

**CALIFORNIA COASTAL COMMISSION**

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# W7a

Staff: M. Kraemer-A

Date: June 19, 2015

## ADMINISTRATIVE PERMIT

**Application No.:** 1-15-0604

**Applicant:** Humboldt Bay Harbor, Recreation, & Conservation District

**Location:** Redwood Terminal 1 located along the Humboldt Bay shoreline at 930 Vance Avenue, Samoa area, Humboldt County (APN 401-031-040)

**Project Description:** (1) Establish a live seafood holding facility within an existing ship terminal warehouse with seawater intake discharge lines, and (2) authorize after-the-fact repairs and improvements to an existing dock, including decking repair and installation of 1-ton vessel hoist.

### I. EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination and any special conditions appear on subsequent pages.

Note: Public Resources Code 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 Coastal Commission at the following time and place:**

Wednesday, July 8, 2015 – 9:00 a.m.

Ventura City Council Chambers

501 Poli Street

Ventura, CA 93002

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.**

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 policies of Chapter 3 of the California Coastal Act, including those policies regarding public access and coastal recreation opportunities, 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.

CHARLES LESTER  
Executive Director

By: \_\_\_\_\_  
MELISSA B. KRAEMER  
Supervising Planner

## **II. STANDARD CONDITIONS**

This permit is granted subject to the following 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. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 3. 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.
- 4. 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.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Harbor District Permit.** PRIOR TO INSTALLATION OF THE INTAKE AND DISCHARGE FACILITIES AUTHORIZED UNDER THIS PERMIT, the Permittee shall provide to the Executive Director a copy of a permit issued by Harbor District for the intake and discharge facilities, or evidence that no permit is required. The Permittee shall inform the Executive Director of any changes to the project required by the District. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Water Board Approval.** PRIOR TO INSTALLATION OF THE INTAKE AND DISCHARGE FACILITIES AUTHORIZED UNDER THIS PERMIT, the Permittee shall provide to the Executive Director a copy of a permit issued by North Coast Regional Water Quality Control Board for the intake and discharge facilities, or evidence that no permit is required. The Permittee shall inform the Executive Director of any changes to the project required by the Board. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
3. **Corps of Engineers Approval.** PRIOR TO INSTALLATION OF THE INTAKE AND DISCHARGE FACILITIES AUTHORIZED UNDER THIS PERMIT, the Permittee shall provide to the Executive Director a copy of a permit issued by U.S. Army Corps of Engineers for the intake and discharge facilities, or evidence that no permit is required. The Permittee shall inform the Executive Director of any changes to the project required by the Corps. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
4. **Intake System Design.** The authorized seawater intake system shall use either (a) the intake screen proposed under CDP Application 1-15-0604 (which is the same screen authorized under CDP 1-13-0224 in April of 2014), or (b) a new intake screen designed with either of the following:
  - (i) round or square openings of no more than 3/32 inches, or slotted/wedge wire openings of no more than 1.75 millimeters; a screen area of at least 5 square feet per cubic foot per second water volume intake; a minimum open area of 27%; and a maximum intake water approach velocity of 0.2 feet per second if a self-cleaning device is installed that clears the entire screen face at least once every 5 minutes; or
  - (ii) round or square openings of no more than 3/32 inches, or slotted/wedge wire openings of no more than 1.75 millimeters; a screen area of at least 20 square feet per cubic foot per second water volume intake; a minimum open area of 27%; and a maximum intake water approach velocity of 0.05 feet per second if a self-cleaning device is not installed.

The Permittee shall maintain the required screen in operable condition throughout the life of the project.

5. **Discharge System Requirements.** The authorized discharge system shall be installed as proposed to extend out to the bayward end of the dock to the edge of the adjoining deep water channel and to a depth of approximately 15 feet deep at Mean Lower Low Water (MLLW) in water that is at least 20 feet deep at MLLW to avoid scouring and erosion of mudflat habitat. The Permittee shall maintain the discharge system in operable condition in the authorized configuration during the life of the project.
6. **Future Uses and Improvements.** This approval is limited to the uses and development specifically permitted by Coastal Development Permit 1-15-0604. All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required. Any additional development, including, but not limited to new construction, additional dock repairs, repair or replacement of seawater intake and discharge facilities, expansion of the live seafood operation, or any changes in use of the live seafood operation will require an amendment to the permit or a new coastal development permit unless the Executive Director determines that no amendment or new coastal development permit is legally required.
7. **Permit Effectiveness and Condition Compliance.** This coastal development permit shall be deemed effective upon the Commission's concurrence on July 8, 2015 with the Executive Director's determination to issue the administrative coastal development permit. Because some of the proposed development has already commenced, this coastal development permit shall not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

#### **IV. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION**

##### **A. PROJECT DESCRIPTION & BACKGROUND**

The project area is located on the west side of Humboldt Bay in the unincorporated community of Samoa, Humboldt County (Exhibits 1 and 2). The approximately 67-acre parcel, owned by the Humboldt Bay Harbor, Recreation, and Conservation District (hereafter "District" or "Applicant"), is planned and zoned for coastal-dependent industrial uses under the County's certified LCP. The District proposes to lease a portion of its property, including a portion of an existing warehouse structure, to Hag Fish Corporation, a commercial live seafood operation that currently operates a facility in Fields Landing, on the east side of Humboldt Bay. Hag Fish Corp. plans to close its Fields Landing operation and move to the District's property for operation.

Hag Fish Corporation holds and sustains live seafood product (hagfish) prior to its live export overseas. The proposed live seafood operation involves extracting and circulating raw

seawater from Humboldt Bay through a series of tanks holding live hagfish catch. Typically there are one to two deliveries of hagfish per week by commercial fishing vessels. Fish would be lifted off of ships using the proposed 1-ton hoist, which has already been installed on the existing dock without the benefit of a CDP. Fish would be weighed and then moved using a forklift to the proposed tanks to be located within the existing approximately 4,500-square-foot warehouse. Proposed tanks include one 192-square-foot tank of 4-foot depth and twenty 96-square-foot tanks of 4-foot depth. Tanks would be located on the bay-side of the warehouse, with the other side of the warehouse reserved for its existing use, which is the storage of crab pots and other commercial fishing supplies. Approximately 278 gallons of bay water would fill the tanks via a 3-inch water intake line that would extend under the existing dock. Water would circulate through the tanks before being discharged back to the bay through a 12-inch water line that also would extend along the underside of the existing dock. The proposed diversion of seawater from the bay would be variable, depending on weather, market conditions, and other fisheries-related factors. On average, seawater is diverted approximately four to six months per year, primarily during the summer through fall months. Both the intake and discharge piping would extend to a depth of approximately 15 feet, in a part of the bay that is approximately 20 feet deep at Mean Lower Low Water. The end of the intake pipe would be appropriately screened for protection of sensitive fish species consistent with California Department of Fish and Wildlife (CDFW) guidelines using the same screen that Hag Fish Corp. is currently using at its Fields Landing facility and which was approved by the Commission in April of 2014 under Administrative Coastal Development Permit 1-13-0224. Hagfish would be held for approximately three to seven days in tanks before being packed for shipping. Fish are packed in plastic bags with chilled and oxygenated water, within Styrofoam crates. The crates are typically picked up once or twice a week by a refrigerated truck destined for shipping out of the San Francisco Bay area to Asia. Finally, a 12-foot-by-12-foot portable office would be placed on the site, to be used for bookkeeping associated with the hagfish operation. The site plan and project photos are shown in Exhibits 3 & 4.

In addition to the proposed new development described above, the District also seeks authorization after-the-fact for the installation of a 1-ton vessel hoist on the existing dock and the replacement of dock decking, both of which were completed in February of 2015 without the benefit of a CDP. The hoist, which is for loading and unloading ships, was mounted on an existing pad that previously had a davit-style crane attached. The replacement decking included the installation of 20-foot-long 12-inch-wide, 4-inch-thick planks over an approximately 2,000-square-foot area of the existing approximately 6-acre dock.

## **B. STANDARD OF REVIEW**

The proposed project is located in the Commission's retained jurisdiction. The County of Humboldt has a certified local coastal program (LCP), but the site is within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

## **C. LOCAL GOVERNMENT AND OTHER APPROVALS**

**Humboldt Bay Harbor, Recreation, and Conservation District.** The District was created by the State Legislature in 1970 to oversee development of the harbors and ports of Humboldt County for the benefit of the people. The District has permit jurisdiction over all tidelands and submerged lands within Humboldt Bay and administers sovereign tidelands and submerged lands over most of Humboldt Bay pursuant to a legislative grant. The District has entered into a lease with Hag Fish Corporation for use of portions of Redwood Terminal 1 for the proposed seafood warehouse operation. The District Board of Harbor Commissioners will also be considering approval of an administrative permit for the project on June 25<sup>th</sup>. Special Condition 1 requires that any necessary approvals from the District be obtained for the proposed intake and discharge facilities prior to installation of those facilities.

**California Department of Fish and Wildlife (CDFW).** CDFW, in its administration of the California Endangered Species Act (CESA), requires an Incidental Take Permit (ITP) for “take” of listed species incidental to otherwise lawful development projects. If the seawater diversion proposed under this CDP application is implemented as proposed consistent with CDFW guidelines for intake screening, CDFW staff has informed Commission staff that CDFW will not require an ITP for the project, because the project is expected to avoid incidental take of CESA-listed coho salmon and longfin smelt, as discussed in the following section.

**North Coast Regional Water Quality Control Board.** The Regional Board requires a water quality certification (WQC) for projects involving dredging and/or filling activities under Section 401 of the Clean Water Act. The District is coordinating with the Regional Board to determine permitting requirements for the proposed project. Special Condition 2 is attached to require that the Applicant obtain any necessary approvals from the Board for the proposed intake and discharge facilities prior to installation of those facilities.

**U.S. Army Corps of Engineers.** The Corps may have regulatory authority over the proposed project under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 1344) and/or Section 404 of the Clean Water Act. Section 10 of the Rivers and Harbors Act regulates structures or work in navigable waters of the United States. Section 404 of the Clean Water Act regulates fill or discharge of materials into waters and ocean waters. Special Condition 3 is attached to require that Hag Fish Corp. obtain any necessary approvals from the Corps for the proposed project.

## **D. MARINE BIOLOGICAL RESOURCES & WATER QUALITY**

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 30231 of the Coastal Act states:

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

The proposed diversion and discharge of seawater for the live seafood operation has the potential to adversely affect marine resources and the biological productivity of coastal waters in Humboldt Bay by potentially causing adverse impacts to various species of sensitive fish that have the potential to inhabit the project area waters. Three species of salmonids, including the Southern Oregon/Northern California Coasts Evolutionarily Significant Unit (ESU) of coho salmon (*Oncorhynchus kisutch*), California Coastal ESU Chinook salmon (*O. tshawytscha*), and Northern California ESU steelhead (*O. mykiss*), are present in Humboldt Bay both as adults during their migration from the sea into spawning rivers in the fall and winter and as juveniles as they move downstream into the ocean in the spring and early summer. All three salmon species are listed as threatened under the federal ESA (coho also is listed as threatened under the California ESA). Longfin smelt (*Spirinchus thaleichthys*), listed as a threatened species under the California ESA, generally spawns in freshwater and moves downstream to estuarine conditions to grow, including within Humboldt Bay waters. Once among the most abundant fish species in Humboldt Bay, present in larval, juvenile, and adult life stages, longfin smelt were considered to be possibly extinct there by 1996<sup>1</sup>. In recent years, however, longfin smelt have again been observed in Humboldt Bay and are thought to be present year-round.<sup>2</sup>

The removal of seawater through intake structures is known to result in the impingement and entrainment of marine life. The type and quantity of marine life that may be adversely affected in this way is related to the size and velocity of the intake structures. Larger, high-velocity structures can cause the impingement and entrainment of larger organisms that can include adult fish, while smaller low-velocity structures can typically only impinge and entrain smaller larval and juvenile organisms. While impingement (capture of fish and marine organisms against an intake screen due to suction) can often result in the injury or mortality of the affected organism, adverse effects of entrainment (capture of fish and marine organisms in the intake stream) vary based on the type of intake system (configuration of pipes, pressure changes, temperatures) and ultimate use of the entrained water.

As part of its existing and proposed operations, Hag Fish Corporation extracts approximately 278 gallons of seawater per minute (~0.62 cubic feet per second) during periods when live catch is present in the on-site holding tanks (water is not extracted during periods when live catch is not present). As described above, Hag Fish Corporation's proposed diversion of seawater from the bay is variable, depending on weather, market conditions, and other

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<sup>1</sup> Eldridge and Bryan 1972; U.S. Fish and Wildlife Service 1996.

<sup>2</sup> Pinnix et al. 2005.

fisheries-related factors. On average, seawater is diverted approximately four to six months per year, primarily during the summer through fall months, to circulate through up to 21 fish holding tanks. Although the potential maximum diversion volume is large, this proposed use is substantially less intensive (due to the minimal processing and use of the water) than typical industrial uses of seawater, such as once-through-cooling, which have been associated with significant entrainment impacts due to the assumed 100% mortality of entrained planktonic organisms. In addition, the proposed use of seawater would not involve permanent or long-term removal, heating, or pressure changes and mechanical stress that comes with movement through a long series of pipes, which are the primary causes of mortality for entrained organisms. Thus, the proposed water use, limited to intake through a main pipe, circulation through live holding tanks, and immediate discharge back to the bay, is not expected to result in significant adverse or avoidable entrainment impacts to the larval and planktonic organisms within the water.

The project as proposed incorporates the fish screen guidelines developed by the CDFW and National Marine Fisheries Service (NMFS) recommended to avoid entrainment and impingement of listed species such as longfin smelt and salmonids. The District has committed in its project description to use a seawater intake designed according to NMFS and CDFW requirements as protective of fish listed under the federal and state Endangered Species Acts. Specifically, following CDFW and NMFS instructions, the project proposes to install the same non-self-cleaning intake screens used in Hag Fish Corp.'s permitted Fields Landing operation and which limit the intake approach velocity to below that velocity which would exceed the swimming ability of the various sensitive fish species with potential presence in the bay (including juvenile longfin smelt and juvenile salmonids). The intake screening is sized to protect juvenile longfin smelt from impingement and entrainment impacts, as juvenile longfin smelt generally are smaller and weaker swimmers than juvenile salmonids and therefore require more protective criteria. With the proposed seawater diversion of 0.62 cubic feet per second (~278 gallons per minute), the primary and backup intake structures have been constructed with screens with 5/32" perforations and intake areas of 12.3 square feet with at least 27% porosity to ensure a maximum approach velocity of no more than 0.05 feet per second, which is consistent with CDFW criteria for waters where juvenile longfin smelt and/or delta smelt occur. Although CDFW's screen size recommendations for new intake screens have been refined since Hag Fish Corp. constructed the screens proposed for installation (e.g., CDFW currently recommends round or square openings of no more than 3/32 inches or slotted/wedge wire openings of no more than 1.75 millimeters), the proposed approach velocity and screen mesh size standards reflect the best available science and recommendations provided by CDFW staff to Hag Fish Corp. at the time the screens were constructed last year for its Fields Landing operation (when the screens were permitted under CDP 1-13-0224). Furthermore, CDFW Marine Region staff has commented to Commission staff (via email on 6/10/15) that the intake screening as proposed under this CDP application will be adequate to protect marine resources and the biological productivity of the bay. Thus, Special Condition 4 requires that the District either (a) install the previously utilized and approved screen as proposed, or (b) install new screening meeting the current CDFW standards. The condition also requires that the required screening be maintained in an operable condition over the life of the project to ensure that fish are protected at all times when water will be diverted for use by the seafood operation.



In addition to the proposed intake system components, the District also is proposing to install discharge piping in a manner that protects the intertidal mudflat habitat beneath the existing dock. To maintain the biological productivity and the quality of the estuarine habitat appropriate to maintain optimum populations of marine organisms, the District proposes to minimize any adverse effects of the operation's wastewater discharge by installing new drainage pipes affixed to the underside of the dock and extending out to the seaward end of the dock to the edge of the deepwater channel. The discharge piping would extend to a depth of approximately 15 feet, in a part of the bay that is approximately 20 feet deep at Mean Lower Low Water. This design will ensure that the proposed discharge of water from the live seafood operation is in water of sufficient depth to avoid any scouring or erosion of mudflat habitat. Special Condition 5 requires that the discharge system be installed as proposed and maintained in operable condition during the life of the project.

Therefore, the Executive Director finds that the project as conditioned will be carried out in a manner in which marine resources are maintained, species of special biological significance are given special protection, the biological productivity of coastal waters is sustained, and healthy populations of all species of marine organisms will be maintained. In addition, the Executive Director finds the project as conditioned will maintain the biological productivity of coastal waters and estuarine habitats appropriate to maintain optimum populations of marine organisms. The Executive Director therefore concludes that the proposed project, as conditioned, is consistent with Sections 30230 and 30231 of the Coastal Act.

## **E. FILL OF OPEN COASTAL WATERS**

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

- (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 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.*
  - (2) Maintaining existing, or restoring previously dredged depths on existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
  - (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
  - (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
  - (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
  - (6) Restoration purposes.*

(7) *Nature study, aquaculture, or similar resource dependent activities.*

...

*(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...*

...

Coastal Act Section 30108.2 defines “fill” as “*earth or any other substance or material ... placed in a submerged area.*” As part of its project, the Applicant proposes to install new screened intake pipes and discharge pipes into the nearshore waters off of an existing pier. Installation of these structures into the submerged nearshore zone constitutes “fill” of estuarine waters as that term is defined in the Coastal Act.

The Commission may authorize a project that includes filling of estuarine waters if the project meets the three tests of Coastal Act Section 30233. The first test requires that the proposed activity fit within one of seven use categories described in Coastal Act Section 30233(a)(1)-(7). The second test requires that no feasible less environmentally damaging alternative exists. The third and final test mandates that feasible mitigation measures are provided to minimize any of the project’s adverse environmental effects.

#### **Allowable use**

The purpose of the seawater intake and discharge systems is to extract and discharge seawater for use in sustaining a live seafood product prior to its live export overseas. Thus, the proposed facilities support a commercial fishing facility. New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities, are an allowable use of fill under Coastal Act Section 30233(a)(1). Therefore, the Executive Director finds that the project meets the allowable use test for fill of estuarine waters under Coastal Act Section 30233(a).

#### **Alternatives**

The Commission must further find that there is no feasible less environmentally damaging alternative to placing fill in estuarine waters. Coastal Act Section 30108 defines “feasible” as “*...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.*”

The District is offering Hag Fish Corp. the opportunity to lease the portion of its Samoa property that currently is vacant and which has upgraded facilities (e.g., dock and warehouse) relative to the company’s Fields Landing site. The District could elect not to pursue the project and not lease a portion of its property to the proposed commercial fisheries operation. However, this alternative would result in a net reduction of existing commercial fishing facilities inconsistent with Section 30234 of the Coastal Act (see Finding IV-F below). Under the “no project” alternative, it would be difficult for Hag Fish Corp. to maintain its commercial fishing facility on Humboldt Bay, which depends on the use of seawater to sustain live catch awaiting export overseas. Hag Fish Corp. desires to move from its Fields Landing facility, which is located on leased property with dilapidated facilities (e.g., warehouse and pier that house the operation) in need of significant upgrade to maintain

functionality. Therefore, the no project alternative is not a less environmentally damaging feasible alternative to the proposed project as conditioned.

Other configurations and designs of the intake and discharge systems that would involve placing a smaller screen and a smaller amount of piping resulting in less fill in coastal waters were considered. However, the intake screen is sized to meet CDFW and NMFS screen criteria for the protection of juvenile salmonids and longfin smelt against impingement and entrainment impacts. In addition, the discharge piping is designed to be installed in deep enough water to prevent mudflat scouring and therefore to maintain the functional capacity of the estuary. Thus, utilizing alternative designs and configurations involving smaller intake screens and less piping in the water is not a less environmentally damaging feasible alternative. Therefore, the second test of Coastal Act Section 30233(a) is satisfied.

### **Mitigation Measures**

The final requirement of Coastal Act Section 30233(a) is that filling of coastal waters may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental impacts. As described in greater detail in the marine resources section of this report, the project as conditioned includes mitigation measures to avoid the impingement and entrainment of fish species in the seawater intake system and to prevent discharges from the operation that would scour and erode mudflat habitat, thereby protecting species of special biological significance and maintain the biological productivity and the quality of the estuarine habitat appropriate to maintaining optimum populations of marine organisms. These feasible mitigation measures will minimize the project's adverse environmental impacts. Therefore, the Executive Director finds that the third and final test of Coastal Act Section 30233(a) has been met.

### **Conclusion**

The fill in coastal waters associated with the screened seawater intake and discharge pipelines is allowable for a commercial fishing facility, is the least environmentally damaging feasible alternative, and includes feasible mitigation measures to minimize adverse environmental effects. Therefore, the Executive Director finds the proposed project consistent with Section 30233 of the Coastal Act.

## **F. PROTECTION OF COMMERCIAL FISHING FACILITIES**

Section 30234 of the Coastal Act states, in applicable part:

*Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided...*

Section 30234.5 of the Coastal Act states:

*The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

As discussed in the above findings, the project authorizes the relocation and upgrade of a commercial fishing facility on Humboldt Bay. The Applicant's mission in part is to encourage the development of commercial fishing operations on Humboldt Bay. The existing warehouse on the subject site currently provides storage space for equipment used by the commercial fishing industry. The project as conditioned will not result in the displacement or reduction of any commercial fishing facilities on the bay. Even though the seafood holding operation will occupy part of a building that currently is used for the storage of crab pots and other commercial fishing gear, the project will not displace or reduce commercial fishing facilities, because the existing warehouse is sufficiently sized to accommodate both fisheries-related uses, and the District has indicated that half of the building will be reserved for the storage of commercial fishing gear. Special Condition 6 requires that any additional development shall require additional coastal development permit authorization unless the Executive Director determines that no such authorization is legally required. In the Executive Director's or Commission's review of an application for a permit amendment or new permit, the Executive Director or Commission will have the opportunity to review the proposed additional development for conformance with Sections 30234 and 30234.5 of the Coastal Act. Therefore, the Executive Director finds that the project as conditioned protects commercial fishing facilities consistent with Sections 30234 and 30234.5 of the Coastal Act.

#### **G. PUBLIC ACCESS PROTECTION**

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, the Commission also is 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 existing or potential access.

As noted previously, the project site is located on an industrial site on the west side of Humboldt Bay. The project site does not currently support public access. The proposed project will not block access along the shoreline and will not increase the demand for public access. Therefore, the Executive Director finds that the proposed project will not adversely affect public access and the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

#### **H. VIOLATION**

As discussed above, unpermitted development, including deck repairs and installation of a hoist, occurred on the site in February, 2015. Although certain development has taken place at the project site without the benefit of a coastal development permit, consideration of the

application by the Executive Director has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit. Special Condition 7 notifies the Permittee that failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

**I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Executive Director incorporates his findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the development has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, have been required as permit special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Executive Director finds that the development as conditioned to mitigate the identified impacts can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

**ATTACHED EXHIBITS**

1. Regional location map
2. Vicinity map
3. Site plan
4. Project photos

**ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:**

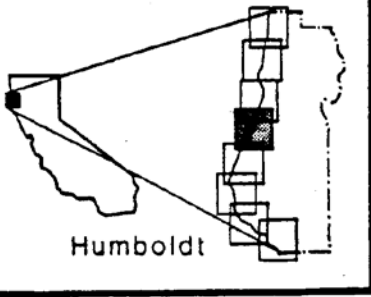
I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

\_\_\_\_\_  
**Permittee's Signature**

\_\_\_\_\_  
**Date of Signing**

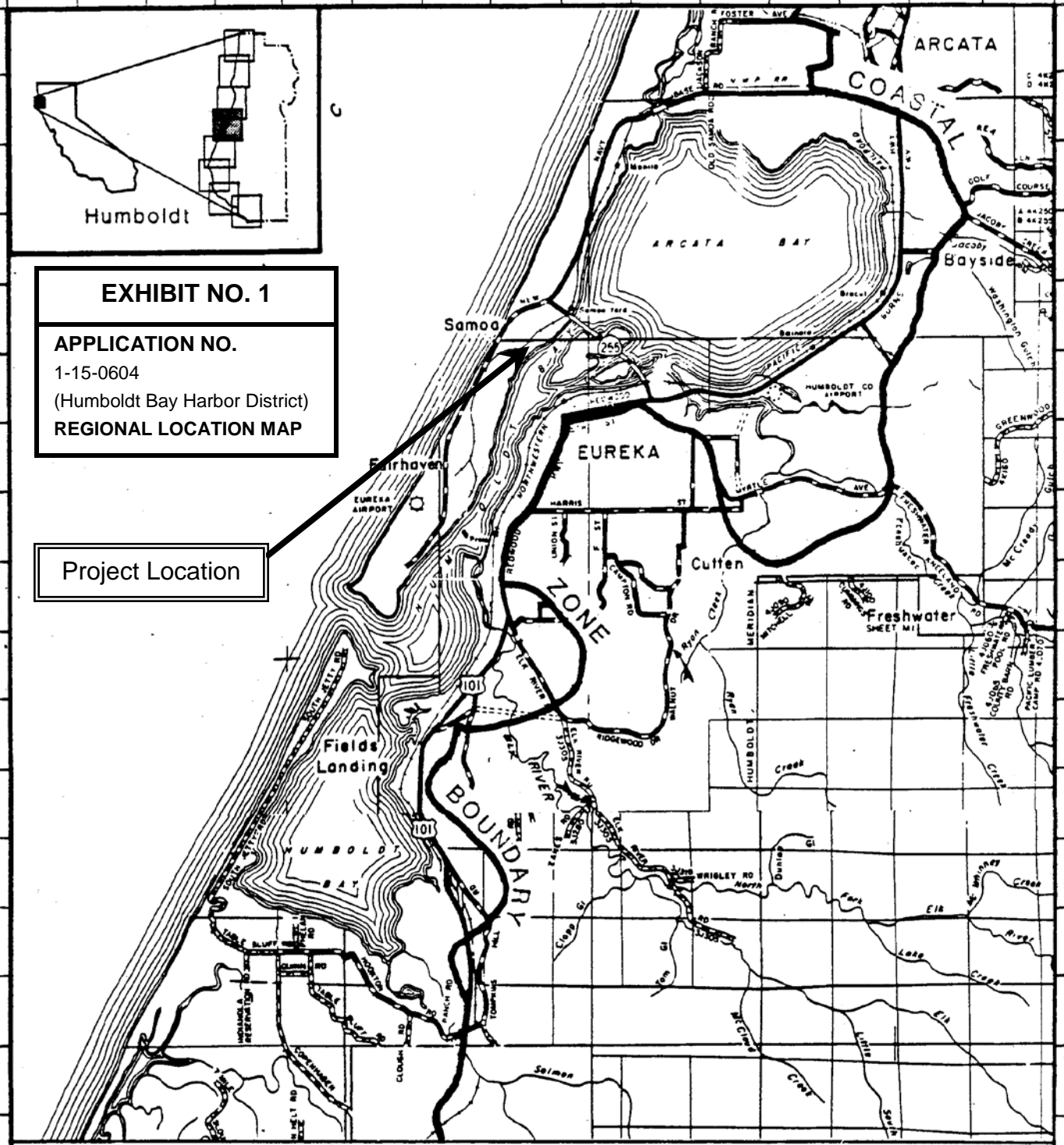
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**EXHIBIT NO. 1**  
**APPLICATION NO.**  
1-15-0604  
(Humboldt Bay Harbor District)  
**REGIONAL LOCATION MAP**

Project Location



**LOCATION MAP**



County of Humboldt

0 0.5 1 2 Miles

N



Imagery: NOAA Coastal Services 2009



Redwood Marine Terminal 1



**EXHIBIT NO. 2**  
APPLICATION NO.  
1-15-0604  
Humboldt Bay Harbor District  
**VICINITY MAP**

0 5 10 20  
Meters

Imagery: NOAA Coastal  
Services 2009

N

Approximate location of office to support hagfish operations.

Location of hoist for unloading hagfish.

Location of proposed hagfish holding tanks.

**EXHIBIT NO. 3**

APPLICATION NO.

1-15-0604

Humboldt Bay Harbor District

**SITE PLAN**

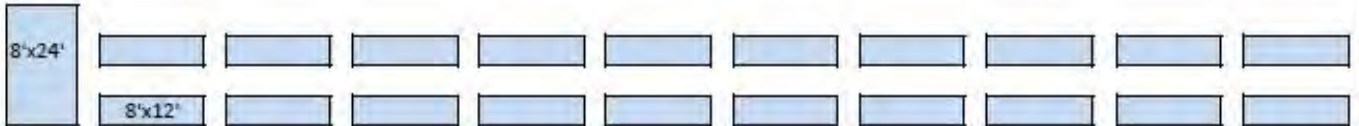
Page 1 of 2



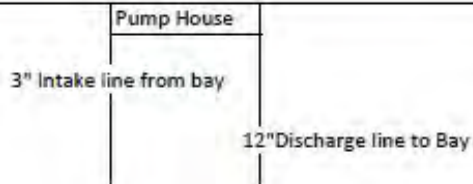
Building is 150' long, space is 30' deep. Room for 10-12' tanks per row, along with the 8' tank slightly less than 2' apart.

Entry

Entry



Road



**EXHIBIT NO. 3**  
APPLICATION NO.  
1-15-0604  
Humboldt Bay Harbor District  
**SITE PLAN**  
Page 2 of 2



**Photos 1 and 2.**  
The proposed intake screen.



**EXHIBIT NO. 4**  
APPLICATION NO.  
1-15-0604  
Humboldt Bay Harbor District  
**PROJECT PHOTOS**  
Page 1 of 2



**Photo 3.** The proposed fish hoist that has already been installed without the benefit of a CDP.

**EXHIBIT NO. 4**  
APPLICATION NO.  
1-15-0604  
Humboldt Bay Harbor District  
**PROJECT PHOTOS**  
Page 2 of 2