

I N D E X

THE BOARD OF PILOT COMMISSIONERS
OF THE PORTS OF HARRIS COUNTY, TEXAS

September 29, 2015

<i>Minute No.</i>	<i>Event/Action</i>
	General
	Chairman Longoria convened the meeting of the Board of Pilot Commissioners
	Minutes
(PB-2015-0929-01)	Approve the Minutes of the Board of Pilot Commissioners Meetings – February 24, 2015 and July 28, 2015
	Pilot Matters
(PB-2015-0929-02)	Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Frank J. Loeffler IV
(PB-2015-0929-03)	Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Adam W. Guice
(PB-2015-0929-04)	Consideration and possible action regarding the Pilot Board Investigation and Recommendation Committee's proposed findings and recommendations regarding the M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED on March 14, 2014, in the Houston Ship Channel
	Adjourn the meeting of the Board of Pilot Commissioners

**Board of Pilot Commissioners for Harris County Ports
Public Meeting**

**Houston, Texas
September 29, 2015**

A public meeting of the Board of Pilot Commissioners for Harris County Ports (the "Pilot Board") was convened on September 29, 2015 at 10:44 a.m., at the Port of Houston Authority Executive Offices, Fourth Floor Boardroom, at 111 East Loop North, Houston, Texas 77029. The following Commissioners, staff, and counsel were present:

Janiece Longoria, Chairman
Theldon R. Branch, III, Commissioner
Stephen H. DonCarlos, Commissioner
Clyde E. Fitzgerald, Commissioner
John D. Kennedy, Commissioner
Roy D. Mease, Commissioner
Roger Guenther, Secretary
Erik Eriksson, General Counsel and Assistant Secretary
David McNamara, Counsel
David Brown, Brown & Kornegay, LLP
J. Kent Friedman, Haynes and Boone, LLP

Chairman Longoria convened the meeting of the Board of Pilot Commissioners.

(PB-2015-0929-01) Chairman Longoria called for a motion to approve the minutes of the February 24, 2015 and July 28, 2015 Pilot Board meetings. Commissioner Mease moved for approval of the minutes, seconded by Commissioner Branch. Chairman Longoria, and Commissioners Branch, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. The minutes were approved as written.

The Pilot Board then considered each Request for Pilot Board Action ("RPBA") submitted by Chairman Longoria and attached to these minutes as Exhibit "A."

(PB-2015-0929-02) RPBA F1 was presented, moved by Commissioner Mease, seconded by Commissioner DonCarlos. Chairman Longoria, and Commissioners Branch, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F1 PASSED.

(PB-2015-0929-03) RPBA F2 was presented, moved by Commissioner Fitzgerald, seconded by Commissioner Branch. Chairman Longoria, and Commissioners Branch, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F2 PASSED.

(PB-2015-0929-04) RPBA F3 was presented.

Chairman Longoria asked for a formal presentation from a representative of the Pilot Board Investigation and Recommendation Committee ("PBIRC"). Mr. Eriksson

replied that Mr. McNamara represented the Pilot Board at that hearing and could provide a presentation.

Mr. McNamara provided a brief summary of the PBIRC findings regarding the M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED on March 14, 2014, in the Houston Ship Channel.

Mr. McNamara reported that the outbound vessel, the M/V GENIUS STAR VII piloted by Captain Holly Cooper, was passed by an inbound vessel, the wake of which allegedly caused some barges to break loose from an inbound tow and drift across the channel into the path of, and colliding with, the GENIUS STAR. The PBIRC investigation determined that Captain Cooper took evasive action to avoid a potentially serious casualty and was verbally commended for her actions; no negligence or actionable misconduct on the part of Captain Cooper was found.

The inbound vessel, M/T STOLT INNOVATION piloted by Captain Michael Phillips, was determined to have operated within the normal parameters for the ship characteristics and conditions; no negligence or actionable misconduct on the part of Captain Phillips was found.

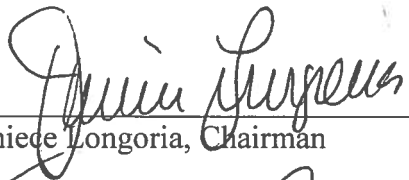
Chairman Longoria noted that the PBIRC's recommendation, by an 8-0 vote, was to take no action and close the matter to file.

Commissioner Branch moved for approval, seconded by Commissioner Kennedy, Chairman Longoria, and Commissioners Branch, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F3 PASSED.

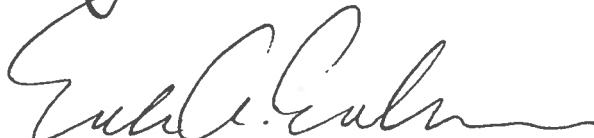
Commissioner Branch commented that he had attended the Houston Pilots working session with brown water vessels and found it to be a really good program, well attended, and added that the process put in place to review issues that come up was working very well.

At 10:47 a.m., Chairman Longoria adjourned the Pilot Board meeting.

The above is a correct copy of the Minutes of the September 29, 2015 meeting of the Pilot Board of the Port of Houston Authority.



Janiece Longoria, Chairman



Erik A. Eriksson, Assistant Secretary

F. PILOT MATTERS

Subject **1. Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Frank J. Loeffler IV.**

Meeting Sep 29, 2015 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Pilot Board, at its September 29, 2015 meeting, recommend to the governor the commission renewal of Captain Frank J. Loeffler IV as Branch Pilot for the Houston Ship Channel and Galveston Bar for a four-year term effective December 16, 2015, and further authorize the Secretary of the Pilot Board to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Pilot Matters

Department:

Pilot Administration

Staff Contact:

Erik Eriksson

Background:

The Application Review Committee (ARC) of the Pilot Board considers whether applicants meet the statutory and regulatory requirements for pilots on the Houston Ship Channel and Galveston Bar. Among other things, applicants undergo a physical examination to determine if an applicant is in good mental and physical health in order to perform the duties of pilotage on the Houston Ship Channel and Galveston Bar, and an investigation including a criminal background check and the applicant's accident history is conducted.

Staff Evaluation/Justification:

Captain Frank J. Loeffler IV has applied for commission renewal as Branch Pilot for the Houston Ship Channel and Galveston Bar. The application includes proof of continued education training in Radar Observer (recertification), Raven Wheelhouse II Pilot Carry Aboard Navigation System and AIS (Automatic Information System), Basic Azipod training, Manned Model Ship Handling, Error Detection and Use of Advanced Radar Techniques in Restricted Waters, Restricted Visibility Navigation for Pilots, Legal Aspects of Piloting, and a request on his behalf from the Houston Pilots with evidence of his ability to enter into a faithful performance bond in the amount of \$25,000 payable to the governor.

After an assessment of his qualifications and the documents filed with his application, the ARC determined that Captain Frank J. Loeffler IV meets the requirements of Chapter 66 of the Texas Transportation Code, Houston Pilots Licensing and Regulatory Act, Section 66.041, and the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel and Galveston Bar.

Accordingly, the ARC respectfully submits to the Pilot Board the application of Captain Frank J. Loeffler IV for commission renewal as Branch Pilot for the Houston Ship Channel and Galveston Bar. Such commission is for a four-year term.

F. PILOT MATTERS

Subject **2. Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Adam W. Guice.**

Meeting Sep 29, 2015 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Pilot Board, at its September 29, 2015 meeting, recommend to the governor the commission renewal of Captain Adam W. Guice as Branch Pilot for the Houston Ship Channel and Galveston Bar for a four-year term effective October 28, 2015, and further authorize the Secretary of the Pilot Board to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Pilots Matters

Department:

Pilot Administration

Staff Contact:

Erik Eriksson

Background:

The Application Review Committee (ARC) of the Pilot Board considers whether applicants meet the statutory and regulatory requirements for pilots on the Houston Ship Channel and Galveston Bar. Among other things, applicants undergo a physical examination to determine if an applicant is in good mental and physical health in order to perform the duties of pilotage on the Houston Ship Channel and Galveston Bar, and an investigation including a criminal background check and the applicant's accident history is conducted.

Staff Evaluation/Justification:

Captain Adam W. Guice has applied for commission renewal as Branch Pilot for the Houston Ship Channel and Galveston Bar. The application includes proof of continued education training in Radar Observer (recertification), Raven Wheelhouse II Pilot Carry Aboard Navigation System and AIS (Automatic Information System), Incident Management for Pilots, Manned Model Ship Handling, Error Detection and Use of Advanced Radar Techniques in Restricted Waters, Col-Regs for Pilots (Collision Regulations for Pilots), Blue/Brown water Interface Training, and a request on his behalf from the Houston Pilots with evidence of his ability to enter into a faithful performance bond in the amount of \$25,000 payable to the governor.

After an assessment of his qualifications and the documents filed with his application, the ARC determined that Captain Adam W. Guice meets the requirements of Chapter 66 of the Texas Transportation Code, Houston Pilots Licensing and Regulatory Act, Section 66.041, and the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel and Galveston Bar.

Accordingly, the ARC respectfully submits to the Pilot Board the application of Captain Adam W. Guice for commission renewal as Branch Pilot for the Houston Ship Channel and Galveston Bar. Such commission is for a four-year term.

F. PILOT MATTERS

Subject **3. Consideration and possible action regarding the Pilot Board Investigation and Recommendation Committee's proposed findings and recommendations regarding the M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED on March 14, 2014, in the Houston Ship Channel.**

Meeting Sep 29, 2015 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Pilot Board, at its September 29, 2015 meeting, consider and possibly take action regarding the Pilot Board Investigation and Recommendation Committee's proposed findings and recommendations regarding the M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED on March 14, 2014, in the Houston SHip Channel, and further authorize the Secretary of the Pilot Board to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
Pilot Matters

Department:
Pilot Administration

Staff Contact:
Erik Eriksson

Background:
The Secretary of the Pilot Board may refer reports of marine casualties and complaints alleging violations of the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel and Galveston Bay to the Pilot Board Investigation and Recommendation Committee (PBIRC) for investigation, hearing, and recommendation to the Pilot Board.

Staff Evaluation/Justification:
The PBIRC convened on June 24, 2015, and held a formal hearing to receive testimony and consider the facts in the matter of the M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED on March 14, 2014, and propose findings and recommendations regarding the matter.

The following PBIRC members were in attendance:

- Captain Marcus Woodring (PBIRC Chairman)
- Captain Michael Morris (Presiding Officer Houston Pilots Association)
- Captain Sean Arbogast (Houston Pilots Association)
- Captain Michael Curtiss (Houston Pilots Association)
- Captain Richard Ford (USCG retired)
- Captain David Foret (Port of Houston Maritime Industry)
- Paul Caruselle (Port of Houston Maritime Industry)
- Tom Marian (Port of Houston Maritime Industry)

Captain Mike Usher, as Compliance Coordinator for the PRIRC, presented materials he collected regarding the collision; Captain Holly Cooper, M/V GENIUS STAR VII pilot, Captain Michael Phillips, M/T STOLT INNOVATION pilot, and Captain Hugh Guidry as expert witness to Captain Phillips, gave testimony regarding the circumstances, and an introduction to a video presentation was given by Captain David Rodrigues.

David McNamara attended the hearing as counsel representing the Pilot Board; Jim Brown attended as counsel representing Captain Holly Cooper; Keith Letourneau attended as counsel representing Captain Michael Phillips. Finally, Chief Warrant Officer Michael Trebilcock and Chief Petty Officer Michael Oyler of the United States Coast Guard Marine Safety Unit Texas City attended in the capacity of advisors.

Following its deliberations, by a vote of 8-0, the PBIRC proposes the following findings:

- 1) That Captain Cooper took evasive action to avoid a potentially serious marine casualty and is verbally commended for her actions. No negligence or actionable misconduct on the part of Captain Cooper;
- 2) That Captain Phillips operated within normal parameters for the ship characteristics and conditions. No negligence or actionable misconduct on the part of Captain Phillips.

Following its deliberations, by a vote of 8-0, the PBIRC proposes the following recommendations to the Board of Pilot Commissioners for Harris County Ports:

- 1) Take no action and close matter to file.

Pilot Board Investigation and Recommendation Committee
Proposed Findings and Recommendations

In the matter of *M/V GENIUS STAR VII* collision with Kirby barge 27720 being pushed by the *UTV GARY REED*

Summary of Investigation

1. On March 14, 2014, the *M/V GENIUS STAR VII* collided with Kirby barge 27720 being pushed by the *UTV GARY REED* in the Houston Ship Channel.
2. Thereafter, U.S. Coast Guard Marine Safety Unit Texas City opened a marine casualty investigation into this matter.
3. On March 19, 2014, Pilot Board Compliance Coordinator Captain Mike Usher was designated by the U.S. Coast Guard as a party in interest, as defined in 46 United States Code (USC) § 6303 and Code of Federal Regulations (CFR) § 4.03-10, on behalf of the Pilot Board Investigation and Recommendation Committee ("PBIRC").
4. Captain Usher attended the marine casualty site assessment and witness interviews.
5. On July 14, 2014, the PBIRC Advisory Subcommittee held a meeting and determined that this matter warranted a full PBIRC hearing to hear testimony and consider the facts.
6. On June 24, 2015, the PBIRC held a full hearing on the matter. The date of the full hearing was delayed several times due to requests from counsel for the Pilots involved to allow additional time to obtain additional evidence.
 - a. PBIRC members entered into the record their qualifications to hear the matter.
 - b. The following materials were introduced into evidence:
 - i. Exhibit "A" Incident Materials gathered by Captain Usher regarding the above-referenced incident; and
 - ii. Exhibit "B" Submission of Captain Holly Cooper; and
 - iii. Exhibit "C" Submission of Captain Michael Phillips and Captain Hugh Guidry; and video presentation submitted by Captain David Rodrigues.

Proposed Findings and RecommendationsIn the matter of M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED

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- c. Testimony was heard from the following sworn witnesses:
 - i. Captain Holly Cooper
 - ii. Captain Michael Phillips
 - iii. Captain Hugh Guidry, an expert witness testifying on behalf of Captain Phillips.

Chronology of Events The following undisputed chronology of events is adopted by the PBIRC with regard to this matter:

1. On March 14, 2014, Houston Branch Pilot Captain Holly Cooper boarded the *M/V GENIUS STAR VII* at Jacinto Port 3 for an outbound transit to sea. (see Incident Materials: Tab 2 – Pilot Statement and Pilot Submission: Exhibit B, page 2).
2. After master-pilot exchange, vessel and crew were ready for intended transit. (see Incident Materials: Tab 2, page 2 – Pilot Statement).
3. Outbound transit was uneventful. (see Pilot Submission: page 1).
4. The *GENIUS STAR VII* met and completed an agreed to port-to-port passing arrangement with the inbound *M/T STOLT INNOVATION*, piloted by Houston Branch Pilot Captain Michael Phillips (see Incident Materials: Tab 2, page 3 – Pilot Statement; Pilot Submission: Exhibit B, page 2; Hearing Transcript: page 13, lines 13 – 17).
5. Immediately following the passing arrangement of the *GENIUS STAR VII* and the *STOLT INNOVATION*, Captain Cooper was notified by the *UTV GARY REED* that its tow had broken up and one of its barges was heading in her direction. (see Incident Materials: Tab 2, page 3 – Pilot Statement; Pilot Submission: Exhibit B, page 3; Hearing Transcript: page 13, lines 13 – 17).
6. Captain Cooper identified the derelict barge and moved far to the green (outbound) side of the channel to avoid collision. (see Incident Materials: Tab 2, page 2 – Pilot Statement; Hearing Transcript: page 17, lines 14 – 15).
7. Subsequently, the barge collided with the *GENIUS STAR VII* port side amidships. (see Incident Materials: Tab 2, page 2 – Pilot Statement; Hearing Transcript: page 14, lines 2 – 3).

Summary of Facts The following summary of facts is herewith adopted by the PBIRC with regard to this matter:

Proposed Findings and Recommendations

In the matter of M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED

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1. The *M/V GENIUS STAR VII* was outbound in the vicinity between buoys 31/32 – 33/34, and entered into a port-to-port passing arrangement with the *UTV GARY REED* and the *M/T STOLT INNOVATION*. The *GARY REED* was inbound in the alternate route traffic channel lane that connects the Intracoastal Waterway and the Houston Ship Channel and the *STOLT INNOVATION* was inbound at Bolivar Roads.
2. The *STOLT INNOVATION* entered the Houston Ship Channel at buoys 25/26, with the *GARY REED* to starboard, and cleared the *GARY REED*'s tow before reaching the agreed to meeting and passing arrangement with the *GENIUS STAR VII*.
3. The meeting and passing arrangement between the *GENIUS STAR VII* and *STOLT INNOVATION* was the first to take place and went without incident. Shortly following this passing arrangement, the *GARY REED* notified the *STOLT INNOVATION* that the *STOLT INNOVATION*'s wake had broken up the *GARY REED*'s tow, and then notified the *GENIUS STAR VII* to warn Captain Cooper that one of its barges was cast adrift and heading towards her ship.
4. Captain Cooper identified the derelict barge and ordered the *GENIUS STAR VII* to the far right (outbound) side of the channel to avoid collision and ordered *GENIUS STAR VII* to sound danger signals.
5. Captain Cooper then ordered hard port rudder in an effort to bring the *GENIUS STAR VII*'s bow toward center channel and its stern away from the loose barge. Subsequently, the bow of the barge collided with the port side amidships above the waterline on the *GENIUS STAR VII*.
6. The *GENIUS STAR VII* recovered from the collision and Captain Cooper immediately notified the *GARY REED* to identify any problems with its tow or crew. None were reported. Captain Cooper then notified Coast Guard vessel traffic service to report the incident and announced the presence of the loose barge to any concerned traffic in the area.
7. Captain Cooper then proceeded to the outer anchorage with the *GENIUS STAR VII* without further incident and departed for chemical testing. (Negative results).
8. There were no reported injuries or pollution.

Proposed Findings Following its deliberations, by a vote of 8-0 the PBIRC proposes the following findings:

Proposed Findings and Recommendations

In the matter of M/V GENIUS STAR VII collision with Kirby barge 27720 being pushed by the UTV GARY REED

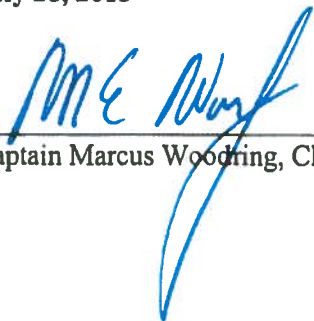
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1. Captain Cooper took evasive action to avoid a potentially serious marine casualty and is verbally commended for her actions. No negligence or actionable misconduct on the part of Captain Cooper.
2. Captain Phillips operated within normal parameters for the ship characteristics and conditions. No negligence or actionable misconduct on the part of Captain Phillips.

Proposed Recommendations Following its deliberations, by a vote of 8-0 the PBIRC proposes the following recommendation to the Board of Pilot Commissioners for Harris County Ports.

1. Take no action and close matter to file.

Adopted by the Pilot Board Investigation and Recommendation Committee as of July 28, 2015



Captain Marcus Woodring, Chairman