STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
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MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908

F3b

Date: **September 30, 2005**
Permit Application: **1-05-046**

ADMINISTRATIVE PERMIT

APPLICANT(S): **Pacific Choice Seafoods Company**

PROJECT DESCRIPTION: Repair eleven (11) damaged wooden fender pilings by sleeving the existing spars in 24-inch-diameter steel tubing, installed by vibratory pile-driving.

PROJECT LOCATION: 1 Commercial Street, Eureka, Humboldt County (APN 3-021-07)

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

October 14, 2005, 8:00 a.m.
Marriot San Diego Hotel and Marina
333 West Harbor Drive
San Diego, CA 92101
(619) 234-1500

IMPORTANT - BEFORE YOU MAY PROCEED WITH DEVELOPMENT, THE FOLLOWING MUST OCCUR:

Pursuant to Title 14, California Administrative Code, Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER M. DOUGLAS
Executive Director

James R Baskin

By: JAMES R. BASKIN AICP
Coastal Program Analyst

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions is returned to the Commission Office.

2. Expiration. If development is not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXECUTIVE DIRECTOR'S DETERMINATION (Continued from page 1):

The Executive Director hereby determines that the proposed development is a category of development, which pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit.

Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. Project Description.

The proposed project involves the repair of a series of eleven existing fender piles along the Pacific Choice Seafoods Company docking facility. The project site is located at the foot of Commercial Street along the City of Eureka's northwestern waterfront with Humboldt Bay. The existing piles to be repaired comprise half of a series of 22 ±20-inch-diameter non-structural wooden spars spaced at a 12-foot, 4-inch spacing along the outboard side of the Pacific Choice Seafoods Company's 260-foot-long dock. The purpose of these piles is to protect the adjoining dock structure by absorbing the buffeting forces of incoming and moored commercial fishing vessels utilizing the dock for off-loading their catches. The piles have been broken due to repeated low-velocity collisions with watercraft during their mooring.

The applicant proposes to repair the damaged piles by sheathing them with 24-inch-internal-diameter uncoated steel tubing with lengths up to 47 feet. A barge-mounted crane would be used to slide the tubing over the existing piles and the casings would be driven to a depth of approximately 20 feet into the underlying bay muds using a vibratory pile-driver.

B. Fill in Coastal Waters; Protection of Water Quality and Marine Resources.

Sections 30231 and 30230 of the Coastal Act address the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with the surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.* [Emphasis added.]

Section 30230 of the Coastal Act states:

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30233 of the Coastal Act provides as follows, in applicable part:

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible[1] less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> *(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities...*
>
> *(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...* [Emphases added.]

The above policies set forth a number of different limitations on what development projects may be allowed in coastal wetlands. For analysis purposes, the limitations can be grouped into four general categories or tests. These tests are:

- The purpose of the filling, diking, or dredging is for one of the uses enumerated in Section 30233(a);
- The project has no feasible less environmentally damaging alternative;
- Feasible mitigation measures have been provided to minimize adverse environmental effects; and
- The biological productivity and functional capacity of the habitat shall be maintained and enhanced where feasible.

1. Permissible Use for Fill

Coastal Act Section 30108.2 defines fill as including "*earth or any other substance or material... placed in a submerged area.*" The proposed project involves the placing fill materials in coastal waters. The first test for a proposed project involving fill is whether the fill is for one of the eight allowable uses under Section 30233(a). Among the allowable uses, the use which most closely match the project objectives are enumerated in Section 30233(a)(1) involving dredging,

[1] "Feasible" is defined by Section 30108 of the Coastal Act as, "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

diking, and/or fill for "*new or expanded port, energy, and coastal dependent industrial facilities.*"

The repair of the existing fender piling is being proposed in the interest of protecting the existing commercial fishing docking facility at the project site. Although the development would not expand or otherwise enhance the commercial fishing capacities of the dock, it would serve to stabilize and protect the facility from continued damage from routine fish catch off-loading operations at the site. In addition, the subject repairs would serve to prevent the entry of dislodged piling debris into the coastal waters of Humboldt Bay Accordingly, the purpose of the fill for installation of the piling sleeves is for "*new or expanded port, energy, or coastal dependent industrial facilities.*"

Therefore, the Executive Director finds that the filling associated with the proposed installation of the fender piling casings is for one of the allowable uses for dredging, diking, and filling of coastal waters pursuant to Section 30233(a)(1) of the Coastal Act.

2. Least Environmentally Damaging Feasible Alternative

The second test of Section 30233(a) is whether there are feasible less environmentally damaging alternatives to the proposed project. In this case, the Executive Director has considered project options, and determines that there are no feasible less environmentally damaging alternatives to the project as conditioned. Alternatives that have been identified include: (1) strict in-kind, one-to-one replacement and/or repair of the fender piles; and (2) the "no project" alternative.

a. One-to-one, In-kind Replacement

The replacement of the eleven damaged fender pilings are proposed to be located within the intertidal wetlands of Humboldt Bay. Strict one-to-one, in-kind replacement of these structures, without utilizing the proposed steel tubing casings would perpetuate the existing situation at the site in terms of a wooden docking cushion structure that would be exposed to continued damage from the crushing forces associated with large fishing vessels mooring at the dock. Similarly, replacing the existing wooden fender spars with ones made expressly of the same materials and shunning installation of the proposed metal sheathing would likely require that repairs to this facility be conducted more often, entailing repeated, more frequent entry into the aquatic wetland area in which the dock is sited. In addition, without the proposed encasement, splinted wooden debris from the fender piles would continue to enter coastal waters Thus, this alternative is not a feasible less environmentally damaging alternative.

b. No Project Alternative

The "no project" alternative would leave portions of the dock facility in its current damaged condition with no further corrective action being taken. Such non-action would

be in violation of local building codes, state harbor, navigation, and boating facilities laws, and related environmental protection regulations. The no project alternative would not address the issue of the likely further damage that could occur directly to the commercial fishing dock that could result in the closure of this high-priority coastal-dependent facility. Therefore the no project alternative is not a feasible less environmentally damaging alternative.

Based on the alternatives analysis above, the Executive Director concludes that there are no feasible less environmentally damaging feasible alternatives to the proposed project as conditioned.

3. Feasible Mitigation Measures

The third test set forth by Section 30230 and 30233 is whether feasible mitigation measures have been provided to minimize significant adverse environmental impacts, including but not limited to the quality of coastal waters.

The proposed project could have three potential adverse effects on the environment of Humboldt Bay. The project could have potential adverse impacts to: (a) muddy intertidal marine wetlands from installation of the fender pile sheathing; (b) environmentally sensitive fish species and their habitat; and (c) marine water quality from the accidental release of hazardous materials associated with the hydraulic-powered construction equipment. The potential adverse impacts and their mitigation are discussed in the following sections:

a. Loss of Intertidal Mudflat Marine Wetlands

As detailed in Project Description Findings Section IV.A, the project would result in the filling of approximately ten-square feet of intertidal mudflat wetlands consisting of the expanded footprint of the 24-inch-diamter steel tube sheathing around the outside of the eleven roughly 20-inch-diameter wooden piles. Given the creosote treatment applied to the surface of the existing piles, no encrusting marine organisms, such as barnacles or tube worms utilize the pile surfaces as habitat The area immediately adjacent to the piles is denuded of vegetation, consisting of a predominately muddy substrate with varying amounts of woody and other construction debris. Nonetheless, notwithstanding the sparsity of vegetation and/or the nominal habitat these sites afford, the subject area would meet the Commission's definition of "wetlands."[2]

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[2] Refer to U.S. Fish and Wildlife Service - Office of Biological Services' Publication No. FWS/OBS-79/31 "Classification of Wetlands and Deepwater Habitats of the United States" (Lewis M. Cowardin, et al, USGPO December 1979) for a further discussion of the definition of the extent of marine wetland habitats.

The community of organisms that inhabit the muddy substrate surrounding the pilings, though low in density, would be lost as a result of the installation of the piling casings. However, as the area affected comprises a total of only ten square feet within the thousands of acres of mudflat within Humboldt Bay, the Executive Director finds that the impact to muddy intertidal marine wetlands is not significant and no additional mitigation is necessary for the loss of intertidal mudflat marine wetland habitat associated with the proposed project.

b. Impacts to Environmentally Sensitive Fish Species and Their Habitat

The waters of Humboldt Bay provide habitat to 110 species of fish, including a variety of commercially significant and environmentally sensitive species including coho salmon (Oncorhynchus kisutch). One the most important habitat substrates within the bay for these species are the extensive eelgrass (Zostera marina) bed that are situated on the shallow mudflats and channel margins, including those in proximity to the project site. However, based upon an assessment performed for the project by the National Marine Fisheries Service (see Exhibit No. 4) and in conversations with the staff of the California Department of Fish and Game, these resource agencies have concluded that, given the low probability of adult or juvenile salmonid species in the project area, the ambient levels of noise associated with commercial fishing vessel traffic in this portion of the bay, and the absence of eelgrass within the immediate vicinity of the existing fender piles where the piling sleeves would be installed by vibratory pile-driving, no significant impacts to environmentally sensitive fish species or their critical habitat is anticipated to result from this project. Accordingly, no further mitigation is needed to lessen project impacts to fish and their habitat.

c. Accidental Hazardous Materials Spills

A pressurized hydraulic vibratory pile-driving rig would be utilized in installing the eleven steel tube pile sheathings. If a fitting should fail or the hose burst, pressurized hydraulic fluid could be released into the intertidal area. Such spills could adversely affect the water quality of the marine environment of Humboldt Bay. Accordingly, to reduce the potential for impacts to marine environmental resources from an accidental release of hydraulic fluids, the Commission attaches Special Condition No. 1. Special Condition No. 1 requires the applicant to undertake the proposed development consistent with certain construction and debris disposal performance standards. These standards include measures for responding to hazardous material spills, specifically provisions for having an adequate supply of clean-up equipment and supplies on site, and requirements for the prompt containment and clean-up of any spills which may inadvertently occur. As conditioned, potential adverse impacts to marine resources from accidental spills of hydraulic fluids or other hazardous materials will be reduced to less-than-significant levels.

As proposed and conditioned, the Executive Director finds that feasible mitigation is included within the project design to minimize all significant adverse impacts associated with the proposed filling of coastal waters.

4. Maintenance and Enhancement of Marine Habitat Values

The fourth general limitation set by Section 30233 and 30231 is that any proposed filling in tidal waters or submerged land must maintain and enhance the biological productivity and functional capacity of the habitat, where feasible.

As discussed above, the project will not have significant adverse impacts on the marine resources of Humboldt Bay. The mitigation measures incorporated into the project and required by the Special Conditions discussed above will ensure that the installation of the fender pile steel tube casings would not significantly adversely affect the biological productivity and functional capacity of the tidal waters or marine resources. Utilizing vibratory pile-driving technology as contrasted with an impact-driver method would minimize the introduction of sediments into the water column and avoid acoustic impacts to marine mammals, such as harbor seals or sea lions. Furthermore, by providing an untreated metal surface upon which encrusting marine organisms might colonize, the project will help protect enhance the marine aquatic habitat of this portion of Humboldt Bay by providing approximately 200 square feet of intertidal habitat not previously afforded on the surface of the existing fender piles. Therefore, the Executive Director finds that the project, as proposed, will maintain and enhance the biological productivity and functional capacity of the habitat consistent with the requirements of Section 30233 and 30231 of the Coastal Act.

5. Conclusion

The Executive Director thus finds that the proposed filling of wetlands is for an allowable purpose, that there is no feasible less environmentally damaging alternative, that feasible mitigation measures have been provided and the adverse environmental effects associated with the dredging and filling of coastal waters have been avoided or minimized, and that estuarine habitat values will be maintained or enhanced. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30230, 30231 and 30233 of the Coastal Act.

C. Public Access.

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access

gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214 of the Coastal Act, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on public access.

Although the project is located directly along the City of Eureka waterfront, it would not adversely affect public access. The project site is within an urbanized coastal-dependent industrial area used primarily for the receipt and processing of fish and seafood. There are no trails or other public roads that provide shoreline access within the immediate vicinity of the project that would be affected by the project. Furthermore, the proposed project would not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

D. Other Local Agency Permits Required.

The Humboldt Bar Harbor, Recreation, and Conservation District (HBHRCD) was created in 1970 by the California Legislature to serve the natural resource, recreational, shipping, and economic development management needs of Humboldt Bay and the smaller fishing ports to the north and south (i.e., Trinidad, Shelter Cove). The District functions as the Port Authority for the Port of Humboldt Bay and operates Humboldt County's largest marina, Woodley Island Marina. The HBHRCD regulatory jurisdiction includes all of the waters of Humboldt Bay up to the Mean Higher High Water (MHHW) level (+6.52 feet $NAVD_{1988}$) except for Indian, Woodley and Daby Islands where the District's jurisdiction extends up to the Mean High Water (MHW) elevation (+5.81 feet $NAVD_{1988}$).

The repair of the fender pilings would entail the placement of solid materials at and below the MHHW. Accordingly, the proposed development is subject to the permit authority of the HBHRCD. To assure that all local government authorizations, including those required by the HBHRCD, have been secured, the Commission attaches Special Condition No. 2. Special Condition No. 2 requires the applicant, prior to commencement of construction, to provide a copy of the permit issued by the District. To further insure that the development approved by the HBHRCD is consistent with that authorized by the Commission, Special Condition No. 2 includes a requirement that the applicant inform the Executive Director of any changes to the project required by the HBHCRD. Should the Executive Director determine that any such changes necessitate that a permit amendment to the coastal development permit be obtained, the

applicant is required to secure the amendment from the Commission prior to incorporating the changes mandated by the Harbor District into the project.

SPECIAL CONDITIONS:

1. **Construction Responsibilities**

The permittee shall comply with the following construction-related requirements:

(a) No construction materials, debris or waste shall be placed or stored where it may enter coastal waters. Particular care shall be exercised to prevent foreign materials (e.g., wooden fender pile scrapings, tubing product labels, or other solid wastes, etc.) from entering coastal waters. Debris discharged into coastal waters shall be recovered as soon as possible;

(b) Any and all debris resulting from construction activities shall be removed from the project site within two (2) days of project completion and disposed of in a lawful manner outside of the coastal zone or at an authorized disposal site;

(c) Fuels, lubricants, and solvents shall not be allowed to enter the waters of Humboldt Bay. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site. All heavy equipment operating in or near the water's edge shall utilize vegetable oil as hydraulic fluid; and

(d) Any releases of hazardous materials shall be immediately contained, removed from the work area, and disposed of at an appropriate disposal facility. The Department of Fish and Game's Office of Spill Prevention and Response, the U.S. Coast Guard, the Humboldt County Department of Public Health's Division of Environmental Health, the North Coast Regional Water Quality Control Board, and the Coastal Commission shall be immediately notified of any spill that occurs at the project site.

2. **Humboldt Bay Harbor, Recreation, and Conservation District Approval**

PRIOR TO COMMENCEMENT OF CONSTRUCTION, applicant shall provide to the Executive Director a copy of a permit issued by the Humboldt Bay Harbor, Recreation, and Conservation District (HBHRCD) or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the HBHCRD. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

_____	_____
_____	_____
Applicants' Signatures	Date of Signing

EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Project Site Plan
4. Review Agency Correspondence

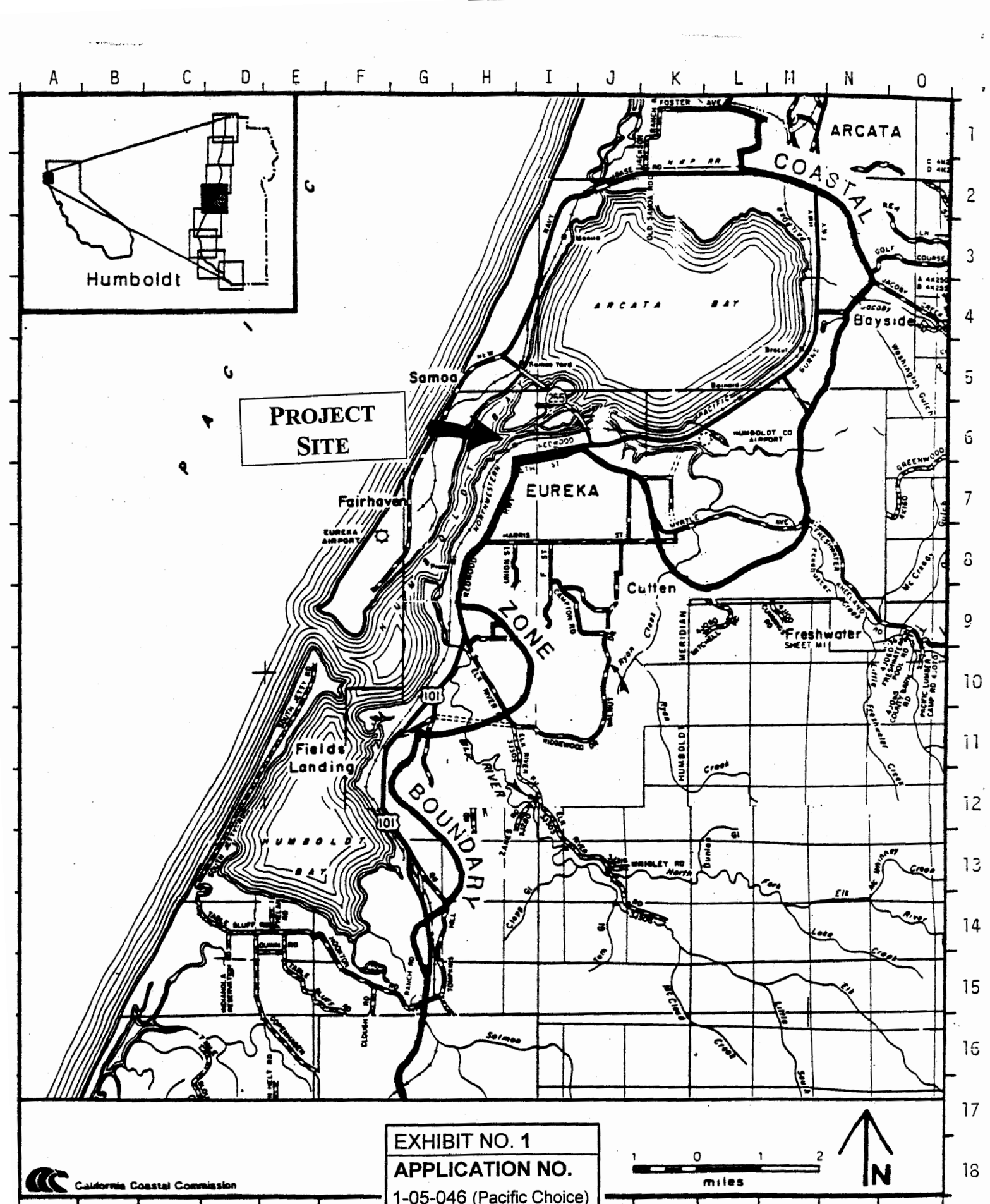


EXHIBIT NO. 1

APPLICATION NO.

1-05-046 (Pacific Choice)

REGIONAL LOCATION MAP

California Coastal Commission

County of Humboldt

Sheet 4 of 8

0 0.3 0.6 0.9 1.2 1.5 km

0 0.2 0.4 0.6 0.8 1 mi

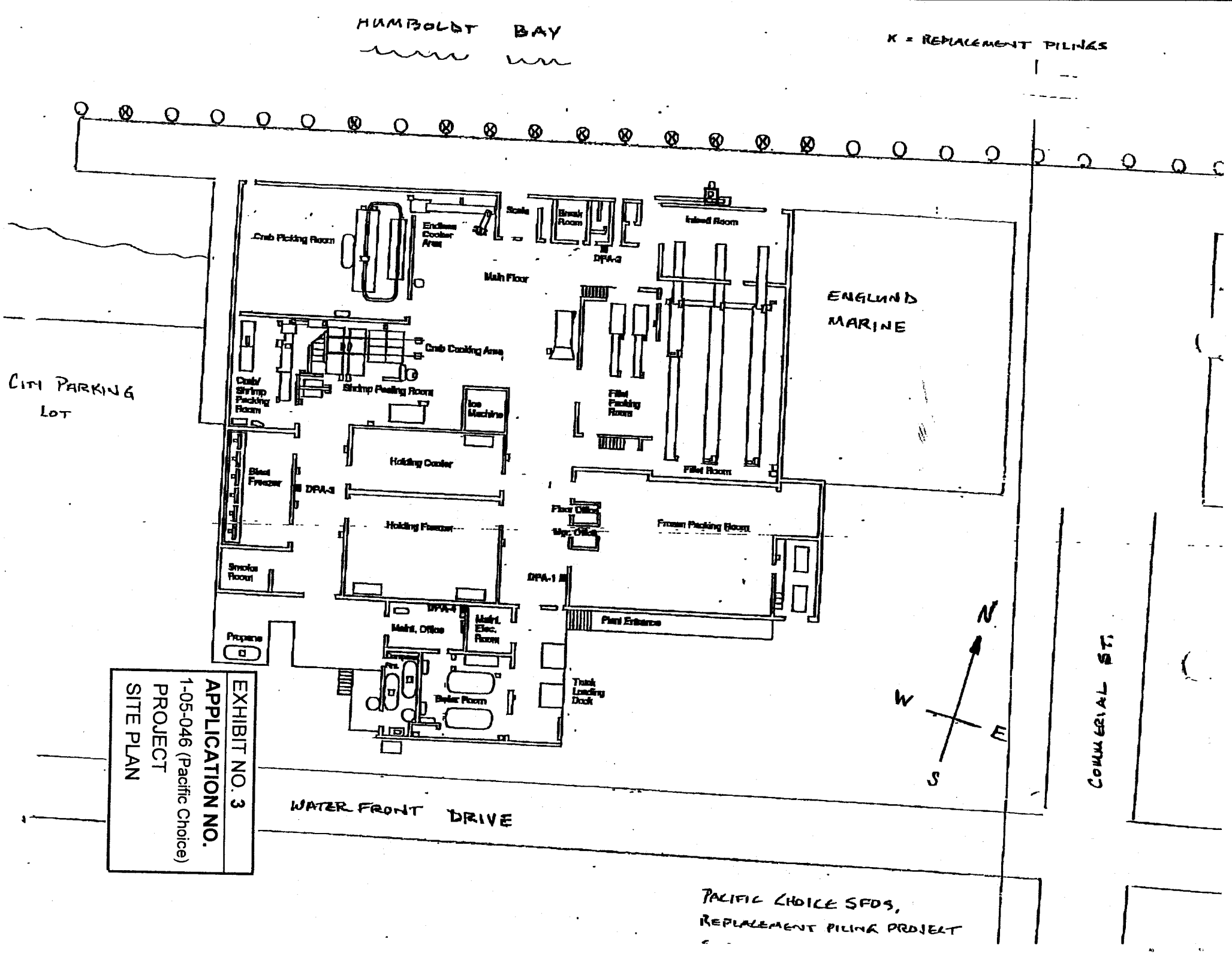
Map center is UTM 10 401840E 4517437N (WGS84/NAD83)

EUREKA quadrangle

Projection is UTM Zone 10 NAD83 Datum

M=16.24

G=-0.761


HUMBOLDT BAY
X = REPLACEMENT PILINGS
ENGLUND MARINE
CITY PARKING LOT
WATER FRONT DRIVE
COMMERCIAL ST.
Crab Picking Room
Endless Cooker Area
Scale
Break Room
Inland Room
DPA-2
Main Floor
Crab Cooling Area
Crab/ Shrimp Packing Room
Shrimp Peeling Room
Ice Machine
Fillet Packing Room
Holding Cooler
Fillet Room
Blast Freezer
DPA-3
Holding Freezer
Plant Office
Mgr. Office
Frozen Packing Room
Smoke Room
DPA-1
DPA-4
Maint. Office
Maint. Elec. Room
Plant Entrance
Propane
Boiler Room
Trunk Loading Dock
N
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S
EXHIBIT NO. 3
APPLICATION NO.
1-05-046 (Pacific Choice)
PROJECT
SITE PLAN
PACIFIC CHOICE SFDS,
REPLACEMENT PILING PROJECT

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

AUG 0 3 2005

In response refer to:
151422SWR2005AR00595:GY

Ms. Jane M. Hicks
Chief, Regulatory Branch
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
333 Market Street
San Francisco, California 94105-2197

EXHIBIT NO. 4
APPLICATION NO.
1-05-046 (Pacific Choice)
REVIEW AGENCY
CORRESPONDENCE
(Page 1 of 2)

Dear Ms. Hicks:

Thank you for your July 22, 2005, request to initiate informal Endangered Species Act (ESA) section 7 consultation regarding the U.S. Army Corps of Engineers' (Corps) proposed issuance of a Clean Water Act section 404 permit to Pacific Choice Seafoods Company to replace 11 fender pilings (Project) in Humboldt Bay, Humboldt County, California. You asked NMFS to concur with your determinations that the proposed Project may affect, but is not likely to adversely affect Federally threatened Southern Oregon/Northern California Coast (SONCC) coho salmon, California Coastal (CC) Chinook salmon, and Northern California (NC) steelhead (hereafter referred to as listed salmonids), and would not adversely impact critical habitat for SONCC coho salmon or proposed critical habitat for CC Chinook salmon and NC steelhead (hereafter referred to as critical habitat). In addition, you asked NMFS to concur with your determination that the Project would not adversely impact Essential Fish Habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act.

Pacific Choice Seafoods Company proposes to replace 11 fender pilings with new 24-inch diameter hollow core steel pilings along approximately 120 lineal feet of its loading/unloading dock at the foot of Commercial Street, adjacent to the Eureka Inner Channel of Humboldt Bay, in Eureka, California. A floating barge would be used to slide the new pilings right over the existing wood pilings, thereby eliminating the need to remove the wood pilings. The work is expected to be completed in 1 day during August 2005 using a vibratory pile driver.

The potential impacts from the Project would result from: (1) disturbed sediments around the pilings as they are being vibrated into the substrate, and (2) an increase in noise and vibration as a result of the pile driving. However, based on the low likelihood of juvenile and adult listed salmonids in the action area and the current condition of noise from the high use of the existing dock from fishing vessels, we expect any effects to the listed

salmonids and critical habitat to be insignificant and discountable. Therefore, we do not expect that any direct or indirect effects from the Project to adversely affect the listed salmonids or critical habitat.

Based on our review of the documents you have provided, NMFS concurs with your determinations that the proposed issuance of a Clean Water Act section 404 permit to Pacific Choice Seafoods Company to replace 11 fender pilings is not likely to adversely affect Federally threatened SONCC coho salmon, CC Chinook salmon, NC steelhead, designated critical habitat for SONCC coho salmon, and proposed critical habitats for CC Chinook salmon and NC steelhead. Because the Corps has determined that the Project will not adversely affect EFH for Pacific Coast salmon, EFH consultation is not warranted.

This concludes ESA consultation in accordance with 50 CFR § 402.13 for the proposed Project. However, further consultation may be required if: (1) new information reveals effects of the action may affect listed species, critical habitat, or EFH in a manner or to an extent not previously considered; (2) current Project plans change in a manner that causes an effect to the listed species, critical habitat, or EFH that was not previously considered; or (3) a new species is listed or critical habitat is designated that may be affected by the identified action.

Please contact Mr. Garwin Yip at (707) 825-5166 or via e-mail at garwin.yip@noaa.gov if you have any questions regarding this consultation.

Sincerely,

Rodney R. McInnis
Regional Administrator

cc: David Ammerman, Corps, Eureka
Rick Harris, Pacific Choice Seafoods Company

2 of 2