

**CITY OF SANTA BARBARA WATERFRONT
DEPARTMENT MEMORANDUM**

Date: September 25, 2014
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: Harbor Operations Report

SANTA BARBARA FISHERMAN PLEADS “NO CONTEST” IN CRAB-THEFT CASE

Following a lengthy investigation by the California Department of Fish and Wildlife, Santa Barbara commercial fisherman John Wilson pled “no contest” in August to four grand-theft felonies related to stealing crabs from other fishermen’s receivers in Santa Barbara Harbor. He also pled to five misdemeanor California Fish and Game Code and California Code of Regulations violations related to this case. In exchange for his plea, Mr. Wilson agreed to three years’ felony probation and 180 days in County Jail, plus payment of restitution to his victims and accrued investigative fees. Formal sentencing is scheduled for October 28, 2014.

Deputy District Attorney Kevin Weichbrod said, “This case demonstrates Santa Barbara County’s dedication to our fishing community and to those fishermen who do their utmost to abide by all the laws and regulations in the course of their profession that help protect our local resources.”

Mr. Wilson is a slip permittee in a 60’ Designated Commercial Fishing Slip in Santa Barbara Harbor. Given the severity of the crimes of which he has been convicted, staff mailed Mr. Wilson a 30-day slip permit termination letter on September 12, 2014, per Section 17.20.005 (I) of the Santa Barbara Municipal Code (Attachment 1). The termination will be effective at 5:00 p.m. on October 12, 2014.

Mr. Wilson has a right to appeal this termination. If an appeal is successful, he will retain his privileges as a slip permittee. If an appeal is not successful, the Waterfront Department will hold a lottery to select another qualified commercial fisherman to assume that slip permit, procedures for which are outlined in SBMC 17.20.005 (C) 5 c (Attachment 2) and Section 16 of City Council Resolution 14-023 (Attachment 3). Staff will keep the Commission informed on developments in this matter.

SQUID RUN OUTSIDE SANTA BARBARA HARBOR

From August 17th through August 20th commercial fishermen operating large purse seiners harvested schools of squid in shallow waters from Carpinteria to Leadbetter Point, including right in front of the harbor. During the local run, lights used to attract the squid blazed along the coast, drawing countless inquiries from the public.

California's squid fishery is managed under a tight quota, which, at 118,000 tons annually sounds like a lot, but compared to the size of the squid "biomass," is highly sustainable. The squid fishery, in fact, reached its quota early the past two years. So far this fishing year (which began April 1st), purse seiners have landed 80,000 tons—68% of the quota through 42% of the season.

BIG SOUTH SWELL HITS LOCAL BEACHES

"Big Wednesday" struck again in Southern California on August 27th, when a hurricane-generated south swell hit the region with waves as high as 15 feet in some locations. In Santa Barbara, the waves were big, but not huge, due to a "shadow" effect caused by the Channel Islands. One small sailboat in the East Beach Anchorage was lifted off its anchor and onto the beach (the owner paid for its removal 48 hours later). Closer to home, a swell flipped a Maintenance Division dive skiff from its tether at Stearns Wharf, causing moderate damage. Used to ferry workers and equipment to and from job sites at the Wharf, the skiff is currently under repair. Otherwise, the swell did no discernable damage to facilities or boats in the harbor. It did, however, provide an epic day of surfing at the Sandspit.

OIL BOOM EXERCISE

On August 27th Harbor Patrol conducted a training exercise with oil-containment boom permanently stored in a trailer in the Launch Ramp parking area. The boom and trailer were provided to the Waterfront via a \$23,000 grant from the California Department of Fish and Wildlife in 2009. The trailer contains 1,000 feet of 12-inch hard boom, which extends like curtain eight inches below the surface and 4 inches above, creating a substantial barrier. The trailer is supplemented with 300 feet of soft absorbent boom.

Only the soft boom was deployed during the exercise, encircling Sea Landing's bait barge (intended to simulate the size of large vessel). It took one hour to tow the trailer to the launch ramp, pull the boom from the trailer to Patrol Boat #3, deploy it around the bait barge, retrieve the boom and return it to a trailer stall to dry out for a day. The drill proved valuable for officers involved and will be repeated on an ongoing basis.

HARBOR AND SEAFOOD FESTIVAL OCTOBER 11th

The 13th annual Harbor and Seafood Festival will take place from 10:00 a.m. to 5:00 p.m. on Saturday, October 11th. We've got it all again this year—fresh crab, lobster, oysters and barbecued albacore, plus paella, sea urchin "uni," fish tacos, Brophy Bros' clam chowder and more. Then there's great music (three bands), nearly 40 arts and crafts vendors, tall-ship and Coast Guard cutter tours, touch tanks, free boat rides aboard the *Double Dolphin* and maritime education booths. Festival admission is free. For more information, visit www.harborfestival.org

Attachments: 1. MC 17.20.005 (I)
2. MC 17.20.005 (C) 5 c
3. City Council Resolution 14-023

Prepared by: Mick Kronman, Harbor Operations Manager

I. WATERFRONT DIRECTOR TERMINATION OF SLIP PERMITS.

The Waterfront Director may terminate a Slip Permit upon thirty days prior written notice of termination (except for the longer notice period provided in subsection 2 herein) to the slip permittee for any of the following reasons:

1. Late Payment of Monthly Slip Fees. Monthly Slip Fees are due and payable on the first day of the month with or without receipt of billing, and monthly Slip Fees are delinquent after the fifteenth day of the month. After the fifteenth day of the month, a late charge, in an amount established by resolution of the City Council, will be assessed and added to the Slip Fees which are delinquent. Failure to pay monthly Slip Fees, together with all accumulated late charges, may result in termination of the Slip Permit. Termination of a Slip Permit due to late payment of Slip Fees may also result in termination of a live-aboard permit that may have been issued to a slip permittee of the terminated Slip Permit.

2. Death of a Sole Slip Permittee. A Slip Permit shall terminate sixty (60) days after the date of death of a slip permittee under circumstances where the slip permittee has no surviving spouse, registered domestic partner or Slip Permit partners at the time of death.

3. Failure to Meet Requirements for Commercial Fishing Earnings. Failure of a person with a specially designated Commercial Fishing Slip Permit issued in accordance with Section 17.20.005.B herein to meet the requirements for commercial fishing earnings, as such earnings requirement is established by resolution of the City Council, may result in termination of the Commercial Fishing Slip Permit.

4. Failure to Maintain Berthed Vessel in Operable Condition. Failure of a slip permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein may result in termination of the Slip Permit.

5. Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations. A slip permittee's or slip permittee's guest, visitor or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit.

a. Master Waiting List. Commercial Fishing Slips that become available for assignment to commercial fishermen on the Master Waiting List shall be offered for assignment to the commercial fisherman registered in the slip-length category of the available slip with the earliest chronological application date. If there are no commercial fishermen registered on the Master Waiting List in the slip-length category available, the slip shall be referred to the Sub-Master List.

(1) Acceptance of Commercial Fishing Slip Assignment Offer. A Commercial Fishing Slip offered for assignment to a commercial fisherman from the Master Waiting List shall be accepted in accordance with the procedures for acceptance of a slip from the Master Waiting List set forth in Section C.1.b.(1). Prior to assignment of the Commercial Fishing Slip, the commercial fisherman must demonstrate to the satisfaction of the Waterfront Department that he or she is a Qualified Commercial Fisherman.

(2) Declined Slip Offers. Failure of an applicant to accept a slip assignment offer in writing within thirty (30) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a Commercial Fishing Slip offer shall result in removal of the commercial fisherman's name from the Master Waiting List and loss of all fees paid by the commercial fisherman.

b. Sub-Master Waiting List. Commercial fishermen registered for commercial slips on the Master Waiting List shall also be applicants on the Sub-Master Waiting List. The commercial fisherman registered for a commercial slip on the Master Waiting List with the earliest chronological application date shall be the first-ranked commercial fisherman on the Sub-Master List. If a commercial slip offer is declined by all commercial fishermen registered for commercial slips on the Sub-Master List, it shall be referred to the Commercial Fishing Slip Lottery process for assignment.

(1) Acceptance of Commercial Fishing Slip. A Commercial Fishing Slip offered for assignment to the Sub-Master Waiting List shall be accepted according to the procedures for acceptance of a slip from the Sub-Master Waiting List set forth in Section C.2.b(1). Prior to assignment of the Commercial Fishing Slip, the commercial fisherman must demonstrate to the satisfaction of the Waterfront Department that he or she is a Qualified Commercial Fisherman.

(2) Declined Commercial Fishing Slip Offers. Failure of the applicant to accept the slip in writing within fourteen (14) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip offer will not result in the commercial fisherman's name being removed from the List, loss of the applicant's fees, or change in the applicant's position on the List.

c. Commercial Fishing Slip Lottery. A Commercial Fishing Slip that remains unaccepted after being offered to all commercial fishermen registered for commercial slips on the Sub-Master List shall be offered for assignment according to a single lottery process called the Commercial Fishing Slip Lottery. Procedures for formation of the Commercial Fishing Slip Lottery shall be established by the Waterfront Department Slip Waiting Lists regulation adopted by resolution of the City Council. To qualify for participation in the Commercial Fishing Slip Lottery, all applicants must timely submit a Lottery Participation Request in accordance with the Slip Waiting Lists regulation containing the applicant's name, telephone number and address. An individual may submit only one Commercial Fishing Lottery List Participation Request.

(1) Procedure for Assignment from Commercial Fishing Slip Lottery.

(a) Offer of Commercial Fishing Slip Assignment. A Commercial Fishing Slip that becomes available for assignment in accordance with the Slip Waiting Lists regulation shall be offered for assignment to an applicant according to his or her rank in the Commercial Fishing Slip Lottery. The applicant ranked in the first position shall be offered the available Commercial Fishing Slip. If the first-ranked applicant declines the offer or fails to meet the requirements for a Qualified Commercial Fisherman, the second-ranked applicant shall be offered the Commercial Fishing Slip assignment, and so on.

(b) Acceptance of Commercial Fishing Slip. Acceptance of the slip assignment offer must be made in writing and submitted to the Waterfront Department within thirty (30) days of the date of mailing notice of slip availability. The acceptance form shall include the necessary information to verify qualification for a Commercial Fishing Slip. Any applicant failing to submit the required information to verify eligibility, or any applicant failing to meet the eligibility requirements set forth in Section C. 5 for a Qualified Commercial Fisherman, shall be removed from consideration for slip assignment during that Lottery.

(c) Declined Commercial Fishing Slip Offer. Failure of an applicant to accept the Commercial Fishing Slip assignment offer in writing within thirty (30) days of the date of mailing of such offer by the Waterfront Department shall be considered a declined offer. Declining a slip offer, or failing to meet the requirements for a Qualified Commercial Fisherman shall result in removal of the applicant's name for slip assignment in that Lottery.

(d) An existing marina slip permittee who is offered a Commercial Fishing Slip assignment shall relinquish an existing slip permit to the Waterfront Department prior to, and in exchange for, a Commercial Fishing Slip assignment from the Commercial Fishing Slip Lottery.

(2) Unassigned Commercial Fishing Slips. If a Commercial Fishing Slip assignment offer is declined by all applicants selected in the Commercial Fishing Slip Lottery, or if no selected applicants meet the requirements of a Qualified Commercial Fisherman, the Commercial Fishing Slip shall be held in the Waterfront Department's visitor-slip inventory for a period of six (6) months. After six (6) months, the Commercial Fishing Slip assignment shall be offered to applicants in a new Commercial Fishing Slip Lottery. If the Commercial Fishing Slip remains unassigned, this procedure shall be repeated every six (6) months until the Commercial Fishing Slip is assigned.

RESOLUTION NO. 14-023

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SANTA BARBARA ESTABLISHING A SLIP OCCUPANCY
POLICY FOR DESIGNATED COMMERCIAL FISHING
SLIPS IN SANTA BARBARA HARBOR AND REPEALING
RESOLUTION 11-022

WHEREAS, the Santa Barbara Harbor serves a variety of functions including that of being a working harbor for commercial fishermen;

WHEREAS, it is the desire of the City Council that the harbor continue to serve the needs of commercial fishermen; and

WHEREAS, those needs can best be met if certain criteria are established to ensure that spaces are allotted to persons who are engaged in commercial fishing, while at the same time minimizing disruption to the operations of commercial fishermen who currently berth their fishing vessels at the harbor.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. This policy applies to commercial fishermen granted preferential consideration for assignment of slips in Santa Barbara Harbor off the Waterfront Department's Slip Waiting List, and to fishermen assigned slips in Fish Float North, Fish Float South and 18 slips in Marina 1-A, specially designated by the Waterfront Director.

SECTION 2. No slip in Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A shall be assigned or transferred to a permittee who does not meet the criteria for a "commercial fisherman" established by this policy. Any permittee subject to such criteria shall be required to satisfy the standards applicable to commercial fishing as long as the slip is occupied. The criteria established by this policy shall also apply to permittees identified in Sections 13 and 14 hereof.

SECTION 3. A "commercial fisherman" pursuant to this policy shall have and maintain a commercial fishing or aquaculture permit issued by the California Department of Fish and Wildlife and shall have and maintain a Fish and Wildlife permit for the vessel that is berthed in the harbor slip as a commercial fishing vessel.

SECTION 4. A "commercial fisherman" pursuant to this policy shall be required to document, in a manner satisfactory to the Waterfront Director, income from commercial fishing that is at least \$15,000 every two years following issuance of the slip permit. In some cases, as described in Section 12 of this Resolution, the requirement shall also be applied during the immediate two-year period preceding the issuance of the permit. Proof of income shall be provided by landing receipt records provided by the Department of Fish and Wildlife's Custodian of Records. Earnings

pursuant to Section 6 shall be in a form acceptable to the Waterfront Director. For aquaculture operations, receipts indicating the value of product delivered or monthly aquaculture tax reports of harvest in pounds may be used to confirm earnings. All proof of earnings shall be due by April 15th of the second year of any two-year earnings cycle, beginning with the April 15th date following earning cycles in place at the time this Resolution is adopted.

SECTION 5. Once a slip permit is issued, 50% of the income requirement must be earned aboard the vessel assigned to the designated slip. Up to 50% of the income requirement may derive from a permittee's employment aboard a commercial fishing vessel or vessels other than the designated vessel, demonstrated by a combination of cancelled payroll checks or their equivalent, *plus* copies of Internal Revenue Service 1099 or W2 tax forms.

SECTION 6. Earnings from sustainable-fisheries research or activities may apply to the minimum earnings requirement if authorized in writing by the Waterfront Director prior to the research.

SECTION 7. If a commercial fisherman's vessel is destroyed or ruined, by accident, damage, fire, sinking or other unintended casualty, the permittee may, upon written approval of the Waterfront Director within 30 days of that loss, be granted an extension up to one year in which to meet the earnings requirement.

SECTION 8. If a permittee believes commercial fishing in general or a specific commercial fishery upon which he/she depends has been rendered infeasible for a significant period due to natural disaster, climatic shift, regulatory action or other reason, he/she may request that the Waterfront Director temporarily waive the time requirement for proof of earnings for a period not to exceed one year. Any request for temporary waiver must be submitted at least 60 days before expiration of the earnings period in effect at the time. The Director's decision regarding the waiver request shall be final.

SECTION 9. If illness or extended family emergency precludes a permittee's ability to demonstrate sufficient earnings during a given earnings period, he/she may request that the Waterfront Director temporarily waive the time requirement for proof of earnings for a period not to exceed one year. Any request for temporary waiver must be submitted at least 60 days before expiration of the earnings period in effect at the time. The Director's decision regarding the waiver request shall be final.

SECTION 10. Persons holding slip permits in Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A prior to July 1, 2001 need not comply with the provisions of this policy. The provisions of this policy will be applied to any person to whom a slip in these areas is transferred or assigned on or after July 1, 2001.

SECTION 11. Any slip permittee not subject to the provisions of this policy per Section 10, may exchange his or her vessel for a different one (change boats) without triggering application of eligibility criteria, as long as the new vessel is and remains licensed as a commercial fishing craft, as outlined in Section 3.

SECTION 12. Slip permittees in Marina 1-A who are otherwise exempt from this policy per Section 10 may elect to become subject to its provisions in exchange for a slip fee reduction to levels commensurate with monthly rates in Fish Float North and Fish Float South. To exercise this option, a permittee must meet and continue to meet criteria established by this policy for commercial fishermen. In addition, they must provide proof of earnings equaling at least \$15,000 from commercial fishing during the immediate two-year period preceding the election. Once made, this election may not be reversed.

SECTION 13. A commercial fisherman who successfully meets earnings requirements during at least three complete and successive earnings periods, beginning with the earnings period in effect on June 6, 2007, may lease his/her boat to another party for the purpose of continuing to meet those requirements. The Waterfront Director must approve said lease agreement before earnings can be credited to the slip permittee and his/her vessel. Following approval of the lease agreement, at least 50% of earnings intended to meet the earnings requirement must be made by the lessee aboard the vessel assigned to the permitted slip in Santa Barbara Harbor, proof of which must be demonstrated by requirements outlined in Section 4. Up to 50% of the income requirement may derive from the lessee's employment aboard a commercial fishing vessel or vessels other than the designated vessel, demonstrated by a combination of cancelled payroll checks or their equivalent, plus copies of Internal Revenue Service 1099 tax forms or W2 tax forms

SECTION 14. A transfer of a slip permit by a person subject to this policy shall be allowed only if the new permittee agrees in writing to earn and report any required commercial fishing earnings not accrued by the current permittee for the then-current earnings period. At the completion of that earnings period, a new earnings period for earnings compliance will commence.

SECTION 15. Permittees who transfer into or who are assigned slips subject to this policy may apply for Business Activity Permits (as available) for passenger-carrying charters accommodating up to six persons per trip. Income from operations authorized by such permits may not be applied against the minimum earnings requirements. Those earnings must be satisfied from commercial fishing activities only.

SECTION 16. Any slip in areas of the harbor described in Section 1 that revert to the City will be assigned to the next qualified commercial fisherman who meets the requirements of this policy and is registered for a slip of that size on the Waterfront Department's waiting list. If no such applicant is available on the waiting list, the slip will be assigned to a commercial fisherman who in the preceding two-year period meets the income requirements of this policy, following an advertised lottery conducted by the Waterfront Department. This element of the policy applies until a future waiting-list policy for Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A, or for the overall harbor, supersedes it.

SECTION 17. Any slip permittee from any part of the harbor outside the slips designated in Section 1 who exchanges slips with a slip permittee within this area must comply with the provisions of this policy in the same manner as any other transferee or assignee, including meeting earnings requirements.

SECTION 18. It is the intention of the City that this policy be reviewed every three years.

RESOLUTION NO. 14-023

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing resolution was adopted by the Council of the City of Santa Barbara at a meeting held on May 13, 2014, by the following roll call vote:

AYES: Councilmembers Dale Francisco, Frank Hotchkiss, Gregg Hart, Cathy Murillo, Randy Rowse, Bendy White; Mayor Helene Schneider

NOES: None

ABSENT: None

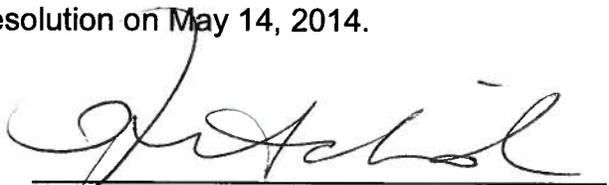
ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on May 14, 2014.



Gwen Peirce, CMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing resolution on May 14, 2014.



Helene Schneider
Mayor