

MINUTE ITEM

This Calendar Item No. C01 was approved as Minute Item No. 1 by the California State Lands Commission by a vote of 2 to 0 at its 2/27/96 meeting.

**CALENDAR ITEM
C01**

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02/27/96
W 24468
Burks
PRC 7872

APPROVAL OF:

1. GENERAL LEASE - INDUSTRIAL USE TO ISLE CAPITAL CORPORATION
2. SUBLEASE TO KOCH CARBON, INC.
3. LEASE RECOGNITION AND NON-DISTURBANCE AGREEMENT BETWEEN KOCH CARBON, INC. AND STATE

APPLICANT:

Isle Capital Corporation, a California Corporation,
Acting as Trustee, FBO LAVC, dba Pittsburg
Marine Terminal
Attn: S. M. Frank, President
535 Main Street, Suite 202
Martinez, California 94553

BACKGROUND:

Isle Capital Corporation, a California Corporation, Acting as Trustee, FBO LAVC, has submitted an application for a lease of 6.80 acres, more or less, of State-owned sovereign lands in the bed of New York Slough, City of Pittsburg, Contra Costa County. Isle Capital is the record owner of uplands adjoining the proposed Lease Premises and intends to lease its uplands and sublease the proposed Lease Premises to other entities which will construct and operate dry bulk transport and storage facilities on the joined properties.

The proposed Lease Premises would be improved with six (6) steelpiled concrete breasting dolphins, a concrete ship loader with overhead telescoping/rotating loading arm, unloading docks with cranes, and approximately 460 linear feet of fleeting rails, as more particularly illustrated in Exhibit "B" attached hereto. Applicant also requests that the proposed Lease authorize maintenance dredging of up to 7,500 cubic yards per year, with disposal on the

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adjoining uplands. The Lease Premises shall not be used to onload or offload liquid oil or oil products as defined in California Public Resources Code Section 8750(k), except as necessary for the operations on the Lease Premises adjoining uplands.

PROPOSED LEASE TERMS:

The principle provisions of the proposed lease are as follows.

Term: 30 years, effective upon the execution on behalf of the State Lands Commission.

Rent: Years 1 and 2, \$22,500 per year; Years 3 and 4, \$45,000 per year; Years 5 and 6, \$67,500 per year; Years 7, 8, 9, and 10, \$90,000 per year, with subsequent annual adjustments as follows:

In Lease Years 10 and 20, the Lease Premises will be reviewed and if appropriate a new base rental will be established to assure a fair return to the State. Any base rental newly established in Lease Year 10 will take effect in Lease Year 11, and will be adjusted annually thereafter through Lease Year 20 by the CPI, but in no event to exceed 5% per year. Any base rental newly established in Lease Year 20 will take effect in Lease Year 21, and will be adjusted annually thereafter through Lease Year 30 by the CPI, but in no event to exceed 5% per year.

Insurance: Public liability insurance with a minimum combined single limit coverage of \$5,000,000, naming the State as an additional insured.

Bonds: Bonds or other security satisfactory to the State will be provided to cover labor and material costs, potential casualty losses, and performance of the lease terms. Such security will cover the entire Lease Premises and will be in effect throughout the term of the lease, except that the construction bonds or other security shall be required only until all obligations related to the construction of improvements on the Lease Premises have been fully satisfied.

Improvements: Prior to commencement of construction of improvements on the Lease Premises, Applicant will be required to provide for Commission staff review

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and approval detailed design and construction plans and certification by a registered civil or structural engineer confirming design competence and seismic qualification of any proposed structures to be placed on the Lease Premises. Any significant changes to these plans must be submitted to Commission staff for approval prior to implementation. Following completion of construction, Lessee will provide "as-built" plans illustrating actual improvements and their location within the Lease Premises. The "as-built" plans, when approved by Commission staff, will be included as an exhibit to the lease to particularly describe improvements authorized thereunder. Upon receipt of the "as-built" plans, Commission staff will also review the description of the Lease Premises contained in the lease and in Exhibit "A" attached hereto and make any necessary technical changes to that description to more accurately define the Lease Premises.

SUBLEASE TO KOCH CARBON, INC.

Applicant proposes to issue subleases of the Lease Premises to various entities which will operate loading, offloading, and storage facilities at the subject site. Such subleases will require the prior written approval of the Commission. At this time, Applicant proposes to lease a portion of the Lease Premises to Koch Carbon, Inc., a Kansas Corporation, and a wholly owned subsidiary of Koch Industries, Inc. Koch will construct and operate the proposed improvements for purposes of transporting petroleum coke and other materials across the Lease Premises. The sublease shall be for a term of ten (10) years, with four renewal periods of five (5) years each. The sublease will require compliance with all terms and conditions of the proposed Commission lease to Isle Capital, except as otherwise provided in that Lease Recognition and Non-disturbance and Attornment Agreement between Koch and the Commission (below).

LEASE RECOGNITION AND NON-DISTURBANCE AND ATTORNMENT AGREEMENT BETWEEN STATE AND KOCH CARBON, INC.

In order to assure that the State is adequately assured of compliance with the terms of its Lease to Isle Capital, and to approve the sublease from Isle Capital to Koch, it is proposed that the State and Koch enter into a Lease Recognition and Non-

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disturbance and Attornment Agreement. Under this Agreement, Koch will establish an interest bearing account or other security acceptable to State to guarantee performance of the Lease provisions. This security may satisfy all or some portion of the bonding and insurance requirements of the Lease as they relate to construction costs, casualty loss, and performance of the lease terms. This security will not satisfy liability insurance and indemnification provisions of the Lease.

OTHER PERTINENT INFORMATION:

1. An Environmental Impact Report (SCH 89082209) and Addenda to the Environmental Impact Report were prepared and adopted for this project by the City of Pittsburg. The State Lands Commission's staff has reviewed these documents.
2. A Mitigation Monitoring and Reporting Program (Resolution No. 8442) was adopted by the City of Pittsburg and is attached as Exhibit "F".
3. This activity involves lands which have not been identified as possessing significant environmental values pursuant to Public Resources Code Sections 6370 et seq. However, the Commission has declared that all tide and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally "significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code Section 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by 2 Cal. Adm. Code 2954 is not applicable.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

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STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

04/07/96

APPROVALS OBTAINED:

City of Pittsburg, United States Army Corps of Engineers, Regional Water Quality Control Board, Contra Costa County.

FURTHER APPROVALS REQUIRED:

State Lands Commission.

EXHIBITS:

- A. Land Description (Describing Construction Zone)
- B. Site Map (Depicting Construction Zone & Proposed Lease Area)
- C. Location Map
- D. Resolution 8472
- E. Resolution 8896
- F. Mitigation Monitoring and Reporting Program (Resolution 8442)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ENVIRONMENTAL IMPACT REPORT (SCH 89082209), ADDENDA TO THE ENVIRONMENTAL IMPACT REPORT, AND MITIGATION MONITORING AND REPORTING PROGRAM (RESOLUTION NO. 8442) WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF PITTSBURG AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. ADOPT THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH SECTION 15096(h) OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBITS "D" AND "E" ATTACHED HERETO.

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3. ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM (RESOLUTION NO. 8442), AS CONTAINED IN EXHIBIT "F" ATTACHED HERETO.
4. AUTHORIZE ISSUANCE TO ISLE CAPITAL CORPORATION, A CALIFORNIA CORPORATION, ACTING AS TRUSTEE, FBO LAVC, DBA PITTSBURG MARINE TERMINAL, OF A THIRTY (30) YEAR GENERAL LEASE - INDUSTRIAL USE SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICES OF THE COMMISSION, EFFECTIVE UPON EXECUTION ON BEHALF OF THE STATE LANDS COMMISSION; OF TIDELANDS AND SUBMERGED LANDS IN THE BED OF NEW YORK SLOUGH MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" AND DEPICTED ON EXHIBIT "B" ATTACHED HERETO; IN CONSIDERATION OF \$22,500 PER ANNUM FOR YEARS ONE (1) AND TWO (2) OF THE LEASE TERM, \$45,000 PER ANNUM FOR YEARS THREE AND FOUR, (3) \$67,500 PER ANNUM FOR YEARS FIVE AND SIX, AND (4) \$90,000 PER ANNUM FOR YEARS SEVEN (7) THROUGH TEN (10), WITH SUBSEQUENT ANNUAL ADJUSTMENTS TO ASSURE A FAIR MARKET RENTAL TO THE STATE; PROVISION OF PUBLIC LIABILITY INSURANCE WITH A COMBINED SINGLE LIMIT COVERAGE OF \$5,000,000; AND A BOND OR OTHER SECURITY ACCEPTABLE TO THE STATE TO ASSURE PERFORMANCE OF THE LEASE TERMS; FOR THE PROPOSED CONSTRUCTION OF A DRY BULK TRANSFER AND STORAGE MARINE TERMINAL AND CONTINUED MAINTENANCE DREDGING OF UP TO 7500 CUBIC YARDS PER YEAR, WITH DISPOSAL ON THE ADJACENT UPLAND PARCEL.
5. APPROVE A SUBLEASE FROM ISLE CAPITAL CORPORATION TO KOCH CARBON, INC. FOR A TERM OF TEN (10) YEAR, WITH FOUR RENEWAL PERIODS OF FIVE YEARS EACH. THE SUBLEASE WILL REQUIRE COMPLIANCE WITH ALL TERMS AND CONDITIONS OF THE PROPOSED COMMISSION LEASE TO ISLE CAPITAL CORPORATION, EXCEPT AS OTHERWISE PROVIDED IN THAT LEASE RECOGNITION AND NON-DISTURBANCE AND ATTORNMENT AGREEMENT BETWEEN KOCH CARBON, INC. AND THE COMMISSION.

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6. APPROVE LEASE RECOGNITION AND NON-DISTURBANCE AND ATTORNMENT AGREEMENT BETWEEN STATE AND KOCH CARBON, INC. IN ORDER TO ASSURE THAT THE STATE IS ADEQUATELY ASSURED OF COMPLIANCE WITH THE TERMS OF ITS LEASE TO ISLE CAPITAL CORPORATION.
7. AUTHORIZE STAFF OF THE COMMISSION TO REVIEW AND APPROVE PLANS, REPORTS AND DESIGNS FOR THE CONSTRUCTION OF THE DOCK FACILITY.
8. AUTHORIZE STAFF TO TAKE ALL OTHER STEPS NECESSARY TO EFFECTUATE THE EXECUTION OF THE LEASE TO ISLE CAPITAL CORPORATION AND THE LEASE RECOGNITION AND NON-DISTURBANCE AND ATTORNMENT AGREEMENT WITH KOCH CARBON, INC.

EXHIBIT "A"
Land Description
350 Foot Construction Zone

W-24468

A parcel of State owned tide and submerged land lying in the bed of New York Slough, Contra Costa County, California, more particularly described as follows:

A strip of land 350 feet in width lying northerly of and immediately adjacent to that parcel of land described in Exhibit B, Parcel One, in that Trustees Deed, recorded April 12, 1991, in Book 16516, Page 825, Official Records of Contra Costa County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of New York Slough.

END OF DESCRIPTION

PREPARED 2/6/1996 by Delta Boundary Staff

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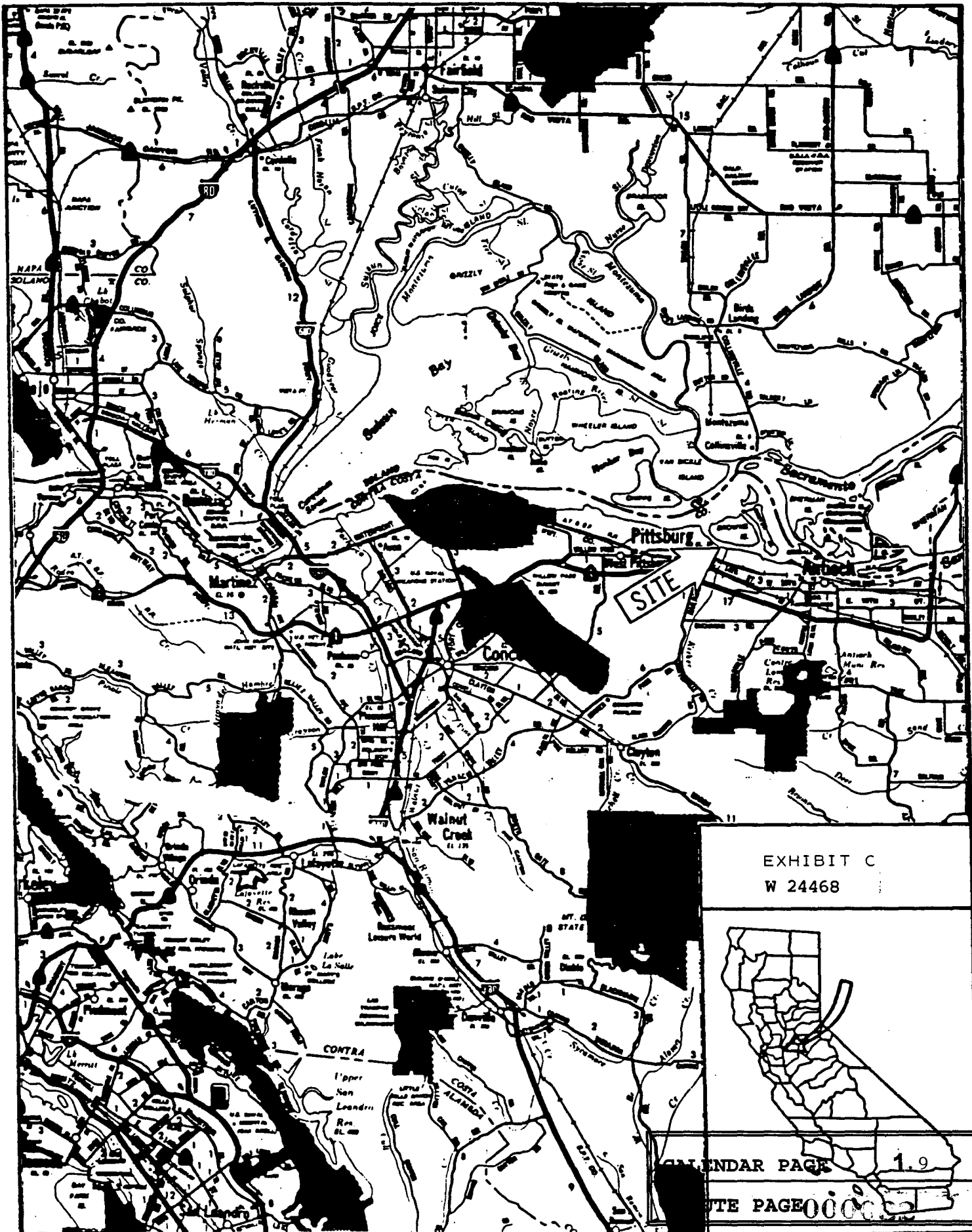


EXHIBIT C
W 24468



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BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Re-certifying the Final EIR,)
Certifying the Addendum EIR, and)
Adopting the Findings of Fact)
and Statement of Overriding)
Considerations for the Environmental)
Effects of the HAN-LI International)
Marine Terminal Project)
U-88-36, APN 073-020-020, 073-030-007)

RESOLUTION NO. 8472

On August 12, 1988, Don Olson of HAN-LI International Group filed U-88-36 requesting a conditional use permit for a marine terminal on the 15.58 acre site located at the end of East Third Street (APN 073-020-020, 073-030-007) (the "project").

On November 27, 1990, the Planning Commission adopted Resolution No. 90-8469 certifying the Final Environmental Impact Report for the project as complete. A copy of the resolution is attached as Exhibit "A". By that resolution, the Commission directed the preparation of an Addendum EIR regarding certain changes to the project.

On January 16, 1991, the Commission held a duly noticed public hearing on the project. The Commission received and reviewed the Addendum EIR.

The Draft EIR, Final EIR and Addendum EIR are referred to collectively hereafter as the "EIR".

NOW, THEREFORE, the Planning Commission resolves as follows:

Section 1. The Planning Commission hereby certifies that it has reviewed and considered the EIR.

Section 2. The EIR indicates that certain significant environmental effects would result from approval of the project. In response to each significant effect so identified and summarized in this section, alterations have been required in, or incorporated into, the project which avoid or substantially lessen each such significant environmental effect.

A. Planning and Policy Context

1. Significant Effect: The project is consistent with the General Plan land use designation for industrial uses on the site. However, the project will generate truck traffic on existing truck routes in significantly increased volumes, which conflicts with General Plan objectives of directing truck traffic away from residential neighborhoods.

Changes or Alterations: The Conditional Use Permit for the project is subject to several conditions of approval ("Conditions") which reduce the impact of increased truck traffic on residential neighborhoods and which bring the project into consistency with the General Plan. The applicant is required to pay an equitable share of the cost of the Master Plan study which will be conducted by the City to identify a new public street to serve as an alternate truck route ("Truck Route Bypass") which directs project traffic away from residential neighborhoods (Condition 14). The applicant is also required to participate in an assessment district for the financing and construction of the Truck Route Bypass (Condition 16). Prior to construction of the Truck Route Bypass, project truck traffic is required to be disbursed equally on two existing alternative routes (Condition 6) and both the truck traffic on any single route and the total truck traffic will be limited by the City (Condition 9.).

2. Significant Effect: Implementation of the project as proposed requires the closure of Third Street adjacent to the project site, a street which is presently designated schematically as a bikeway, pedestrian path and collector street in the General Plan Open Space and Circulation Element policies.

Changes or Alterations: The bicycle, pedestrian and collector street systems are chiefly conceptual in nature, rather than established routes. The establishment of adequate bicycle, pedestrian and street systems will be addressed as part of the Master Plan study for the waterfront industrial area. Conditions 14 and 16, respectively, require the applicant to contribute funds for the Master Plan study and the assessment district to be formed to implement necessary improvements identified in the study.

3. Significant Effect: The project creates a limited number of jobs in proportion to the size of the project site; its location in an industrial zone district is underutilized for preferred and potential labor-intensive industry.

Changes or Alterations: Condition 37 requires the applicant to use all possible efforts to work with the City's Human Resources Department for referral of unemployed Pittsburg residents for employment at the completed project. It should also be recognized that the secondary and tertiary employment (for truck, train, service and project client crews) will offset to an undetermined extent the non-labor-intensive character of the project.

B. Traffic and Circulation.

1. Significant Effect: At full buildout and operation as originally proposed, the Han-Li Terminal was to generate a maximum of 542 truck trips (271 total round trips) per day at a peak level. Traffic volumes on Harbor Street would be increased by 20 percent and truck trips would be roughly doubled (which is within the roadway capacity). Significant increases on California Avenue and the Highway 4 freeway ramps serving Railroad Avenue would also have resulted. The project would result in increased congestion (together with associated noise and air quality impacts discussed below) and traffic safety hazards, with probable negative effects on some residential neighborhoods along Harbor Street and California Avenue. Peak-hour traffic was projected to be 79 one-way vehicle trips per hour, and during the typical morning Pittsburg commute period 65 trips per hour were projected. During the average evening commute period, approximately 45 vehicle trips would be generated.

Changes or Alterations: As noted above, the City will conduct a Master Plan study which includes the identification of a Truck Route Bypass. Once constructed, this Truck Route Bypass would connect 3rd Street at the project site with the Pittsburg-Antioch highway (Highway 4) and allow truck traffic to bypass the affected residential neighborhoods. The applicant is required to contribute to the cost of the study (Condition 14) and to participate in the assessment district created to finance and construct the bypass route (Condition 16). Prior to construction of this bypass route, project truck traffic will be divided equally between two existing routes (Condition 6), as these have been defined by the City Engineer (Condition 5). Total truck traffic generated from the project site is limited during this time to 60 average daily trips (ADT) in the first year of operation, 100 ADT in the second year, and 160 ADT in the third year and thereafter until such time as the Truck Route Bypass is completed (Condition 9). Truck traffic from the project is prohibited from using the designated routes during the peak weekday commute hours (Condition 6).

2. Significant Effect: The project will add approximately 160 truck trips per day to each of two freeway ramps at Railroad Avenue and State Highway 4. This will significantly increase the congestion that already exists on the freeway entry and exit ramps, and on the route itself, particularly between Pittsburg and the Willow Pass grade.

Changes or Alterations: To substantially mitigate the impact on Highway 4, truck traffic to and from the project is not allowed on that highway between the hours of 6:30 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m. (see Condition 10). This restriction on project truck traffic will continue even after completion of the Truck Route Bypass.

3. Significant Effect: The consistently large volume of heavy truck traffic generated by the project is likely to cause significant wear and tear to the pavement on the existing truck routes.

Changes or Alterations: The applicant is required to contribute to the cost of upgrading and maintaining pavement sections on the roads impacted by the project's truck traffic. Condition 16 requires the applicant to participate in the assessment district which will fund and construct the Truck Route Bypass. Until such time as that bypass route is constructed, the applicant is required to pay to the City \$38,540.00 per year (Condition 11). The first year cost is due and payable prior to commencement of operation and is due and payable each year thereafter. The money required by Condition 11 is to be used specifically for the maintenance and improvement of roads impacted by project truck traffic. The applicant is also required to repave East Third Street between the project site and Harbor Street prior to the operation of the plant (Condition 7). In addition, the applicant is required to dedicate land for, and construct, certain other roadway improvements (Conditions 13 and 17).

4. Significant Effect: The truck traffic generated by the project will exacerbate the problems created by wide-turning trucks with respect to the corner radii at several intersections, particularly at Harbor Street and California Avenue and at California Avenue and Railroad Avenue.

Changes or Alterations: Prior to operation of the project, the applicant is required by Condition 8 to fund (at its expense) the design and construction of proper curb turning radii at the intersections of Harbor Street and East 10th Street, Harbor Street and California Avenue, Railroad Avenue and 10th Street, and Railroad Avenue and California Avenue (proximity of Highway 4).

C. Water Quality.

1. Significant Effect: The open storage of gypsum and bauxite could cause degradation of the water quality of runoff from the site.

Changes or Alterations: The applicant is required to install an adequate storm drain system and a detention basin which will provide for settling and pH control of runoff, and for emergency containment of pollutant spills (Condition 21). Condition 25 further requires that final construction plans for the detention basin are to be approved as required by the San Francisco Bay Regional Water Quality Control Board, the Delta Diablo Sanitation District, and the Contra Costa Water District, as well as any other agency having jurisdictional control over the project. Additionally, the applicant has agreed that there shall be no exposed storage or retention of bulk materials on-site. (See Condition 36.)

2. Significant Effect: The handling and storage of cement and sulphur on the site could potentially impact water quality.

Changes or Alterations: Due to a revision in the scope of the project, the sulphur portion of the project has been eliminated. Thus, the potential adverse environmental effects on water quality due to sulphur pollution, as identified in the FEIR, will not occur. With regard to cement storage and handling, the project will minimize the environmental effects by: (1) the use of sealed storage domes; and (2) the transfer of cement to ships by a pneumatic vacuum system. The required installation of the runoff detention basin by the applicant (Condition 21) will provide additional protection against water contamination.

D. Air Quality.

1. Significant Effect: Project construction would result in the temporary deterioration of air quality, primarily from fugitive dust, resulting in locally elevated levels of suspended particulates.

Changes or Alterations: Condition 35 requires the applicant to water down the project site at least twice daily or more as needed during construction activities in order to control dust. In any event, there are no sensitive land uses downwind of the project site, to the east.

2. Significant Effect: The proposed project would release particulate emissions from a variety of sources and activities on the site. The annual emission of particulates from the site with proposed air pollution controls would be over 37,600 pounds per year. The peak daily emission of particulates would be 243 pounds per day.

Changes or Alterations: As initially proposed and evaluated in the FEIR, the project incorporated Best Available Control Technology (BACT) for most aspects of project operation. Examples include the pneumatic unloading, loading and storage system for cement which would be equipped with fabric filters with an effectiveness of over 99.9%. Fabric filters would also be provided for the grain unloading hopper. Furthermore, the conveyor system for grain is enclosed to reduce emissions. Condition 18 requires the applicant to pave all on-site vehicular and pedestrian access ways with asphalt or concrete. The remainder of the site (other than landscaped areas) is required to be graveled or paved. Finally, in response to concerns expressed during the EIR review period, the applicant has agreed that there shall be no exposed storage or retention of bulk materials on-site. Condition 36 therefore requires all materials stored on-site to be covered by a structure or dome as approved with the design review application.

3. Significant Effect: Emissions from the unloading and loading of sand, gravel, bauxite, gypsum and limestone utilizes water sprays at entry points and transfer points. A permanent spray system would water storage piles to reduce wind-blown particulates and wet the materials prior to removal from storage. The use of water sprays for control of particulates during loading and unloading of these materials would

not be considered as BACT.

Changes or Alterations: As discussed, the project has been revised so as to eliminate any exposed storage of bulk materials on-site (Condition 36). This will eliminate the need to spray storage piles with water. The use of water sprays for control of particulates during loading and unloading of sand, gravel, bauxite, gypsum and limestone requires negotiations between the applicant and the Bay Area Air Quality Management District ("BAAQMD") to identify and incorporate appropriate BACT for the project into the BAAQMD permit. Condition 3 requires the applicant to obtain all necessary permits required by all affected government agencies prior to issuance of building permits. As to this significant effect, the Commission also finds that further changes or alterations are within the responsibility and jurisdiction of another public agency and not the City. Such changes should be adopted by BAAQMA.

E. Noise Considerations.

1. Significant Effect: Noise from on-site activities such as conveyors, front-end loaders, railroad cars and truck loading is not expected to exceed the City's noise standard at the nearest residential areas. However, some on-site noise may periodically be audible at these residences.

Changes or Alterations: Potential noise impacts will be reduced below a level of significance by requiring the applicant to implement several attenuation measures. For example, all construction equipment is required to be provided with mufflers and potentially annoying noise sources must be directed towards the interior of the facility (Condition 28). Noise-producing unloading equipment and machinery must be acoustically attenuated as necessary to comply with the City's residential noise standards (Condition 29). To verify that actual noise levels at nearby residential receptors are in compliance with applicable noise standards, the applicant is required to conduct 24-hour noise monitoring after the facility is in operation (Condition 30). If noise levels exceed these noise standards, acoustical treatment would be required to be installed and additional monitoring performed to verify compliance with noise standards (Condition 30). Finally, condition 32 specifies that the applicant is required to incorporate the following measures:

- a. Sound-absorptive barriers or earth berms near equipment and loading areas.
- b. The use of noise damping material in the hopper construction.
- c. Silencers at the air outlets of the "docksiders" cement unloading equipment.

d. Restricting construction activities to between 7:00 a.m. and 5:00 p.m. Monday through Friday.

e. Use of shipboard loudspeakers during docking, undocking, and while in port is prohibited.

2. Significant Effect: Noise from project-generated trucks is expected to generate noise levels at residential areas along Harbor Street in excess of the City's "normally acceptable" standard for residential land use. Existing noise levels at these residential areas are already in excess of the City's standards.

Changes or Alterations: Condition 6 prohibits project trucks from traveling on the most sensitive residential streets (the Harbor Street route) during the hours between 4:00 p.m. and 8:30 a.m., as further described in the condition. Eventually, the construction of a Truck Route Bypass, and the resulting diversion of truck traffic to that bypass route, will further reduce potential noise impacts on Harbor Street residential areas. The Truck Route Bypass will also divert truck traffic from other industrial businesses away from the Harbor Street route.

3. Significant Effect: The revised truck route alternative has the potential to generate significant adverse noise impacts at residential areas presently exposed to "normally acceptable" noise levels.

Changes or Alterations: The Truck Route Bypass proposal will be examined by the Master Plan study to be conducted by the City. The City will also carry out the required environmental analyses as part of this Master Plan study effort. Appropriate mitigation measures to lessen any significant noise impacts associated with the Truck Route Bypass will be proposed at that time. These measures could include significant setbacks or noise barriers in order to maintain normally acceptable noise levels in residential areas adjacent to the bypass route. All such measures would be required to be implemented prior to or in conjunction with construction of the new road.

F. Visual Considerations.

1. Significant Effect: Implementation of the project will result in the construction of at least three massive dome structures, visible from various locations in the City of Pittsburg. The visual character of the proposed project improvements will be industrial in appearance (e.g., mechanical equipment, etc.), with little appeal to aesthetic interests. During ship and periodic rail loading and unloading operations, high-intensity flood lights may produce glare during nighttime hours.

Changes or Alterations: The distance of the site from residential neighborhoods, the downtown area, and existing structures in the surrounding area will prevent the domes from appearing overwhelming. Furthermore, Condition 40 restricts the maximum height of any structure to 75 feet. The applicant will also be required to submit a design review application to the City prior to receiving building permits (Condition 41). As part of this application, the applicant will be required to provide landscaping along the perimeters of the project site in order to soften the project's appearance (Condition 42). In addition, all exterior lighting is required to be directed to the interior of the facility; dome-mounted lights will be limited to aircraft warning lights and OSHA-required safety lighting for platforms and ladders (Condition 33). Sodium lights are required instead of mercury lights to reduce glare, and the height of light posts will be restricted to 26 feet (Condition 33). With regard to ship loaders and unloaders, Condition 34 restricts on-site lights to 26 feet in height; in addition, these lights must be directed toward equipment activity and must be reviewed and approved by the City (Condition 34).

G. Biotic Considerations.

1. Significant Effect: Development of the project as proposed would result in removal of ruderal, grassland and sparse riparian vegetation.

Changes or Alterations: As previously indicated, Condition 42 requires the applicant to submit a landscape plan for the site. The landscaping which is required to be installed as part of this plan will compensate for the removal of existing vegetation from the project site.

2. Significant Effect: Proposed dredging along New York Slough would temporarily disturb the aquatic environment.

Changes or Alterations: Condition 26 prohibits the applicant from carrying out dredging activities during the migrations of anadromous fishes.

3. Significant Effect: Wetland habitat would be modified by channel bank improvements and bottom dredging.

Changes or Alterations: Condition 3 requires the applicant to obtain all necessary permits for the project as required by all affected government and quasi-government agencies prior to issuance to any building permits. Any proposed modification of wetland habitat would be reviewed by those agencies with jurisdiction over wetlands, including the U.S. Army Corps of Engineers and the State's Fish and Game Department to determine whether permits from those agencies would be required. Any mitigation required would be made conditions of the permits obtained from these agencies.

Section 3. The EIR identifies one significant effect on the environment which has not been avoided or substantially lessened. Regional emissions from transportation-related sources and direct emissions from the site would exceed BAAQMD thresholds of significance for hydrocarbons, oxides of nitrogen and particulate matter. There are no mitigation measures considered available or practical which would reduce transportation-related emissions having a regional impact. Spray bars will be used to wet trucks and train loads before they leave the site. Fabric covers for trains and trucks are impractical economically; also, those carriers are not under the control of the applicant.

As to this significant effect, the Planning Commission finds that specific economic, social or other considerations make infeasible any mitigation measures or project alternatives described in the EIR, as described above and more fully set forth in Section 5, below.

Section 4. The Planning Commission has considered various project and design alternatives as analyzed in the EIR and as summarized below. As to each alternative, the Commission finds that specific economic, social or other considerations make these project alternatives infeasible. A brief statement of the rationale for this finding as to each alternative is set forth here. An additional statement regarding overriding considerations is set forth in Section 5, below, and is incorporated here by reference as to each alternative.

A. Alternative: The No-project Alternative assumes a status quo of undeveloped land on the project site in the immediate future, with eventual alternate industrial development such as manufacturing, warehousing, a distribution center, or a combination of these types of uses.

Rationale: Eventual industrial development of the site could result in impacts which are similar in magnitude and significance to those of the proposed project. In some cases, impacts may even be greater. For example, certain manufacturing uses could result in an increase in gaseous, odorous, toxic or chemical emissions, even though suspended particulates were reduced. Grocery distribution or bakery production might require trucking during nighttime or early morning hours. Each nighttime truck operation would be equivalent to ten daytime operations in terms of noise impacts. The specific types and amounts of emissions and other impacts could only be determined when specific industrial uses were proposed.

In any event, the No-project Alternative would not meet the objective of the project proponent and is not economically feasible.

B. Alternative: Alternative "B", the Reduced Intensity Alternative, assumes that the tonnage of materials being handled on the project site would be substantially reduced, equivalent to 50 percent of currently proposed levels. Restrictions on operating hours (except for ship and barge loading) are also assumed.

Rationale: Although the level of some impacts would be reduced commensurate with a reduction in materials handled at the project site, the impacts associated with waterfront construction activities and dredging would be identical in magnitude and significance to those of the proposed project. Also, even were the emissions of nitrogen oxides to be halved, they would still be considered significant and would contribute to continuing ozone problems in the Bay Area. Furthermore, Alternative B would not be economically viable for the project proponent.

C. Alternative: Alternative "C", the Revised Access Alternative, is based on an alternate truck route being constructed between the project site and the Pittsburg-Antioch Highway, passing only through non-residential areas.

Rationale: Although Alternative "C" would serve to achieve the General Plan goal of directing truck traffic away from residential areas, it would require the establishment of an assessment district as well as the commitment of substantial financial resources in order to construct the roadway with grade separation at the railroad tracks. Also, the potential noise generation from traffic along the proposed truck route would be great enough to require significant setbacks and/or noise barriers (walls and berms) to maintain "normally acceptable" noise levels within residential areas. The applicant's proposed project has been conditioned to require the applicant to participate in an assessment district for eventual construction of an alternative access. Nevertheless, project operations can begin prior to the completion of the alternative access, although at a restricted level of truck traffic. This conditional approval recognizes that construction of the Truck Route Bypass is not economically feasible for the project alone but rather is only feasible when combined with contributions from other benefitted parties.

D. Alternative: Alternative "D" consists of an alternative site located north and east of the city limits of Antioch. The site is on approximately 37 acres adjacent to Minnaker Avenue and north of Wilbur Avenue.

Rationale: The alternative site is inferior to the project site in a number of respects. It is closer to residential land uses than the proposed project site, is immediately adjacent to a National Wildlife Refuge which would be adversely affected by noise and fugitive dust emissions from the project, and is not compatible with the planned disposition of dredge spoils (thus necessitating use of another disposal site or facility for this purpose). In addition, truck traffic would have to travel further to avoid residential areas and would also be required to cross a high-volume railroad track. The smaller site area, existing on-site material handling operation, and inadequate existing pier system present further difficulties to development of the project at the alternative site. It appears that mitigation measures required to reduce the probable impacts of the alternative site are less reasonably feasible than those measures required for the proposed project site, particularly due to the proximity of the residential units and the wildlife refuge to the alternative site.

Section 5. The Planning Commission hereby adopts this statement of overriding considerations.

The project applicant has made reasonable and good faith efforts to mitigate potential impacts resulting from this project. This Commission has imposed numerous conditions of approval and potential design modifications to avoid or substantially lessen the significant environmental effects identified in the EIR. However, even with these measures, the project will produce certain unavoidable or partially unmitigated impacts in that there are no mitigation measures or alternatives considered available or practical which would reduce transportation-related emissions having a regional impact.

This Commission has considered the public record on the proposed marine terminal and has determined pursuant to Section 15093 of the State CEQA Guidelines, adopted by the City, that the project is in the public interest in that the benefits of the project outweigh the remaining unavoidable adverse impacts and the project should be approved. In particular, the project will result in the following benefits:

1. The establishment of an oceangoing port that will open up the City to direct international trade offers a unique opportunity to the City.
2. The project furthers the General Plan guiding policy of protecting the supply of land suitable for industrial purposes and promoting the development of appropriate industrial uses.
3. The project will expand the employment base of the City by creating 33 permanent jobs, all but two of which will be hired locally. The annual payroll for the project will be approximately \$1,400,000.00 per year.
4. The project will generate substantial sales taxes (e.g., the importation of cement products alone could result in over \$60,000,000.00 of sales) with a portion of those taxes earmarked for the City.
5. The project could also result in a potential property tax assessment of \$45,000,000.00, resulting in approximately \$450,000 in tax revenues. A portion of those taxes will be received by the City.
6. The project will invest approximately \$35,000,000.00 in construction costs alone, thus benefiting the local economy. A large percentage of the construction contracts will go to local contractors.
7. The project will contribute to the economic well being of the City and surrounding area by handling several essential products, including:

a. Cement and aggregate imports - the planned importation of approximately one million tons of cement and a substantial tonnage of aggregate resources will supply local "ready mix concrete" companies and will compensate for the existing short-falls of these materials which domestic manufacturers cannot supply. Receipt of these materials through the marine terminal facility will also minimize the need for truck transportation of these materials.

b. Imports of bauxite, limestone, and lumber - the project will enable local companies to secure these materials at a lower cost due to the favorable economics of rail and water transport.

c. Grains/wheat export - the project will generate new business, with a resultant likely increase in local employment.

8. The project will produce indirect economic benefits due to spending by several hundred ship crew members in the local economy each year.

9. The project will result in additional indirect economic benefits because support businesses (including ship brokers, international trading companies, ship supply companies, transportation consultants, etc.) will likely locate in Pittsburg because of the marine terminal project.

10. The project's contribution to and participation in an assessment district for the construction of the Truck Route Bypass will enable trucks from other facilities to be diverted away from sensitive residential areas adjacent to existing truck routes. Without the project's participation, the Truck Route Bypass construction would not be feasible.

11. Development of the project will allow public access and viewing of a marine terminal for educational purposes. The applicant will install a safe fenced observation area for the use of local residents and students. In addition, periodic educational tours of the terminal and ships will be arranged.

Section 6. The Planning Commission finds that the EIR was prepared in accordance with the provisions of the California Environmental Quality Act and the State CEQA Guidelines, adopted by the City. The Planning Commission hereby recertifies the FEIR and certifies the Addendum EIR. The Commission also finds that the City has: (a) eliminated or substantially lessened all significant effects on the environment where feasible (see Section 2, above); and (b) determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to overriding concerns (see Sections 3 and 5, above).

On motion by Commissioner Gordon, seconded by Commissioner Garcia the foregoing resolution was passed and adopted this 16th day of

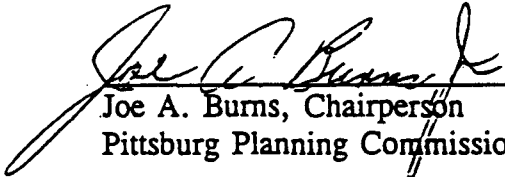
January, 1991, by the Planning Commission of Pittsburg, California, by the following vote:

AYES: Gordon, Garcia, Moline, Bedford, Burns

NOES: Beck, Riccio

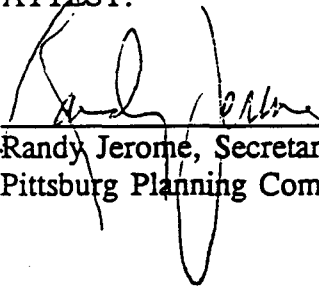
ABSENT: —

ABSTAINED: —



Joe A. Burns, Chairperson
Pittsburg Planning Commission

ATTEST:



Randy Jerome, Secretary
Pittsburg Planning Commission

I, the undersigned, acknowledge that the above stated conditions are required to be fulfilled as a part of the approval of this application.

Applicant's Name (print)

Applicant's Signature

Property Owner's Name (print)

Property Owner's Signature

pitts/res/han-li

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BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution to Approve a Use Permit Modifying)	
City Council Resolution 91-7658 (U-88-36))	
for the (formerly known HAN-LI International Group))	Resolution No. 8896
Pittsburg Marine Terminal (UP-95-05))	
APN 073-020-020, 073-030-007)	

The Pittsburg Planning Commission does resolve as follows:

Section 1. Background

1. On August 31, 1995, John Bass, Isle Capital Corporation, filed UP-95-05 in accordance with Chapter 18.28 of the Pittsburg Municipal Code requesting planning approval to amend the use permit and allow multiple products be stored and transferred for the Pittsburg Marine Terminal on the 15.58 acre site located at the eastern terminus of East Third Street, IG zone; APN 073-020-020 and 073-030-007.

2. On August 12, 1988, Don Olson of HAN-LI International Group filed U-88-36 requesting Planning approval of a marine terminal on the 15.58 acre site located at the end of East Third Street in an IG-S zone; APN 073-020-020, 073-030-007.

3. On April 25, 1990, the Community Development Director filed a Notice of Completion of the Draft Environmental Impact Report for the proposed project with the California Office of Planning and Research.

4. After closing the public hearing, the Commission unanimously voted to accept the project Environmental Impact Report entitled Han-Li International Marine Terminal, dated August 28, 1990 and directed staff to bring back a resolution on November 27, 1990 as a consent calendar item certifying the FEIR as complete pursuant to the California Environmental Quality Act. The Page 1 of 11 Commission also ordered the preparation of an Addendum EIR concerning certain revisions to the project.

5. On November 27, 1990, the Commission adopted Resolution No. 8469 certifying the FEIR as complete.

6. On January 16, 1991, the Planning Commission conducted the public hearing and took additional oral and written testimony; the Commission then re-certified the project EIR and certified an addendum to the project EIR prepared by Duncan & Jones describing changes to the project description and associated impacts by the adoption of Resolution No. 8472, and then adopted Resolution No. 8442 approving U-88-36 with conditions.

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7. On January 22, 1991 separate appeals were filed by Herb White and by Mark Smith for the Central Neighbors on the Planning Commission approval of U-88-36.

8. On March 4, 1991, the City Council on appeal adopted Resolution No. 91-7658 approving U-88-36 with conditions.

9. On December 7, 1994, Don Olson, Isle Capital Corporation filed a use permit application (UP-94-16) requesting an amendment to conditions 5, 6, and 10 of City Council Resolution No. 91-7658 regarding approved truck routes established in U-88-36.

10. A Negative Declaration was posted for this proposed project on January 23, 1995 the Community Development Director having found that no significant effects upon the environment will occur as result of this project.

11. On February 14, 1995, the Planning Commission conducted a public hearing and adopted resolution No. 8870 approving UP-94-16 modifying Resolution No. 91-7658 regarding truck routes.

12. An Addendum to the project EIR was prepared in accordance with CEQA (Section 15164[a][2] and [3]) by environmental consultant Duncan & Jones. The Addendum was prepared to review this proposal and identify any impacts which may alter the determinations made in the project EIR.

13. Notice of the October 10, 1995, public hearing for this project was mailed, published and posted September 30, 1995.

14. On October 10, 1995, the Planning Commission held a public hearing on UP-95-05 at which time oral and/or written testimony was considered.

Section 2. Findings

Based on evidence presented at the public hearings, the Planning Commission finds that:

1. The project EIR and Addendum #1 and Addendum #2 were properly prepared in accordance with the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq. ("CEQA")). The Commission has reviewed and considered the EIR, and has certified the Final EIR and Addendum #1 EIR for the reasons and with each finding stated in Planning Commission Resolution No. 8472.

2. The project is consistent with the General Plan and Zoning Ordinance in that:

A. The project site is currently zoned and designated on the General Plan as General Industry which the General Plan indicates should be protected, retained, and actively promoted for development with appropriate industrial uses. (Policy 2.8.A)

B. The proposed use on this site as a railroad and truck terminal is explicitly permitted

in the zoning ordinance, and the wharf for marine operations is a conditionally permitted use. (P.M.C. Section 18.54.010)

- C. Existing and future residential areas will be protected from adverse effects from the project by mitigation measures identified in the FEIR and Addendum EIR and the conditions of approval in Section 3. (Policy 2.8.D.)
 - D. The project is not in an area of geologic or flood hazards. (Policy 2.8.E.)
 - E. The project will stimulate sound economic development in Pittsburg and East county. (Policy 2.8.F.)
 - F. Public access to the riverfront will be provided on the site. (Policy 4.2.M.)
 - G. A Master Plan study has been prepared which satisfies the substantive requirements of a specific plan to identify needed circulation and utility infrastructure improvements in the Northeast Riverfront area and designate an assessment district boundary to provide for construction of such improvements as the East Third St. realignment, undergrounding, and upgraded sewer and water lines. (Policy 2.3.F.)
3. A marine terminal/wharf on this site:
- A. is in accordance with the objective of Title 18, the purposes of the land use district in which it is located, and is appropriate to the specific location in that it complies with all the development and land use regulations of the IG-S zone.
 - B. is not detrimental to the health, safety, and general welfare of the City due to the analyses in the EIR and Addendum #1 and Addendum #2 plus the associated mitigation measures and conditions of approval in Section 3;
 - C. will not adversely affect the orderly development of property within the City, but, in fact, substantially improve an area in the City that has been in disrepair and underutilized;
 - D. will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City, but instead will significantly increase property values and revenue sources;
 - E. is consistent with the objectives, policies, general land uses and programs specified in the general plan, as more fully described above;
 - F. will not create a nuisance or enforcement problem within the neighborhood due to the above described mitigation measures and conditions of approval;
 - G. will not encourage marginal development with the neighborhood, in that this project involves a substantial financial commitment which will result in a first-rate facility;

- H. will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law because of the aforementioned analyses and conditions:
- I. is consistent with the City's approved funding priorities.
4. The proposed use conforms with the policies and guidelines of the Pittsburg General Plan and is consistent with the General Industrial land use designation.
 5. The Project is consistent with and will be located in an industrial zone among heavy industrial uses, including the USS-POSCO steel finishing plant, the Manville roofing plant, GWF and several other industrial enterprises.
 6. The project use and improvements are consistent with all development regulations of the Pittsburg Zoning Ordinance.
-
7. Conditions of Approval 7, 8, 11 and 44 (Section 3) involve contributions by the applicant in connection with defraying the cost of public facilities related to the project. With respect to these fees, the Planning Commission makes the following findings:

a. The purpose of these fees is to contribute toward the costs of maintaining, improving and constructing certain roads (traffic and infrastructure improvements) impacted or required by the project's truck traffic and to provide a three year source of funding for crossing guards.

b. These fees will be used as described in the referenced Conditions of Approval, and as further described in the FEIR. Addendum # 1 and Addendum # 2 EIR, the Road Maintenance Analysis dated November 2, 1990. These reports identified traffic and circulation impacts associated with development of the project and the improvements and/or cost of improvements and maintenance attributable to this project in order to mitigate the identified impacts.

c. There is a reasonable relationship between the use of the fees referenced above and the type of development project, in that a marine terminal and wharf of the nature proposed by the applicant involves truck trips in excess of those which would ordinarily be present on public streets.

d. There is a reasonable relationship between the need for the public facilities as described above and the type of project involved here, in that the FEIR and Addendum EIR have identified certain burdens which will be created by this project. Vehicle trips from the project will impact traffic infrastructure resulting in the need to increase capacity, protect adjacent residential neighborhoods from the noise and danger associated with heavy truck traffic, and prevent the accelerated deterioration of streets due to such truck traffic. The facilities which will be partially funded by the payment of fees by the applicant are reasonably related to and necessary as a result of the burden created by this project.

e. There is a reasonable relationship between the amount of the fees imposed by the referenced conditions and the cost of the described public facilities or positions thereof, as further set forth in the referenced Conditions of Approval, the referenced environmental documents, analysis and master plan, and as further set forth in the staff report on this project dated January 16, 1991, February 14, 1995 and October 10, 1995, and incorporated here by reference.

8. The City has a legitimate governmental interest in creating safe roadways, public thoroughfares and unrestricted access to places of business. The City's dedication requirement substantially advances these legitimate governmental interests by promoting unrestricted, improved roadways, increasing public thoroughfares and reducing traffic congestion.

The Commission further finds that the benefits of dedication are roughly proportional to the burdens created by the project. In addition to other information and findings in this resolution and the record on the project which supports the dedication requirement, the Commission makes the following additional individualized determination that the required dedication is related in both nature and extent to the impact of the proposed development.

a) Traffic safety: Currently, access to the project is across a private, unimproved roadway easement. Without dedication of the easement, traffic maneuverability and public access to the project site and surrounding industrial properties would be substantially limited. Dedication of the easement will create an unrestricted, improved truck route, allow public access to the project, increase public thoroughfares within the City and provide traffic maneuverability.

Section 3 Approval

Based on the findings as set forth above, this Commission approves the EIR Addendum #2 and approves UP-95-05 subject to the following conditions:

1. The proposed use for a marine terminal shall be conducted as specified in this application.
2. The permitted materials to be transferred on site shall be cement, cementitious materials, aggregates (sand and gravel), gypsum/bauxite, scrap metal, limestone, lumber, grains, petroleum coke, and any other non-hazardous material as classified by the EPA. Dry and wettable bulk solid materials shall be moved throughout the facility pneumatically or by covered conveyors and shall comply with Bay Area Air Quality Management District (BAAQMD) standards for emissions.
3. The applicant shall obtain all necessary permits as required by all affected government and quasi-government agencies prior to issuance of building permits.

4. The applicant shall implement the mitigation monitoring program approved on November 27, 1990, except as modified by this resolution.

5. The applicant shall utilize the designated truck routes as defined below:

Route #1 (Harbor Street)

This route is from the project site, continues onto East Third Street, to Harbor Street, then to California Avenue. Trucks going east on Highway 4 will use California Avenue east of Harbor Street and continue to Loveridge interchange.

Route #2 (Railroad Ave.)

This route is from the project site, continues onto East Third Street, to Harbor Street, to East Tenth Street, to Railroad Avenue, then to Highway 4.

Route # 3 (Tenth Street)

This route is from the project site, continues onto East Third Street, to Harbor Street, to East Tenth Street, continuing on East/West Tenth Street as it changes to Willow Pass Road. Trucks going west on Highway 4 will continue on Willow Pass Road to Highway 4.

6. The truck distribution and hours of truck traffic operation on the above designated routes shall be as follows:

- a. Trucks shall only be allowed on Route # 1 (Harbor St.) and Route #3 (Tenth Street) Monday through Friday between the hours of 8:30 a.m. and 4:00 p.m.
- b. Trucks shall not be restricted in the use of Route # 2 (Railroad Avenue).

7. The applicant agrees to participate, in an equitable manner, in an assessment district referred to as the "Northwest Industrial Area Assessment District" which will include but not be limited to roadway/intersection improvements, landscaping, undergrounding, and sound wall. The dollar value borne by the applicant shall not exceed that allowed by law.

8. If permanent roadway improvements to be constructed as part of the Northwest Industrial Area Assessment District for East Third Street between Harbor Street and the project site are not completed prior to operation of the facility, the applicant shall make interim street repairs as determined by the City Engineer to the street prior to issuance of the Certificate of Occupancy.

9. If permanent roadway improvements such as striping, signage, curb return radii and other improvements to be constructed for the intersections of Harbor Street and East Tenth Street, Harbor Street and California Avenue, Railroad Avenue and Tenth Street, and Railroad Avenue and California Avenue (proximity of Highway 4) as part of the Northwest Industrial Area Assessment

District are not constructed prior to operation of the facility, the applicant shall study, design and construct proper striping, signage, curb return radii and other improvements at his expense and be reimbursed by the Assessment District after its formation.

10. The number of trucks that access the site shall not exceed 160 per day.

11. The applicant shall pay to the City up to \$40,000 per year for three years. This is a not-to-exceed amount based on the formula used to calculate the fee for City Council Resolution No. 7658, condition No. 11 (U-88-36) and adjusted for the CPI (Consumer Price Index). The first year starts following issuance of the Certificate of Occupancy and payable the next two years thereafter. This money shall be used for the maintaining and improvement of the roads impacted by the project's truck traffic.

12. The applicant shall provide a temporary truck turn-around at the entrance to the project site on East Third Street prior to facility operation subject to the approval of the City Engineer.

13. The applicant shall dedicate to the City of Pittsburg for roadway purposes the strip of land forty feet wide and two hundred feet in length, currently used as a private street, that fronts Assessor's Parcel No. 073-020-004. This condition shall be subject to the applicant acquiring the area to be dedicated.

14. The developer shall, in accordance with deferred Improvement Agreement 85-02R (13795 or 198), install or pay to the Northwest Industrial Area Assessment District the cost of frontage improvements along the length of the strip of land being dedicated for roadway purposes. (Northwest Industrial Area Assessment District item)

15. All on-site vehicular and pedestrian access ways shall be paved with asphalt or concrete. The remainder of the site shall be either graveled or paved (other than landscaped areas).

16. The applicant shall investigate waterline capacities on Harbor Street to determine whether it is adequate for the project to the satisfaction of the Engineering Division and Contra Costa County Fire Protection District. If necessary, to be determined by the City Engineer, the applicant shall install an off site water main in East Third Street to connect with the City's water stub-out from Harbor Street.

17. Domestic sanitary sewer from the project site shall be connected to the Harbor Street sewer manhole at Third Street without cost to the City.

18. All surface runoff shall be conveyed to an adequate storm drain system and detention basin which shall be monitored for excessive ph levels. The cost of any alteration to the design per SFBRWQCB shall be borne by the applicant.

19. The applicant shall adhere to applicable standards of practice and building codes for seismic hazard area; equip pipes carrying any flammable materials (such as gas, oil, etc.

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required for the operation of equipment) with automatic shut-off valves and design them to minimize potential for breakage.

20. Before finalizing facility design, the applicant's geotechnical consultant shall perform a liquefaction analysis to confirm the potential liquefaction hazard at the project site. If this analysis shows a potential hazard, the applicant shall implement specific design criteria to mitigate the problem. The measures could include:

- a. Avoiding building critical structures in the potential liquefiable area;
- b. Densifying the liquefiable soils by compaction;
- c. Providing support for critical structures in firm soils below the liquefiable soils; or
- d. Other measures recommended by a registered geotechnical consultant.

21. The applicant shall place all tanks containing acids, caustics, and oil used for maintenance of equipments, on concrete slabs and surround them with containment walls to contain spills.

22. Final construction plans for the retention basin shall be approved as required by the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) the Delta Diablo Sanitation District and the Contra Costa Water District and any other agency having jurisdictional control over the project.

23. If wastewater is disposed of in local sanitary sewer system, applicant will obtain authorization from the Delta Diablo Sanitation District, the City of Pittsburg, and pay the required fees.

24. All construction equipment shall be provided with mufflers. Potentially annoying noise sources shall be directed towards the interior of the facility.

25. Noise-producing loading equipment and machinery shall be acoustically attenuated as necessary to comply with Pittsburg residential noise standards.

26. The applicant shall conduct 24-hour noise monitoring after the facility is in operation to verify that actual noise levels at nearby residential receptors are in compliance with applicable noise standards as predicated in the EIR and General Plan. If noise levels exceed City of Pittsburg noise standards, acoustical treatment (such as structural enclosures or barriers) would be installed and additional monitoring performed to verify compliance with noise standards.

27. Ships and barges shall be docked for loading or unloading with their sterns to the

east except for safety as determined by the ship's master.

28. The applicant shall minimize noise impacts by way of incorporating the following measures:

- a. Sound-absorbent barriers or earth berms near equipment and loading areas
- b. The use of noise damping material in the hopper construction
- c. Silencers at the air outlets of the "docksiders" cement unloading equipment
- d. Restricting construction activities to between 7:00 a.m. and 5:00 p.m. Monday thru Friday
- e. Use of shipboard loudspeakers during docking, undocking, and while in port is prohibited

29. All exterior lighting shall be directed to the interior of facility; dome-mounted lights shall be limited to aircraft warning lights and OSHA required safety lighting for platforms and ladders. sodium lights shall be used instead of mercury lights to reduce glare.

30. On-site lights for ship loaders and unloaders must be directed toward equipment activity.

31. The site shall be watered down at least twice daily or more as needed during construction activities to control dust.

32. There shall be no exposed storage or retention of bulk materials allowed on-site. All materials stored on site must be retained in a covered structure or dome as approved with the Design Review application.

33. The applicant shall use all efforts to work with the City of Pittsburg's Human Resources Department for referral of unemployed Pittsburg residents as applicants for employment at the completed project.

34. If archaeological artifacts are encountered during construction, construction on any culturally sensitive site shall cease until findings are evaluated by a qualified archaeologist.

35. A design review application shall be filed and approved by the Planning Commission for the site plan, building, and landscape improvements to the site prior to issuance of building permits.

36. A landscape plan for the south, east, north and west perimeters of the Project site

shall be submitted as part of the Design Review application. The approved landscaping shall be installed prior to issuance of a Certificate of Occupancy.

37. The site shall be maintained in a neat and clean manner, free of trash and debris during and after construction.

38. The applicant shall comply with all requirements of the Building Division, Engineering Division and Contra Costa County Fire Protection District, and Contra Costa County Environmental Health Division and other agencies as required.

39. All applicable regulations of Chapter 18.82 of the zoning ordinance (Performance Standards For All Uses) shall be complied with.

40. All site development shall comply with Title 12 (Streets, Sidewalks and Utilities), Title 13 (Water and Sewers) and Chapter 15.88 (Grading, Erosion and Sediment Control) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a site development permit is required by whereby specific engineering requirements will be made as conditions of approval.

41. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 5087 shall apply as conditions of approval for this proposal.

42. The use permit application shall be reviewed by the Planning Commission approximately one (1) year from its date of approval. Staff will inspect the site and operation to ensure compliance with the conditions of approval. Failure to comply with any of the conditions or limitations shall be cause to notice the applicant of such non-compliance and applicant shall have ninety (90) days from receipt of notice to comply. Applicant's failure to comply within such 90 day period shall be cause to rehear the application before the Planning Commission for review of the permit and its conditions of approval. The Commission may apply additional conditions as necessary or may revoke the permit at its sole discretion.

43. The applicant shall defend, indemnify and hold harmless the City of Pittsburg, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, which action is brought within the applicable time period of Government Code Section 65907. In the event the City becomes aware of any such claim, action, or proceeding, the City shall promptly notify the applicant, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing contained in this condition prohibits the City from participating in the defense of any claim, action, or proceeding, if both of the following occur: (1) the City bears its own attorney's fees and costs; and (2) the City defends the action in good faith. The applicant shall not be required to pay or perform any settlement unless the settlement is approved by the applicant.

44. The applicant shall provide funding for three years for a crossing guard at the intersection of Harbor Street and School Street.

45. If five separate Pittsburg citizen complaints concerning odors believed to be emanating from the facility are received by the City of Pittsburg within a 24 hour period, and the City of Pittsburg concludes after further investigation that a significant odor problem exists as a result of the product handled by the facility, then the applicant shall meet with the City of Pittsburg officials to determine what reasonable mitigation measure(s) can be taken to control the problem.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Garcia, seconded by Commissioner Gordon the foregoing resolution was passed and adopted this 10th day of October 1995, by the City Council of Pittsburg, California, by the following vote:

AYES: Garcia, Gordon, Holmes, Reyes, Scinto, Smith, Tumbaga

NAYS: None

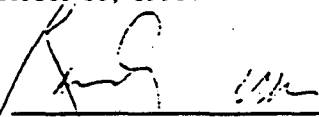
ABSENT: None

ABSTAINED: None



JESS REYES, CHAIRMAN
PITTSBURG PLANNING COMMISSION

I hereby attest the above signature and certify that the above Resolution No. 8896 was adopted by the Planning Commission of the City of Pittsburg October 10, 1995.



RANDY JEROME, SECRETARY
PITTSBURG PLANNING COMMISSION

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Resolution No. 8442
Exhibit " "

MITIGATION MONITORING AND REPORTING PROGRAM

Section 21081.6 of the California Public Resources Code requires Mitigation Monitoring and Reporting (MM&R) programs to verify the implementation and effectiveness of the mitigation measures that have been identified in the EIR. The agency approving a project is required to adopt a program of actions to be carried out which is consistent with the conditions of approval. The MM&R program specifies the following conditions:

- what characteristics of the proposed activity are to be considered;
- who is responsible for implementing each mitigation;
- when the mitigation measure is required to be in place or what other time schedule needs to be adhered to;
- completion criteria or under what circumstances the mitigation or monitoring program can be considered complete and no longer necessary; and
- verification or who is responsible for monitoring the mitigation measures or reporting programs for accuracy to certify their successful implementation and or completion.

The Program is arranged according to the major environmental chapter headings identified in the EIR, such as Planning and Policy, Traffic and Circulation, and Water and Air Quality. Explanation of the context of each mitigation measure is fully described in the Draft EIR, and page numbers referencing the page where the mitigation measure is identified (e.g., DEIR Pg. 65). References are also provided listing the Condition of Approval number used (e.g., COA #5) in the Final Staff Report.

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MITIGATION MONITORING AND REPORTING PROGRAM

CHAPTER III. PLANNING AND POLICY CONTEXT

1. Development Standards; DEIR Pgs. 128-31, COA #40

What

The applicant is required to meet all standards of the City Municipal Code for site development, landscaping, grading, etc., as specified in the conditions of approval.

Who

Applicant, Han-Li International Group, Inc.

When

Prior to issuance of Building Permit.

Completion criteria

The Department of Community Development (DCD) must certify that all relevant regulations and standards have been met.

Verification

By the DCD.

2. Master Plan Preparation; DEIR Pgs. 65 & 83, COA #11 & 12

What

The preparation of a Master Plan study of the Northeast River Industrial Area, as detailed in the conditions of approval. The Plan preparation is to be partly and equitably funded by contributions from the applicant. The staged implementation of specified improvements defined by the Master Plan must be coordinated with the construction timetable of the Project applicants.

Who

Applicant, Han-Li International Group, Inc.; and the Department of Community Development (DCD).

When

The Master Plan is to be completed prior to the issuance of any permit for construction.

Completion criteria

The Master Plan should be certified by the City of Pittsburg to be complete and adequate to provide the means for regul-

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ed infrastructure improvements, as defined in the conditions of approval.

Verification

The DCD will verify that the Master Plan is complete and approved as the basis for implementing the design and construction of required improvements.

3. Local Employment; DEIR Pg. 66, COA #36

What

Applicant is required to provide its hiring plans to the City's Human Resource Department for review, and referral of unemployed local residents.

Who

Applicant. Han-Li International Group, Inc.

When

Prior to issuance of City business license for the facility.

Completion criteria

The Department of Human Resources should be satisfied that the applicant has made all good faith efforts to consider the employment applications of persons referred by the Department.

Verification

The Director of the Department of Human Resources.

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IV. TRAFFIC AND CIRCULATION

4. Truck Traffic Plan; DEIR Pgs. 82-4, COA #5-7, #11

What

Truck traffic generated by the Project is to be managed in accordance with the conditions of approval for a complete Truck Traffic Plan of schedules, routes, and numbers of trucks travelling to and from the site. The Plan will be approved by the City Engineer and the DCD, and will extend beyond the planned implementation of the proposed alternate truck route as defined in the DEIR (pages 82, 83 and 84) and conditions of approval (#5, #7 and #11).

Who

Applicant, Han-Li International Group, Inc.

When

A draft Truck Traffic Plan should be submitted to the City together with the Final Development Plans.

Completion criteria

Ongoing. The Plan may be revised subject to approval by the City Engineer and the Director of the DCD.

Verification

The applicant will maintain record books of truck trips and materials handled on the site, for inspection by an appointed agent or employee of the City. Such an agent will be agreed upon by the applicant, will be bonded for confidentiality, and his or her time and expenses for this purpose will be billed to the applicant. Inspections will be carried out on a monthly basis, and the agent will have the right to obtain other records of activities from the applicant's business associates to confirm the activities and characteristics of the Project in both its construction and operation. The agent will present a monthly report, subject to comment by the Project operator, to the Director of Community Development to document the status of the Project. The report will be subject to public comment and, at the discretion of the DCD, subject to public hearings.

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5. Roadway and Infrastructure Improvements; EIR Pgs. #2-3, COA #8, #10-#17

What

The applicant is to be responsible for the cost of all improvements necessary for operation of the proposed facility, including roadway improvements for all routes to be used by truck traffic, roadway dedications, rail spur extensions, underground utility connections, and water lines with adequate fire hydrant pressure. Some improvements may be subject to the participation of the applicant in one or more assessment districts with deferred capital improvement agreements, and the development of temporary facilities (e.g. sewer connector as allowed in COA #19).

Who

Applicant, Han-Li International Group, Inc.; City Engineer.

When

Installation of roadway and infrastructure improvements should commence prior to approval of the Building Permit, and be coordinated on a timetable as directed by the City Engineer and agreed to by the applicants. Some ongoing inspection of facilities will be carried out by the City Engineer on a schedule to be determined (e.g., quarterly in first year, bi-annually in second and third years, etc.).

Completion criteria

Installation of improvements are to have certified inspections completed by the City Engineer.

Verification

The City Engineer will issue certificates of inspection, and prepare reports to the Planning Commission upon completion of each ongoing inspection.

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7. WATER QUALITY

6. Surface Drainage; DEIR Pg. 93, COA #20 #24

What

A storm drainage retention basin and storm drain conduits will be provided on the facility site to accommodate runoff from the site.

Who

Applicant, Han-Li International Group, Inc.

When

To be coordinated with initial excavation and grading activity, to prevent runoff during construction, and incorporated into the grading permit. Approval of any temporary or final plan for the detention basin is to be given by the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB).

Completion criteria

Initial inspection by the City Engineer and the SFBRWQCB, and ongoing.

Verification

City Engineer and the SFBRWQCB, who will prepare reports to be made available to all concerned agencies and the public.

7. Containment Walls; DEIR Pg. 73, COA #23

What

All tanks and storage drums of caustics, acids or oils are to be placed on stabilized pavement and surrounded with containment walls for accidental spills.

Who

Applicant, Han-Li International Group, Inc.

When

Prior to issuance of Building Occupancy Permit

Completion criteria

Upon satisfactory inspection by the City Engineer.

Verification

City Engineer.

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5. Dredging Activities; DEIR Pg. 142, COA #25

What

The applicant is to withhold from dredging activities during the intake periods of the Contra Costa Water District and the City of Antioch, and during migration runs of anadromous fish.

Who

Applicant, Han-Li International Group, Inc.

When

During construction phasing, and specifically from mid-December to mid-February.

Completion criteria

The applicant is to allow the Building Inspection Department to monitor dredging activities.

Verification

Building Inspection.

VI. AIR QUALITY

8. Best Available Control Technology (BACT); DEIR Pg. 107, COA #35

What

The applicant is to obtain appropriate Permit approval from the BAAQMD, which will include identifying and implementing BACT as part of the facility operation to prevent significant air quality deterioration from the various potential sources of the Project.

Who

Applicant, Han-Li International Group, Inc.; Bay Area Air Quality Control Board (BAAQMD)

When

Agreement with BAAQMD is to be indicated as part of Final Development Plans, and the BACT measures are to be monitored on an ongoing basis to be determined by BAAQMD.

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Completion criteria

Issuance of BAAQMD Permit, and on satisfactory ongoing inspections by the BAAQMD of BACT measures, procedures and equipment.

Verification

BAAQMD.

10. Construction Dust Control; DEIR Pg. 105, COA #34

What

Water spraying of the site to control dust is to be done twice daily or as needed during construction, to be determined by the construction manager, subject to the observation and satisfaction of the Building Inspectors.

Who

Applicant, Han-Li International Group, Inc.

When

On a daily basis (seven days a week) during construction, and on a continuing basis to be determined by the DCD and the BAAQMD.

Completion criteria

Monitoring by the DCD to determine that wind borne dust is kept to a minimum, subject to comment by other agencies and interested parties, and satisfaction of control by BAAQMD.

Verification

BAAQMD monitoring program.

VII. NOISE CONSIDERATIONS

11. Noise From Construction Equipment; DEIR Pg. 124, COA #27

What

Muffling of construction equipment is required, with efforts to deflect annoying sources of noise from sensitive receptors. Compliance with schedule of permitted times for use of construction equipment is also required.

Who

Applicant, Han-Li International Group, Inc.

When

Ongoing during construction.

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Completion criteria

Inspection of construction equipment and site operating conditions by the Building Inspection Division, and to assure compliance with noise abatement procedures. Investigation of complaints received from neighborhood residents.

Verification

Satisfaction on the part of the DCD.

12. Noise From Operations; DEIR Pg. 123-4, COA =28-31

What

Attenuate noise emissions from operating equipment (e.g. "Docksider" materials-handling equipment, etc.) to meet the City's noise standards, including use of sound absorptive barriers, silencers, sound damping materials in hopper construction. Limit train operations to daytime hours (7:00 AM to 10:00 PM). Minimize ship noise by docking with stern to the east.

Who

Applicant, Han-Li International Group, Inc.

When

Monthly measurements of noise emission on- and off-site, in first year of operation, and quarterly measurements in subsequent years.

Completion criteria

When facility is in operation, the applicant will retain an independent acoustical engineer acceptable to the City to conduct appropriate measurements to ensure that noise levels meet specified standards and do not exceed levels defined in the DEIR. Applicant will provide the City with operating schedules to enable the range of conditions to be measured.

Verification

DCD staff will assure results of measurements and determine the adequacy of the facility in meeting the standards identified.

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III. VISUAL AND OTHER CONSIDERATIONS

- 13. Visual Considerations; DEIR Pg. 129-131, COA #40
[See Program item 1 under Chapter III above]
- 14. Light and Glare; DEIR, Pg. 132, DOA #32 & #33

What

Floodlights and other sources of illumination are to be directed inwards to the facility site, to minimize glare and light "spillage" affecting adjacent areas.

Who

Applicant, Han-Li International Group, Inc.

When

Following completion of construction and initiation of operations, and upon receipt of any subsequent complaints to the City or facility operators.

Completion criteria

Visual inspection by Building Inspection staff or an approved agent of the City of lighting equipment and of areas illuminated is to be carried out to determine compliance with stipulations on character and height of light sources, orientation, adequacy of shielding/focussing devices, and control of glare.

Verification

Satisfaction on the part of the DCD staff.

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