

Chair Dayna Bochco  
California Coastal Commission  
North Coast District Office  
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San Francisco, CA 94105-2219  
[Dayna.Bochco@coastal.ca.gov](mailto:Dayna.Bochco@coastal.ca.gov)

Monday, September 4, 2017

**Re: Three Captains CDP application No. 2-16-1131**  
**Johnson Pier hoist installation, Pillar Point Harbor, Half Moon Bay**

Dear Chair Bochco and Members of the Commission,

We are writing to oppose CDP application No. 2-16-1131. It appears that Three Captains Sea Products, Inc. does not have legal possession of the property they seek to develop. The Three Captains CDP application proposes the installation of a second hoist on another tenants lease property.

Last week, Morning Star and other stakeholders first learned of Three Captain's intentions to unload product year-round from Morning Star's designated lease space. This may be a violation of the terms of Morning Star's lease agreement with the Harbor District. For reference please read lease agreement (<http://bit.ly/2eWSeW6>) and attached Amendment 1, Exhibit A, storage space A2.

In October 2016, Steve McGrath, General Manager of the San Mateo County Harbor District strongly opposed placing a hoist in this location. Please read the Harbor District staff-report. See attached.

Morning Star Fisheries has not applied for a CDP for a second hoist and has not agreed to allow Three Captains to take possession of their lease property.

We do not want to see Three Captains deprived of their right to have a second hoist, however it must be done in a way that is both legal and in harmony with the needs of the entire community that uses the facilities at Pillar Point Harbor.

For these reasons please vote NO on application No. 2-16-1131.

Sincerely,

Sabrina Brennan and Edmundo Larenas  
San Mateo County Harbor Commissioners  
Moss Beach, California



CC:  
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*This letter does not represent the San Mateo County Harbor Commission or the SMC Harbor District.*

Lease Amendment #1

Amendment to Lease dated March 13, 2013 between Morningstar Seafood (Lessee) and San Mateo County Harbor District (District).

The Lessee and the District entered into a lease on March 13, 2013 for space to be used at the Johnson Pier for fish buying and/or off-loading

This lease amendment changes the following sections as follows:

- 1 Section 6.1 is amended to reflect Board direction of September 7, 2015 to set fish buyer fees as below:
  - (a) Wholesale Fish Purchase: \$5.00 per ton actual scale gross weight for squid, \$3.00 per ton actual scale gross weight for other wetfish and \$.005 per pound gross weight for other finfish and shellfish purchased by Tenant at the Premises on or before the first day of each and every successive fiscal quarter during the Term of this Lease.
  - (b) Fish Off-Loading: \$5.00 per ton actual scale gross weight for squid, \$3.00 per ton actual scale gross weight for other wetfish and \$.005 per pound gross weight for other finfish and shellfish off-loaded by Tenant at the Premises on or before the first day of each and every successive fiscal quarter during the Term of this Lease.
  - (c) Retail Fish Sales: Tenant will pay Landlord two and one-half percent (2.5%) of its gross receipts for all fish sold to the general public on or before the first day of each and every successive fiscal quarter during the Term of this Lease.

The following is added to clarify the payment of fees:

- (f) Fees paid under Sections 6.1 (a) and (b) above are in the alternative. For avoidance of doubt, a Tenant that both purchases and off-loads fish is not required to pay both the wholesale purchase and the off-loading fees but must pay only the [wholesale purchase/off-loading] fee.
2. Section 6.2 is amended as follows:

Payment of Purchase, Off-Loading Fees, and Retail Sales. Purchase, Off-Loading, and Retail Sales Fees at the rates set forth in Section 6.1 shall be paid quarterly and shall be due and payable by the last day of the month following the end of each fiscal quarter .

3 Section 9.1.(b) is amended to clarify the location of the clear space, and other uses on the pier:

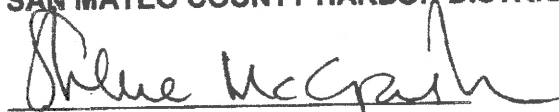
- (vi) Tenant agrees to keep free and clear a fifteen (15) foot wide area on Johnson Pier for common area access by all fish buyer tenants at all times, unless mutually agreed by all parties. Said space shall extend in an east west direction along the southern edge of the pier, as shown in 'Exhibit A, Plan'
- (ix) Tenant may use exterior pier deck and storage space, as shown and allocated on Exhibit A; provided that Tenant's use of such space may be limited or restricted by the Landlord, for instance as necessary to accommodate Landlord's repair and maintenance of the pier. Landlord agrees to work cooperatively with Tenant to minimize disruption during any such repair and maintenance activities.

**LESSEE:**

  
David Mallory, Morningstar Seafood

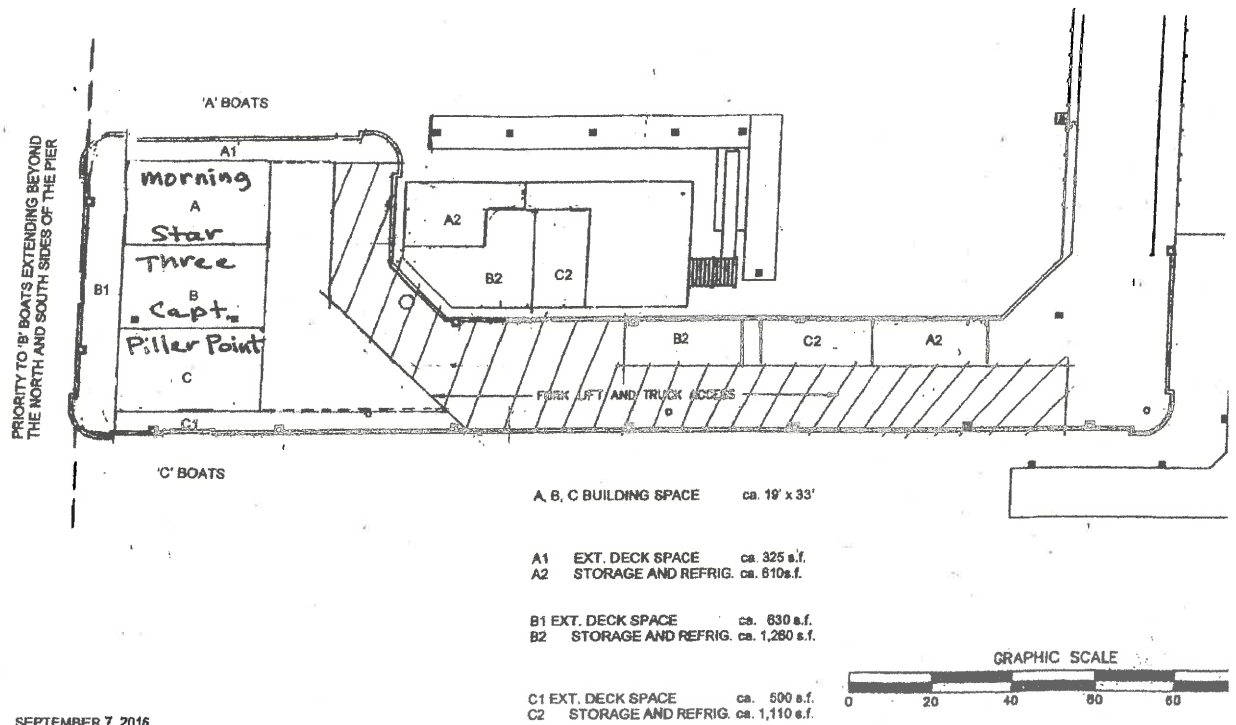
3-14-2017  
Date

**SAN MATEO COUNTY HARBOR DISTRICT:**

  
Steve McGrath, General Manager

3/14/17  
Date

EXHIBIT A - PLAN



SEPTEMBER 7, 2016



## Staff Report

**TO:** Board of Harbor Commissioners

**FROM:** Steve McGrath, General Manager

**DATE:** October 5, 2016

**SUBJECT:** Three Captains: Request for second hoist on Johnson Pier; Resolution 32-16 denying the request in the requested location

**Recommendation/Motion:**

Motion: Adopt Resolution 32-16, finding that the proposed location for Three Captains' second hoist is inappropriate and directing the General Manager to deny the request for a second hoist in the requested location.

**Policy Implications:**

In March 2015, this Commission directed that any hoist location be considered by the Board of Commissioners prior to a staff determination.

**Fiscal Implications/Budget Status:**

None at this time.

**Alternatives considered:**

This report addresses the request received only.

However, there may be other locations that would be acceptable. For example, Three Captains operated a second hoist at the western end of the pier, behind the building, for many years, only removing the hoist within the last three years. Should a request be

received for a second hoist in this location, staff will work with Three Captains on the necessary steps to seek and attain appropriate approvals and permits. A hoist in this area would allow the simultaneous unloading of two boats, tied stern to stern, as shown below (note that this picture was taken after the second hoist had been removed):



**Background:**

In March 2013, the District executed leases with the three fish buyers at the end of the Johnson Pier.

The leases included the following in Section 9.1 (b) (Emphasis added)

- (i) Tenant shall provide on the Premises all equipment required for the operation of said wholesale fish dealership, including winch and hoist for the purpose of loading or unloading of fish or other merchandise to and from vessels, and scales, skiff or equipment storage. Tenant may provide a second winch and hoist at a location approved in advance by the Harbor Master. (Emphasis added)

In April, 2014, Three Captains requested, and the Harbor Master approved, a second location for a Three Captains hoist for a twelve month probationary period. Three Captains previously maintained two hoists at the western end of the pier, behind the lease space, but removed one of the hoists several years ago. San Mateo County issued a building permit for a new hoist in September 2014.

Also in September, 2014 Three Captains submitted an application to the Coastal Commission for a Coastal Development permit, and in October 2014, received notice of a staff recommendation for a waiver, to be finalized at the Coastal commission meeting in November, 2014.

In March, 2015 this Commission directed the Acting General Manager (AGM) to notify Three Captains that the probationary period was terminated, and to remove the hoist by July 2, 2015. Additionally, this Commission directed that all future hoist locations be considered by the Board of Commissioners prior to Harbor Master approval, and that all permits be in place prior to final District approval.

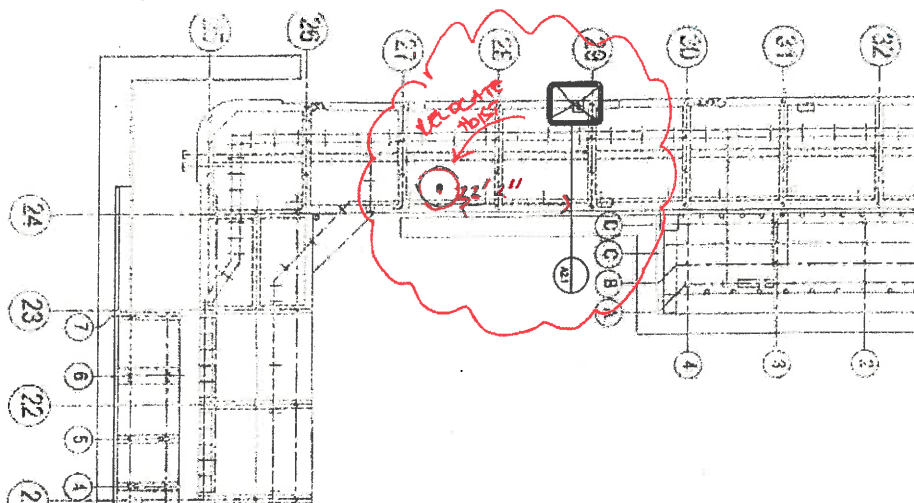
In January 2016, the District received a letter from Three Captains requesting continued discussions/arbitration around a second hoist location. Due to pending litigation, the matter could not be addressed at that time. On February 25, 2016, the Superior Court dismissed the lawsuit, with prejudice.

On April 12, 2016, the General Manager (GM) sent Mr. Fortado (Three Captains) a letter requiring that, as previously directed by this Commission, the hoist be removed from its current location. The upper portion of the hoist was removed; the pedestal base remains, with the GM's approval.

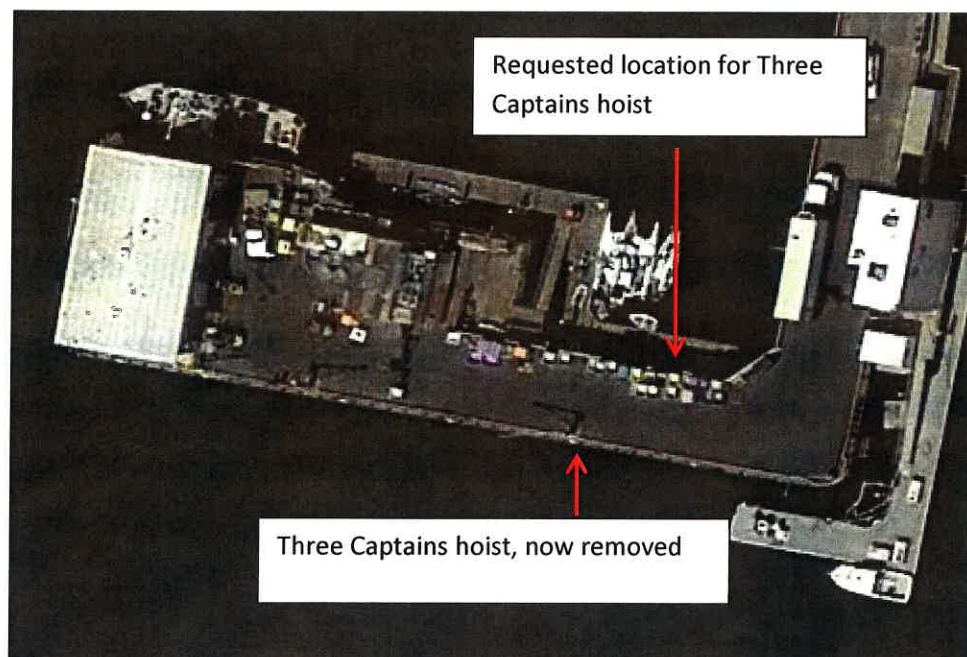
On or about June 2, 2016, the GM met with Mr. Fortado, and received a request for a revised hoist location:



1 Johnson Pier Plan



The below image, taken on April 5, 2016, prior to removal of Three Captains second hoist, shows the now removed hoist and the requested site for the relocated hoist:



District staff studied Mr. Fortado's proposal carefully and determined that placing a hoist in this location raises several significant issues:



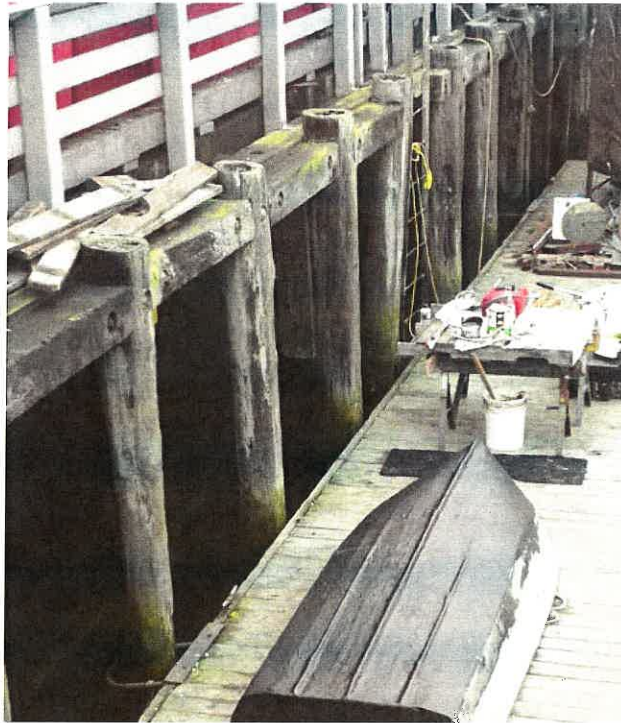
- 1 The dock below would need to be removed. This dock is used on a regular basis by skiff patrons, and by District staff for securing of impounded vessels:



- 2 In the near future, considerable work will need to be done on the freezer storage area of the pier; this will have significant impacts on all areas of the pier adjacent to the work area. Funds are budgeted in the District's 2016/17 Adopted Budget for commencement of this project:



- 3 The fender piles in this location are wood, in deteriorated condition and would need to be replaced prior to any use of this area of the pier for off-loading:



- 4 The pier stem in this area is heavily impacted, especially during crab or squid season, with totes, ice, forklifts, trucks and product. An additional hoist in this location would worsen congestion and severely impact operations for all users. This image shows the area of the pier in question, with the proposed hoist location to the right of the picture:



The issue of perceived insufficient hoist capacity, the condition of the pier at the freezer area, and the possibility of enhanced opportunities for commercial activities at the pier terminus clearly indicate the importance of the project for pier development described in the recent TIGER grant application, which was unsuccessful.

District staff communicated with Mr. Fortado regarding his proposal regularly over the course of several months and explained the concerns that rendered his preferred location unworkable. Until recently, Mr. Fortado stated that if that location would not be recommended for approval by this Commission, then the item should not be placed on the agenda. Mr. Fortado has now requested that this Commission discuss this item.

In the recently received communication from Mr. Fortado (received September 27, 2016; see attached), Mr. Fortado raises the issue of inequity due to Mr. McHenry's second hoist location. As this is not the item for discussion this evening, staff has not investigated this hoist in depth, but believes it to have been in that location since at least the mid 1980s.

For the above enumerated reasons, staff recommends this Commission concur with a proposed staff recommendation to deny the request and adopt Resolution 32-16 denying the request for the placement of a hoist in the requested location. Additionally, staff will require the removal of the pedestal from its current location.

**Attachments:**

[District letter to Mr. Fortado, April 12, 2016](#)

[Mr. Fortado letter to District, September 27, 2016](#)

[Resolution No.32-16](#)