scheduled meeting and shall comply with all provisions of the Brown Act.
- b. In accordance with the Brown Act, agendas for full Committee meetings, and the schedule of upcoming workgroup and subcommittee meetings shall be posted 72 hours in advance at the Secretariat Offices. Postings shall be visible from the outside of building.
- c. Agendas shall include a brief general description of each item to be discussed, including whether a voting action is to be taken on an item.
- d. Each agenda item that requires Committee action shall include time for public comment.
- e. The Committee may take action on an item not appearing on the agenda by determining that an immediate need exists and it came to the attention of the Committee after the agenda was distributed. This determination must be approved by a two-thirds ($2/3^{\text{rd}}$) vote of all appointed Committee members or, if less than two-thirds ($2/3^{\text{rd}}$) of all appointed members are in attendance, by a unanimous vote of those appointed members present.
- f. A Committee member or member of the public may discuss an item not on the agenda under New Business/Public Comments. However, no action by the Committee can be taken until such time as the item is duly noticed at a regular or special meeting, and time has been allotted to receive public input prior to Committee action.

Article VIII: Voting

Section 1. Voting

- a. The San Francisco Bay Region Harbor Safety Plan annual review shall be approved by two-thirds ($2/3^{\text{rds}}$) of the appointed Committee members or their alternates.
- b. With the exception of items specified in Section 1a of this Article, Article VII, Section 5 e, and Article IX, passage of any item subject to a vote by Committee members shall

require a simple majority of appointed members, or their alternates, present at a meeting. No action shall be taken on any item that is not on the agenda provided pursuant to Article VII, Section 5, except as allowed by Article VII, Section 5e.

- c. Due to the advisory nature of the Committee and its selected representatives, members shall not be excused from voting in case of potential conflict of interest.

Article IX: Bylaws Review, Acceptance and Amendments

Section 1. Enactment or Amendment of Bylaws

To enact or amend the bylaws, the proposed bylaws must be:

- a. Included as an agenda item at a regular meeting.
- b. Noticed to the public in accordance with provisions of Article VII, Section 5, of these bylaws.
- c. Be approved by two-thirds (2/3rds) of the appointed Committee members or their alternates.

Section 2. Bylaws Status

- a. The bylaws shall become effective after Committee approval and shall continue in force until amended or repealed.

Article X: Certification

I certify that these bylaws were approved by the Harbor Safety Committee of the San Francisco, San Pablo and Suisun Bays on _____, 2003, at _____, California, by a vote of _____ yea to _____ nay. This document is true and correct, and constitutes the official bylaws governing the Committee. These bylaws shall remain in force until amended or repealed in accordance with Article IX.

J. Grant Stewart
Chairman

_____, 2003

DIFFERENCES BETWEEN *PROPOSED* AND *INTERIM BYLAWS*

August 29, 2003

The *Proposed Bylaws* are the workgroup's preferred option for rules to govern the Harbor Safety Committee. However, they contain conflicts with current state statute. Before the *Proposed Bylaws* can be enacted, statutory changes will have to be made. OSPR is taking on this task which will be initiated during the fall of 2003, and completed sometime during 2004. Statutory changes which are approved by the Legislature will take effect on January 1, 2005.

The workgroup has also prepared a set of *Interim Bylaws* intended to govern the Committee between now and 2005. The *Interim Bylaws* are based on the *Proposed Bylaws*, but have had the statutory conflicts removed. The following discussion details the differences between the *Proposed* and *Interim Bylaws*.

The *Proposed Bylaws* change the name of the Committee to include the Ports of Sacramento and Stockton. They also allow these Port Authorities to be represented as members. The *Interim Bylaws* retain the current statutory Committee name and the current statutory representation by Port Authorities.

The *Proposed Bylaws* give permanent representation to the Ports of San Francisco and Oakland, leaving two Ports Authorities from the following list to be selected by the Administrator as vacancies occur: Richmond, Benicia, Redwood City, Sacramento and Stockton. The *Interim Bylaws* retain the current statutory representation by Port Authorities: *...the Harbor Safety Committee for the Harbor of San Francisco, San Pablo, and Suisun Bays shall have four designees....*

The *Proposed Bylaws* split the two tank ship operator seats into: one representative of tank ship operators; and one representative of either tank ship operators or marine oil terminal operators. The *Interim Bylaws* retain the current statutory membership of two representatives of tank ship operators.

The *Proposed Bylaws* create dedicated seats for representatives of both commercial fishers and pleasure boat operators. The *Interim Bylaws* retain the current statutory membership of a single representative of either commercial fishing or pleasure boat operators.

The *Proposed Bylaws* add a fourth seat for federal members, creating a new seat for a designee of the National Oceanic and Atmospheric Administration. The *Interim Bylaws* retain the three federal seats existing in current statute (Coast Guard, Army Corps of Engineers and Navy).

The *Proposed Bylaws* remove the qualification of *Navigational Expertise* for the representatives of the Labor and Port Authorities. The *Interim Bylaws* retain the statutory requirement of *Navigational Expertise* for these members.

The *Proposed Bylaws* make an adjustment to the statutory definition of *Navigational Expertise* (in the fourth criteria). The *Interim Bylaws* retain the current statutory definition.

The *Proposed Bylaws* authorize the Administrator to appoint and swear alternates. The *Interim Bylaws* delegate the appointment of alternates to the Chair. (Alternates will not be sworn until the statute is changed to give the Administrator appointment authority.)

The *Proposed Bylaws* authorize the Administrator to appoint the Committee's Vice-Chair. The *Interim Bylaws* delegate this responsibility to the Chair.

San Francisco Harbor Safety Committee
Proposed Statutory Revisions

August 29, 2003

The following are proposed statutory changes which must be made before the *Proposed Bylaws* can be enacted by the Committee. This is necessary in order to avoid conflicts between bylaws and statute. Underlined letters, words and phrases are to be added to current statute and struckout numbers, letters, words and phrases are to be removed.

• **8670.23. Harbor safety committees; members; qualifications; chairperson; expenses**

(a) The administrator shall establish Harbor Safety Committees for the Harbors of San Diego; Los Angeles/Long Beach; Port Hueneme; San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton; and Humboldt Bay.

(b) The administrator shall appoint to each harbor safety committee, for a term of three years, all of the following members and their alternates:

(1) A designee of each of the port authorities within the harbor, except that the Harbor Safety Committee for the Harbor of San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, shall have four designees.

(2) A representative of tank ship operators, except that the Harbor Safety Committee for the Harbors of San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, shall have ~~two~~ one representatives of tank ship operators, and one representative of either tank ship or marine oil terminal operators.

(3) A representative of the pilot organizations within the harbor.

(4) A representative of dry cargo vessel operators, except that the Harbor Safety Committee for the Harbors of San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, shall have two representatives.

(5) ~~A R~~representatives of commercial fishing ~~or~~ and pleasure boat operators.

(6) A representative of a recognized nonprofit environmental organization that has as a purpose the protection of marine resources.

(7) A ~~representative~~ designee of the California Coastal Commission, except that for the Harbor Safety Committee for San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, the administrator shall appoint a ~~representative~~ designee of the San Francisco Bay Conservation and Development Commission.

(8) A representative from a recognized labor organization involved with waterborne operations of vessels.

(9) A ~~representative~~ designee of the Captain of the Port from the U.S. Coast Guard, the U.S. Army Corps of Engineers, the U.S. National Oceanographic and Atmospheric Association (NOAA), and the U.S. Navy to the extent that each consents to participate on the committee.

(10) A representative of tug or tank barge operators, who is not also engaged in the business of operating either tank ships or dry cargo vessels, except that the Harbor Safety Committee for San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, shall have one representative of tug operators and one representative of tank barge operators, neither of whom shall also be engaged in the business of operating either tank ships or dry cargo vessels.

(11) A harbor safety committee may petition the administrator with a request for the ~~additional appointment~~ creation of up to five at large membership ~~categories~~ categories ~~who~~ which are needed to conduct the harbor safety committee business and ~~who~~ which reflect the makeup of the local maritime community. Committees may also petition the administrator for the removal of at large membership categories. The approval of ~~this~~ such petitions shall be at the sole discretion of the administrator.

(c) The members appointed from the categories listed in paragraphs (1), (2), (3), (4), ~~(8)~~, and (10) of subdivision (b) shall have navigational expertise. An individual is considered to have navigational expertise if the individual meets any of the following conditions:

(1) Has held or is presently holding a Coast Guard Merchant Marine Deck Officer's license.

(2) Has held or is presently holding a position on a commercial vessel that includes navigational responsibilities.

(3) Has held or is presently holding a shoreside position with direct operational control of vessels.

(4) Has held or is currently holding a position having responsibilities ~~for permitting or approving the docking of vessels in and around harbor facilities~~ relating to the safe navigation of vessels.

(d) The administrator shall appoint a chairperson and vice-chairperson for each harbor safety committee from the membership specified in subdivision (b). The administrator may retract these appointments as deemed appropriate. ~~Each member of a harbor safety committee shall be reimbursed for actual and necessary expenses incurred in the performance of committee duties.~~

(e) Upon request of the committee chairperson, the administrator may remove a member for due cause as identified in the committee's bylaws or in any applicable statute or regulations.

(f) Each member of a harbor safety committee shall be reimbursed for actual and necessary expenses incurred in the performance of committee duties.

(Added by Stats.1990, c. 1248 (S.B.2040), ' 17, eff. Sept. 24, 1990. Amended by Stats.1994, c. 1298 (A.B.3425), ' 3; Stats.1995, c. 337 (A.B.1742), ' 5; Stats. 2001, c. 748 (A.B. 715), ' 13.)

• **8670.23.1. Harbor safety committee; harbor safety plan; regulations; implementation; revision**

(a) Each harbor safety committee established pursuant to Section 8670.23 shall be responsible for planning for the safe navigation and operation of tank ships, tank barges, and other vessels within each harbor. Each committee shall prepare a harbor safety plan, encompassing all vessel traffic within the harbor.

(b) The administrator shall adopt regulations for harbor safety plans in consultation with the committees of those harbors listed in Section 8670.23, and other affected parties. The regulations shall require that the plan contain a discussion of the competitive aspects of the recommendations of the harbor safety committee.

(c) In adopting regulations for harbor safety plans, the administrator shall give highest priority to the development of regulations concerning tugboat escorts as specified in Section 8670.17.2 and shall expeditiously adopt that portion of the regulations so that the Harbor Safety Committee for San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, will be able to expeditiously comply with subdivision (b).

(d) The regulations shall ensure that each harbor safety plan includes all of the following elements:

(1) A recommendation determining when tank vessels are required to be accompanied by a tugboat or tugboats, of sufficient size, horsepower, and pull capability while entering, leaving, or navigating in the harbor. The Harbor Safety Committee for San Francisco, San Pablo, and Suisun Bays, including the Ports of Sacramento and Stockton, shall give its highest priority to the adoption of tugboat escort recommendations and shall immediately adopt interim recommendations prior to the completion of the entire harbor safety plan. The administrator shall be guided by the recommendations of the Harbor Safety Committee when adopting regulations pursuant to Section 8670.17.2.

(2) A review and evaluation of the adequacy of, and any changes needed in, all of the following:

(A) Anchorage designations and sounding checks.

(B) Communications systems.

(C) Small vessel congestion in shipping channels.

(D) Placement and effectiveness of navigational aids, channel design plans, and the traffic and routings from port construction and dredging projects.

(3) Procedures for routing vessels during emergencies that impact navigation.

(4) Bridge management requirements.

(5) Suggested mechanisms to ensure that the provisions of the plan are fully and regularly enforced.

(6) A recommendation as to whether establishing or expanding VTS systems within the harbors is desirable.

(7) A recommendation for funding VTS systems and other projects.

(e) Each harbor safety plan shall be submitted to the administrator by December 31, 1991. The administrator shall review the plan for consistency with the regulations and shall approve the plans or give reasons for their disapproval.

(f) Upon approving the harbor safety plans, the administrator shall, in consultation with the harbor safety committees listed in Section 8670.23, implement the plans. The administrator shall adopt regulations necessary to implement the plans. When federal authority or action is required to implement a plan, the administrator shall petition the appropriate federal agency or the United States Congress, as may be necessary.

(g) On or before July 1 of each year, each harbor safety committee shall revise its respective harbor safety plan and report its findings and recommendations to the administrator concerning the safety of its harbor or harbors and any recommendations for improving vessel safety in the harbor or harbors by amending the provisions of the harbor safety plan, or through other means.

(Added by Stats.1995, c. 337 (A.B.1742), ' 6. Amended by Stats. 2001, c. 748 (A.B.715), ' 14.)

• **8670.23.2. Harbor Safety Committee members; immunity from liability**

(a) The Legislature hereby finds and declares that because the administrator must rely on the expertise provided by volunteer members of the harbor safety committees and be guided by their recommendations in making decisions that relate to the public safety, members of the harbor safety committees should be entitled to the same immunity from liability provided other public employees.

(b) Members of the harbor safety committees appointed pursuant to Section 8670.23, while performing duties required by this article or by the administrator, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Those rights and immunities are deemed to have attached, and shall attach, as of the date of appointment of the member to the harbor safety committee.

(Added by Stats.1995, c. 337 (A.B.1742), ' 7.)

**HARBOR SAFETY COMMITTEE OF THE SAN FRANCISCO BAY REGION
INCLUDING THE PORTS OF SACRAMENTO AND STOCKTON**

BYLAWS

Article I: Name

Section 1. The Harbor Safety Committee of the San Francisco, San Pablo and Suisun Bays, including the Ports of Sacramento and Stockton (hereinafter referred to as the Committee).

Article II: Purpose

Section 1. The Committee is established pursuant to Section 8670.23 of the Government Code and Title 14, California Code of Regulations, Sections 800-802; and is responsible for planning for the safe navigation and operation of tank ships, tank barges, and other vessels within the harbor, and making recommendations to the Administrator of the Office of Spill Prevention and Response (OSPR), hereinafter referred to as the Administrator.

Article III: Membership

Section 1. Membership Categories

- a. Members shall be selected from local representatives of organizations or companies in the San Francisco Bay Area region (including the Ports of Sacramento and Stockton) whenever possible.
- b. The Committee shall consist of members appointed by the Administrator as follows:
 1. Four designees representing Port authorities: One representative shall be selected from the Port of San Francisco and one from the Port of Oakland. The other two representatives shall be selected from any two of the remaining ports: Richmond, Redwood City, Benicia, Stockton or Sacramento;
 2. One representative of tank ship operators, and one representative of either a tank ship operator or a marine oil terminal operator;
 3. One designee of the San Francisco Bar Pilots Association;
 4. Two representatives of dry cargo vessel operators;
 5. One representative of commercial fishing;
 6. One representative of pleasure boat operators;
 7. One representative of a recognized nonprofit environmental organization that has as a purpose the protection of marine resources;
 8. One designee of the San Francisco Bay Conservation and Development Commission;
 9. One representative from a recognized labor organization involved with waterborne operations of vessels;

10. One representative of tug operators and one representative of tank barge operators, neither of whom shall also be engaged in the business of operating either tank ships or dry cargo vessels.

11. One designee from each of the following: Captain of the Port from the U.S. Coast Guard; U.S. Army Corps of Engineers, U.S. National Oceanic and Atmospheric Administration (NOAA), and the U.S. Navy, to the extent that each consents to participate on the Committee as a non appointed member.

- c. Appointees filling membership categories identified in items b1 through b10, above, are specified as appointed members.

Section 2. Membership Qualifications

The members appointed from the categories listed in Section 1b (2), (3), (4), and (10) above shall have navigational expertise. An individual is considered to have navigational expertise if the individual meets any of the following conditions:

- a. Has held or is presently holding a Coast Guard Merchant Marine Deck Officer's license;
- b. Has held or is presently holding a position on a commercial vessel that includes navigational responsibility;
- c. Has held or is presently holding a shore side position with direct operational control of vessels;
- d. Has held or is currently holding a position having responsibilities relating to the safe navigation of vessels.

Section 3. At-Large Members

The Harbor Safety Committee may petition the Administrator to request up to five at-large membership categories that are needed to conduct the Harbor Safety Committee's business and which reflect the make-up of the local maritime community. One at-large member shall represent ferry operators who shall have navigational expertise as defined in Section 2, above, and who is specified to be an appointed member consistent with Section 1c, above. The Committee may also petition the Administrator for the removal of any at-large membership category. The approval of such petitions shall be at the sole discretion of the Administrator.

Section 4. Term of Membership for Appointed Members and their Alternates

- a. A member shall be appointed for a three-year term.
- b. A member's appointment shall be terminated as a result of any of the following circumstances:
 - 1. The member retires from, or otherwise leaves employment under which he was appointed. Members who leave their employer may, if qualified under their new employment, apply for the seat they vacated or, if qualified, apply for another Committee seat that becomes vacant.
 - 2. The member undergoes a change in work responsibilities, which alters the constituency that he represents, or alters his qualifications for the position.

3. The member voluntarily resigns for any reason.
 4. A member is removed by the Administrator for any reason under Section 7, below.
- c. A member impacted by any of the conditions identified in items 1-4 above is expected to submit his resignation to the Chair (with a copy to the Administrator) within five working days.
 - d. Any incumbent completing his three-year term may re-apply.
 - e. Except as noted in Section 5c, below, an alternate's term expires when the primary member leaves service for any reason.

Section 5. Alternates for Appointed Members

- a. The alternate representative shall be appointed and sworn by the Administrator in a manner similar to the primary member. Only one alternate shall be appointed for each primary member, and only the appointed alternate is accorded proxy powers. The alternate shall be selected from the same membership category as the primary member, and shall meet the same qualifications. The appointed alternate may vote, participate in, or take any other action on behalf of the primary member consistent with the Committee's bylaws and any applicable statutory or regulatory provisions.
- b. An alternate may vote only in the absence of the primary member.
- c. When a primary member resigns or is removed, his alternate may continue to serve until such time as the new primary member is appointed and sworn in.
- d. The Committee offers the Administrator the following guidelines for appointing alternates:
 1. When possible, the primary member should be allowed to recommend his alternate;
 2. If there is more than one applicant for a position, the primary member and Administrator should consider the other applicants when selecting alternates. The Committee requests the Administrator consider diversity of organizations within each membership category when selecting alternates.

Section 6. Attendance of Appointed Members

- a. Attendance of scheduled Committee meetings is expected. The standard of attendance is determined as follows:
 1. For each appointed membership category team consisting of a primary member and alternate, meeting either condition (a) or (b) is considered to be not meeting the standard of attendance:
 - (a) The primary member of the team missing four consecutive meetings, or a total of six meetings in a calendar year.
 - (b) The team missing three consecutive meetings, or a total of four meetings in a calendar year.

2. For a primary member with no alternate, meeting condition (a) is considered to be not meeting the standard of attendance:
 - (a) Missing four consecutive meetings, or a total of six meetings in a calendar year.
 - b. The Committee Chair shall review the meeting attendance records on a regular basis and shall inquire about members and teams with excessive absences.
 - c. The Chair may make an exception to the attendance standards for a member experiencing extenuating circumstances.

Section 7. Appointed Member Removal

- a. Circumstances may arise which require that a Committee member voluntarily resign or be removed from their position. Such events include:
 1. Failing to meet the attendance standards, as set in Section 6,
 2. Falsifying application materials,
 3. The member's term ending prematurely due to meeting one of the conditions described in Article III, Section 4, items b1 and b2.
- b. A member who demonstrates any of the three criteria listed above is expected to voluntarily tender his written resignation to the Chair (with a copy to the Administrator) within five working days of being informed of this condition. If the expected resignation is not forthcoming, the Chair shall privately contact the member, explain which bylaw(s) has been violated, and seek the member's written resignation. If the request is not honored within ten working days, the Chair shall write to the member (with a copy to the Administrator), explaining which bylaw(s) has been violated and, again, request a written resignation. If the resignation is not offered within 15 working days the Chair shall notify the Administrator in writing (with a copy to the member) of the situation, identify which bylaw(s) has been violated, and seek the Administrator's assistance in removing the recalcitrant member.
- c. The Chair shall announce at the next full meeting the resignation or removal or any member.

Article IV: Officers

Section 1. The Administrator shall appoint a Chairperson for the Committee from the membership specified in Article III.

Section 2. The Administrator shall appoint a Vice-chairperson for the Committee from the membership specified in Article III, from a membership category other than that of the Chairperson.

Section 3. An Executive Secretary (Secretariat) for the Committee shall be contracted by the Administrator. The Secretariat shall serve as the Administrative staff to the Committee.

Article V: Subcommittees and Work Groups

Section 1. The Committee may establish Subcommittees and Work Groups, as it deems necessary. Meetings shall be duly noticed and open to the public in accordance with Article VII to receive maximum participation.

Section 2. The Chair of the Harbor Safety Committee shall appoint the chairperson of Subcommittees and Work Groups. The Chair may appoint Subcommittee members.

Section 3. Subcommittees should be composed of an uneven number of voting Committee members with no fewer than three people on a subcommittee. Vote by the majority of the subcommittee members present shall be necessary to pass a recommendation of the subcommittee. If a majority of Committee members are voting at a subcommittee meeting, that meeting should be noticed as a meeting of the full Harbor Safety Committee.

Section 4. Work Groups may be composed of any number of participants. Work Groups should operate by consensus of those present, including interested members of the public.

Section 5. Subcommittees and Work Groups may make recommendations to the full Committee, which will vote on the recommendations as detailed in Article VIII. Recommendations should be made in writing and provided to the Committee prior to any vote on the matter.

Article VI: Recommendations from Committee

Section 1. The Committee shall make recommendations or requests to the Administrator on rules, regulations, guidelines and policies on Harbor Safety. The Committee may make recommendations or requests to other federal, state or local agencies.

Section 2. The Committee shall prepare and submit a Harbor Safety Plan and annual updates to the Administrator by July 1 of each year or as directed otherwise by the Administrator.

Article VII: Meetings

Section 1. Governing rules for meetings shall be the Ralph M. Brown Act (Open Meetings for Local Legislative Bodies), the San Francisco Bay Region HSC bylaws, and Robert's Rules of Order.

Section 2. Each Committee member and alternate shall be provided a copy of the San Francisco Bay Region HSC bylaws and the Harbor Safety Plan. Upon request, Committee members and alternates, as well as interested parties, shall be provided a copy of the Brown Act.

Section 3. The Committee normally meets at 10:00 a.m. on the second Thursday of each month and rotates meeting locations to include the Ports of Oakland, Richmond and San Francisco or other relevant locations within the San Francisco Bay Region.

Section 4. Quorum

In order for a meeting to take place, a quorum of appointed members or their alternates consisting of nine (9) individuals shall be present. Should a quorum not be present, the Committee can proceed as a committee of the whole, take public testimony, receive input on any agenda item duly noticed, but cannot take action on any item.

Section 5. Agenda for Meetings:

- a. An agenda drafted by the Secretariat in consultation with the Committee Chair shall be prepared for each meeting of the Committee. The agenda shall be distributed to members, alternates, and interested parties no fewer than seven (7) days prior to the scheduled meeting and shall comply with all provisions of the Brown Act.
- b. In accordance with the Brown Act, agendas for full Committee meetings, and the schedule of upcoming workgroup and subcommittee meetings shall be posted 72 hours in advance at the Secretariat Offices. Postings shall be visible from the outside of building.
- c. Agendas shall include a brief general description of each item to be discussed, including whether a voting action is to be taken on an item.
- d. Each agenda item that requires Committee action shall include time for public comment.
- e. The Committee may take action on an item not appearing on the agenda by determining that an immediate need exists and it came to the attention of the Committee after the agenda was distributed. This determination must be approved by a two-thirds ($2/3^{\text{rd}}$) vote of all appointed Committee members or, if less than two-thirds ($2/3^{\text{rd}}$) of all appointed members are in attendance, by a unanimous vote of those appointed members present.
- f. A Committee member or member of the public may discuss an item not on the agenda under New Business/Public Comments. However, no action by the Committee can be taken until such time as the item is duly noticed at a regular or special meeting, and time has been allotted to receive public input prior to Committee action.

Article VIII: Voting

Section 1. Voting

- a. The San Francisco Bay Region Harbor Safety Plan annual review shall be approved by two-thirds ($2/3^{\text{rds}}$) of the appointed Committee members or their alternates.
- b. With the exception of items specified in Section 1a of this Article, Article VII, Section 5 e, and Article IX, passage of any item subject to a vote by Committee members shall require a simple majority of appointed members, or their alternates, present at a meeting. No action shall be taken on any item that is not on the agenda provided pursuant to Article VII, Section 5, except as allowed by Article VII, Section 5e.
- c. Due to the advisory nature of the Committee and its selected representatives, members shall not be excused from voting in case of potential conflict of interest.

Article IX: Bylaws Review, Acceptance and Amendments

Section 1. Enactment or Amendment of Bylaws

To enact or amend the bylaws, the proposed bylaws must be:

- a. Included as an agenda item at a regular meeting.
- b. Noticed to the public in accordance with provisions of Article VII, Section 5, of these bylaws.
- c. Be approved by two-thirds (2/3rds) of the appointed Committee members or their alternates.

Section 2. Bylaws Status

- a. The bylaws shall become effective after Committee approval and shall continue in force until amended or repealed.

Article X: Certification

I certify that these bylaws were approved by the Harbor Safety Committee of the San Francisco, San Pablo and Suisun Bays, including the Ports of Sacramento and Stockton, on _____, 2003, at _____, California, by a vote of _____ yea to _____ nay. This document is true and correct, and constitutes the official bylaws governing the Committee. These bylaws shall remain in force until amended or repealed in accordance with Article IX.

J. Grant Stewart
Chairman
_____, 2003

U.S. Department of
Homeland Security

United States
Coast Guard



Commanding Officer
United States Coast Guard
Marine Safety Office
San Francisco Bay

Bldg 14, Coast Guard Island
Alameda, CA 94501
Phone: (510) 437-3073
Fax: (510) 437-3072

16700

Tesoro Maritime Company
Golden Eagle Refinery
Attn: Captain Marc Bayer
150 Solano Way
Martinez, CA 94553-1487

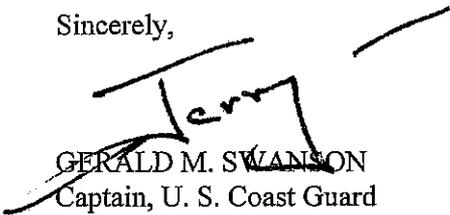
Dear Captain Bayer:

Your efforts to establish guidelines for the turning of tankers in the area known as the Avon Turning Basin is greatly appreciated. The coordination required between representatives from the San Francisco Bar Pilots, Tesoro Maritime Company, Shore Terminals LLC, Valero Marketing and Supply Company, and this office to create these guidelines reflects most highly on the participating stakeholders.

Working together as a team, we developed a schedule of surveys to keep mariners informed of the changing bottom contours, established assist tug requirements and an agreement to fund two lighted navigation aids. These steps have significantly enhanced the safety of the turning area for all users.

I want to personally thank you for your dedication and contribution to this important waterway management initiative.

Sincerely,


GERALD M. SWANSON
Captain, U. S. Coast Guard
Captain of the Port



September 1, 2003

To: Parties Interested in Serving on the San Francisco Bay Region Harbor Safety Committee

Subject: Harbor Safety Committee Vacancy

The Office of Spill Prevention and Response (OSPR) announces an opening on the Harbor Safety Committee for a representative of **tank ship operators**. The term of the incumbent, Mr. Stuart McRobbie of SeaRiver Maritime, expires on October 15, 2003.

Qualified persons representing tank ship operators located in the San Francisco Bay Area are encouraged to apply. Internet site <http://www.dfg.ca.gov/ospr/forms/miscforms/appform.pdf> contains a printable Harbor Safety Committee application. Applicants must complete this form and attach a current resume which indicates their qualifications. Also, provide a copy of your U.S. Coast Guard Merchant Marine Deck Officer's License, if using such a license to qualify. Mail application materials to:

Mr. Al Storm
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, California 94244-2090

The vacancy will be announced at the September 11, 2003, Harbor Safety Committee meeting and a copy of this announcement will be included in the meeting's information packet.

Applications must be post marked no later than **September 19, 2003**. OSPR intends to appoint the new member at the October 9, 2003, Harbor Safety Committee meeting in Richmond.

Questions regarding the position, requirements or the application process may be directed to Mr. Al Storm at: the above mailing address, e-mail address astorm@ospr.dfg.ca.gov, or telephone number (916) 324-6259. We look forward to hearing from qualified applicants.



September 1, 2003

To: Parties Interested in Serving on the San Francisco Bay Region Harbor Safety Committee

Subject: Harbor Safety Committee Vacancy

The Office of Spill Prevention and Response (OSPR) announces an opening on the Harbor Safety Committee for a representative of **dry cargo vessel operators**. The term of the incumbent, Mr. Don Watters of CSX Lines, expires on November 29, 2003.

Qualified persons representing dry cargo operators located in the San Francisco Bay Area are encouraged to apply. Internet site <http://www.dfg.ca.gov/ospr/forms/miscforms/appform.pdf> contains a printable Harbor Safety Committee application. Applicants must complete this form and attach a current resume which indicates their qualifications. Also, provide a copy of your U.S. Coast Guard Merchant Marine Deck Officer's License, if using such a license to qualify. Mail application materials to:

Mr. Al Storm
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, California 94244-2090

The vacancy will be announced at the September 11 and October 9, 2003, Harbor Safety Committee meetings. Information packets for both of these meetings will include a copy of this announcement.

Applications must be post marked no later than **October 24, 2003**. OSPR intends to appoint the new member at the November 13, 2003, Harbor Safety Committee meeting in San Francisco.

Questions regarding the position, requirements or the application process may be directed to Mr. Al Storm at: the above mailing address, e-mail address astorm@ospr.dfg.ca.gov, or telephone number (916) 324-6259. We look forward to hearing from qualified applicants.