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*Before the Board of Supervisors in and for the
County of Monterey, State of California*

Resolution No. 04-121

Adopt a Mitigated Negative Declaration and Condition
Compliance and Mitigation Monitoring and Reporting Plan
and approve a Use Permit for D'Arrigo Brothers (PLN020069))
for development of an approximately 219,000 square foot
Agricultural Processing Plant. The property is located at 20911)
Harris Road (Assessor's Parcel Numbers 177-011-005-000 &
177-111-003-000), southeasterly of the Town of Spreckels,
Greater Salinas Area Plan

In the matter of application No. PLN020069 (D'Arrigo Brothers):

A Mitigated Negative Declaration and a Use Permit for property located at 20911 Harris Road (Assessor Parcel Numbers 177-011-005-000 & 177-111-003-000), southeasterly of the Town of Spreckels came on for public hearing before the Monterey County Board of Supervisors on March 30, 2004. The proposal includes:

1. Adoption of a Mitigated Negative Declaration and Condition Compliance and Mitigation Monitoring and Reporting Plan, and
2. A Use Permit for development of an approximately 219,000 square foot agricultural processing plant containing: 172,508 sq. ft. cooler building containing 150,000 sq. ft. of cooler area (100,000 sq. ft. to be developed in the first phase and 50,000 sq. ft. in the second phase), as well as office, fitness room, storage, packing employee & refrigeration equipment areas; 35,670 sq. ft. for office space (25,670 sq. ft. to be developed in the first phase and 10,000 sq. ft. in the second phase); 9,900 sq. ft. for dry storage (4,500 sq. ft. to be developed in the first phase and 4,400 sq. ft. in the second); 1,440 sq. ft. for a truckers lounge area; a 720 sq. ft. battery room; a 670 sq. ft. receiving office; A 15,000 sq. ft. produce shade structure; a 4,500sq. ft. carton shade structure; and 386 parking spaces including 292 car spaces, 64 truck spaces & 30 truck loading bays. The project also includes an on-site water system, two septic disposal systems for disposal of domestic waste water, a treatment facility for process wastewater and a stormwater retention pond.

Having considered all the written and documentary information submitted, the staff reports, oral testimony, other evidence presented, and the administrative record as a whole, the Board of Supervisors hereby finds and decides as follows:

FINDINGS:

1. FINDING: The subject Use Permit (File PLN020069) as described in Condition No. 1 and as conditioned conforms with the plans, policies, requirements and standards of the General Plan, Greater Salinas Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 20911 Harris Road (Assessor's Parcel Numbers 177-011-005-000 & 177-111-003-000), southeasterly of the Town of Spreckels, Greater Salinas Area Plan. The parcel is zoned "F/40" or Farmlands, 40 Acre Minimum. The subject site is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The General Plan and the Greater Salinas Area Plan
- b) Chapters 21.06, 21.30, 21.58, 21.60 and 21.54 of the Monterey County Zoning Ordinance
- c) Chapter 22, Monterey County Septic Ordinance

EVIDENCE: The project site is suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Planning and Building Inspection Department, Health Department, Public Works Department, Water Resources Agency, Salinas Rural Fire Protection District, Transportation Agency for Monterey County and the Monterey Bay Unified Air Pollution Control District. There has been no indication from those agencies that the site is not suitable for the proposed development. Each agency has recommended conditions for project approval. The Initial Study prepared for the project demonstrates that no physical or environmental constraints exist that could not be mitigated, and therefore would indicate that the site is suitable for the proposed development.

EVIDENCE: The proposed project is an agriculture-related facility and therefore is consistent with the provisions of the agricultural land use goal (Goal No. 30) the General Plan of protecting conversion of prime agricultural lands to non-agricultural uses. The proposed project is an agriculture-related use that would not interfere with the normal agricultural operation on the subject properties and is consistent with General Plan Policy No. 30.0.1. Furthermore, the proposed project is not an agricultural support service and therefore is not subject to the provisions of Greater Salinas Area Plan Policy No. 30.0.8.

EVIDENCE: The proposed project meets the definition of an "Agricultural Processing Plant" contained in Chapter 21.06.020 of the Zoning Ordinance (Title 21 of the Monterey County Code) and is an allowed use with a Use Permit under Section 21.30.050 (N) of the Ordinance.

EVIDENCE: The proposed project will neither adversely affect the significant architectural features nor affect the character of historical, architectural or aesthetic interest or value of the Town of Spreckels which is designated in the Zoning Ordinance as a Historic Resource. Therefore, approval of the project is consistent with the provisions of Section 21.54.040 (E) 1 of the Ordinance.

EVIDENCE: The proposed project is consistent with the development standards for "Farmland, 40 Acre Minimum" Zoning District, contained in Section 21.30 of the Zoning Ordinance.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records and site visits indicated that no violations exist on subject property.

EVIDENCE: The application, project plans and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development; administrative record.

EVIDENCE: The on-site inspection by the project planner to verify that the proposed project complies with the applicable regulations.

- 2. FINDING:** The proposed project, including all permits and approvals, will not have any significant adverse impacts on the environment. A Revised Mitigated Negative Declaration has been prepared and is on file (File # PLN020069) in the Department of Planning and Building Inspection. All mitigation measures identified in the Revised Initial Study and Revised Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan (hereafter "the Plan") has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Plan is attached hereto as Exhibit "F" and is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Revised Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Revised Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning and Building Inspection Department, located at 2620 1st. Avenue, Marina, CA is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Revised Mitigated Negative Declaration is based.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA), its Guidelines, and the Monterey County CEQA Guidelines. The Initial Study was circulated for public review from October 24, 2003 to November 24, 2003. At the public hearing on December 10, 2003 the County Planning Commission requested staff to address further the potential impacts from vehicular/truck traffic on Hatton Avenue and from the impacts, if any, of the use of hazardous materials in the Town of Spreckels and workers at the proposed facility. The Initial Study was revised, and the revised Initial Study and Notice of Intent to adopt a Mitigated Negative Declaration was filed with the County Clerk on January 15, 2004, noticed, and recirculated for public review from January 16, 2004 to February 16, 2004. The revised Initial Study concluded that the project, with the addition of mitigation measures and the recommended conditions of approval, would not have significant environmental impacts. All comments received on the both the original and revised Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff and the Planning Commission in support of the Initial Study findings; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

1. Monterey County Zoning Ordinance, Title 21
2. Monterey County General Plan and Greater Salinas Area Plan
3. Monterey Bay Unified Air Pollution Control District, 2000. CEQA Guidelines
4. Higgins and Associates, Civil and Traffic Engineers, *Traffic Impact and Pavement Analysis Report for the D'Arrigo Brothers Proposed Cooler Facility*, September 25, 2003
5. Axiom Engineers, Consulting Mechanical Engineers, *Water Supply, Wastewater and Stormwater System Review, D'Arrigo Brothers Co. New Cooler Facility, 20911 Harris Road, Spreckels, California*, June 3, 2003
6. Kleinfelder Inc., *Geotechnical Investigation Report, Proposed D'Arrigo Brothers Facility*, December 2, 2002
7. Illingworth & Rodkin, Inc., Acoustics and Air Quality, *D'Arrigo Brothers Facility, Environmental Noise Assessment, Monterey County, California*, November 6, 2002.
8. Denise Duffy and Associates, *Air Quality Analysis for the D'Arrigo Brothers Facility*.
9. Snowden Engineering: *Letter addressing the potential risk associated with ammonia use in produce cooling operations and the risk reduction measures in connection with the proposed D'Arrigo facility on Harris Road, Salinas*, January 6, 2004

- 3. FINDING:** After considering public comments received on the original and revised Mitigated Negative Declaration, and after considering public testimony at the public hearings on December 10, 2003 and February 25, 2004, the Planning Commission, in compliance with the requirements of CEQA Guidelines Section 15074.1, has adopted revised mitigation measures that are more effective in mitigating potential significant traffic impacts on Hatton Avenue and the affected County and City of Salinas road infrastructure.

EVIDENCE: Mitigation measures contained in the Condition Compliance and Mitigation Monitoring and Reporting Plan adopted by the Planning Commission as part of project approval on February 25, 2004.

- 4. FINDING:** Considering the record as a whole, the project will not have a potential for adverse impacts on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project will not result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations.

- 5. FINDING:** The site is suitable for the use proposed.

EVIDENCE: There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Health Department and the Salinas Rural Fire District. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas or similar areas that would indicate the site is not suitable for the use proposed.

EVIDENCE: The project is compatible with the principles of compatibility set forth in California Government Code section 51238.1, and is a compatible use under the Farmland Security Zone Contracts Nos. 2000-011 and 2000-012.

EVIDENCE: Board of Supervisors Resolution No. 03-394.

6. **FINDING:** The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to health, safety, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Planning and Building Inspection Department, Health Department, Public Works Department, Water Resources Agency, Salinas Rural Fire Protection District, the Monterey Bay Unified Air Pollution Control District, the City of Salinas, Caltrans and the Transportation Agency for Monterey County. These Departments and Agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

FINDINGS FOR APPEAL

FINDING: The property which is the subject of this appeal is located at 20911 Harris Road (Assessor's Parcel Numbers 177-011-005-000 & 177-111-003-000), southeasterly of the Town of Spreckels, Greater Salinas Area Plan area in the County of Monterey.

EVIDENCE: Planning Commission Resolution No. 04010; Planning and Building Inspection Department File No. PLN020069; administrative record.

8. **FINDING:** Applicant filed with the County of Monterey an application for a Use Permit for development of an agricultural processing plant containing the following:

EVIDENCE: Planning and Building Inspection Department File No. PLN020069; administrative record.

9. **FINDING:** The application for a Use Permit came for consideration before the Planning Commission at a public hearing on December 10, 2003 and February 25, 2004.

EVIDENCE: Planning Commission Resolution No. 04010; Planning and Building Inspection Department File No. PLN020069.

10. **FINDING:** At the conclusion of the public hearing on February 25, 2004, the Planning Commission adopted a Mitigated Negative Declaration and Condition Compliance and Mitigation Monitoring and Reporting Plan, and approved the application on the basis of the findings and evidence contained in Planning Commission Resolution No. 04010.

EVIDENCE: Planning Commission Resolution No. 04010; Planning and Building Inspection Department File No. PLN020069.

11. FINDING: Appellant timely filed an appeal from the Planning Commission alleging that (1) the Planning Commission findings, decision and conditions of approval are not supported by the evidence; and (2) the decision was contrary to law.

EVIDENCE: Appellant's Notice of Appeal dated March 8, 2004; files of Clerk of the Board of Supervisors.

12. FINDING: Pursuant to the provisions of the Monterey County Zoning Ordinance and other applicable laws and regulations, the Board of Supervisors, on March 30, 2004, heard and considered the appeal.

EVIDENCE: Minutes of the Board of Supervisors' meeting of March 30, 2004; files of the Clerk of the Board of Supervisors and Planning and Building Inspection Department.

13. FINDING: The Board of Supervisors denies the appeal based on the following findings:

Appellant Contention: *The findings or decisions or conditions are not supported by the evidence.*

1. Appellant Contention: *"Finding 1" declares that the proposed Use Permit would be consistent with (among other regulations) the current Monterey County General Plan, including the Greater Salinas Area Plan. In fact, the proposed Use Permit is inconsistent with the General Plan no matter how it is construed. This point is addressed later on in this appeal, in connection with our discussion of why the decision made by the Planning Commission was "contrary to law."*

Staff Response: The project proposed under the Use Permit application is an agricultural processing plant directly related to and supportive of agricultural land use. This use is consistent with the General Plan which designates the property as "Farmlands, 40 Acre Minimum." This interpretation is consistent with the County's past interpretations of agricultural land use designations under the General Plan as allowing agriculture-related facilities. Examples of this interpretation are the Gallo Winery and the Dole Plant both located in the Soledad area.

Zoning for this land use designation allows agricultural processing plants. Agricultural processing plants are allowed under Section 21.30.050 (N) of the Zoning Ordinance with a use permit. The Use Permit application submitted by D'Arrigo Brothers has been reviewed by all County agencies involved in land use. These agencies implement a wide array of applicable local ordinances -which implement the policies of the General Plan and State regulations; their review indicates that the proposed project, as conditioned and with the identified mitigation measures, complies with those ordinances and regulations.

2. Appellant Contention: *"Finding 2" claims that "...the proposed project...will not have any significant adverse impacts on the environment." In a letter from LandWatch included in the Staff Report, ample evidence was presented that disproved this claim. County response to this letter was minimal and largely consisted of reiterating earlier claims and ignoring the evidence presented. Please see the attached letters from LandWatch, dated February 16, 2004 and February 23, 2004.*

Staff Response: The appellant submitted a 22-page comment letter in response to the revised Initial Study/Mitigated Negative Declaration. The letter included 31 attachments purportedly containing substantial evidence to support the appellant's assertion that the project would result in significant adverse impacts and that an Environmental Impact Report must be prepared. Staff reviewed the letter and the attachments and responded to what staff believed were valid and key issues raised. These have been addressed throughout the review of the project. These included hazardous materials, air quality, traffic, agricultural resources, alternative site locations and historical/cultural resources. Staff's response to each of these issues is as follows:

Hazardous Materials:

The appellant submitted 10 attachments consisting of information about a few events involving accidental release of hazardous materials, communication with staff from different agencies dealing with events involving accidental release of these materials and information related to the actual hazards from these materials. The appellant implies that a few incidents involving accidental release of these materials and opinions from emergency response personnel on their effects constitute substantial evidence that the project may result in potential significant impacts. However, in staff's opinion and based in the information contained in the whole record, the argument that an accident involving hazardous materials could occur at the proposed site is mere speculation. There is no inherent link or demonstrated relationship between events occurring at other older facilities and the operation of the proposed facility. The use of these materials is regulated by the State through regulations contained in the California Code of Regulations and the California Health and Safety Code. These requirements were designed to address potential impacts from these materials—including hazards to the public and workers—and for the overall purpose of environmental protection. The project is conditioned to require the preparation of a Risk Management Plan which contains specific performance standards that would assure compliance with these standards which are designed to address potential impacts from these materials. The applicant is required to comply with the Risk Management Plan and failure to do so would result in violation of the permit.

Air quality:

The appellant submitted 2 attachments including correspondence from the Monterey Bay Air Pollution Control District (District) and the applicant's consultant. The appellant alleges there were deficiencies in the manner in which the air emissions were calculated. As a matter of fact, the District on February 6, 2004, submitted correspondence to the Planning and Building Inspection Department stating that the revised emissions calculations, including emissions from both refrigerated and non-refrigerated trucks, would be below the District's threshold of significance. (See Exhibit K). To assure that emissions from the operation of the facility remain below the District's thresholds of significance, the District has recommended a condition of approval limiting the number of trucks. Such condition has been included in the conditions of approval and Mitigation Monitoring and Condition Reporting Plan.

Traffic:

The potential circulation of vehicular traffic on Hatton Avenue in the Town of Spreckels was identified as a potentially significant impact, but the impact has been reduced to a level of insignificance through mitigation measures. Pursuant to CEQA Guidelines Section 15074.1 the lead agency may, as a result of the public review process substitute more effective mitigation measures than those that were identified in the Mitigated Negative Declaration. The Planning Commission considered the Initial Study and original Mitigated Negative Declaration on December 10, 2003. The Commission requested further analysis of the discussion of traffic issues which resulted in recirculation of the Initial Study and a Revised Mitigated Negative Declaration. The traffic mitigation measures referred to in Finding No. 4 constitute revisions of the original mitigation measures; as part of its adoption of the Mitigated Negative Declaration the Planning Commission made a finding that the revised mitigation measures were more effective. The mitigation measure adopted by the Planning Commission required a Traffic Management Program which must meet certain performance standards. Those performance standards have been further clarified (See Mitigation Measure No. 1 in Exhibit F).

The appellant contends that the mitigation measure adopted to mitigate potential traffic impacts on Hatton Avenue in Spreckels is not effective. The appellant supports this contention on the alleged violation of rules already in place that restrict truck circulation on Hatton Avenue. In staff's opinion, based on the information contained in the record, there is no inherent link or demonstrated relationship between existing moving traffic violations, demonstrated or not, and further violation of traffic laws by drivers driving to and from the facility. The Traffic Management Plan adopted to mitigate this potential significant impact contains effective measures to actually reduce the impact to non-significant levels.

Alternative Site Locations:

CEQA does not require a Mitigated Negative Declaration to analyze alternative sites. Such analysis is only required once the lead agency has determined that a proposed project may result in significant impacts per provisions of Section 15065 of the CEQA Guidelines and has required preparation of an EIR. Even then, consideration of alternative sites must focus on alternatives that are capable of avoiding or substantially lessening potential significant impacts from the project considering factors such as site suitability, economic viability, availability of infrastructure, general plan consistency, other regulatory limitations, jurisdictional boundaries and the proponent's control over alternative sites.

Historical/Cultural Resources:

The Town of Spreckels became an officially designated Historical Resource in 1991. The Town has historical significance because it was one of the few company towns established in California and because the architectural styles of the structures in the town are noteworthy. Section 15064.5 (b) of the CEQA Guidelines states: "A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." Guideline Section 15064.5 (b) (1) defines a substantial adverse change in the significance of an historical resource as

"physical demolition, destruction, relocation or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." Development of the proposed project 2,900 feet from the Town would not materially impair its historical character or the architectural styles of the structures. Any potential traffic impacts are mitigated to a level of insignificance, and in any event, would not materially affect the significance of the historical resource.

3. Appellant Contention: *"Finding 4" states that the new traffic mitigation measures will be "more effective." Giving the mitigation measure a formal name ("Traffic Management Plan") does not make it more effective. The substance of the mitigation measure still fails to address the problem of traffic through Spreckels. Again, the previous LandWatch letter (February 16, 2004) outlines this issue in detail. The County has failed to respond in any adequate manner.*

Staff Response: The potential circulation of vehicular traffic on Hatton Avenue in the Town of Spreckels was identified as a potentially significant impact, but the impact has been reduced to a level of insignificance through mitigation measures. Pursuant to CEQA Guidelines Section 15074.1 the lead agency may, as a result of the public review process substitute more effective mitigation measures than those that were identified in the Mitigated Negative Declaration. The Planning Commission considered the Initial Study and original Mitigated Negative Declaration on December 10, 2003. The Commission requested further analysis of the discussion of traffic issues which resulted in recirculation of the Initial Study and a Revised Mitigated Negative Declaration. The traffic mitigation measures referred to in Finding No. 4 constitute revisions of the original mitigation measures; as part of its adoption of the Mitigated Negative Declaration the Planning Commission made a finding that the revised mitigation measures were more effective. The Commission requested further analysis of the discussion of traffic issues which resulted in recirculation of the Initial Study and a Revised Mitigated Negative Declaration.

4. Appellant Contention: *"Finding 5" states that "A revised Mitigated Negative Declaration was prepared and recirculated for public review in compliance with the requirements of Section 15073 (a) of the CEQA Guidelines..." Section 15073 (a) states that the lead agency must provide a period of time for public review. However, this is not all that Section 15073 says. It continues:*

(c) A copy of the proposed negative declaration or mitigated negative declaration and the initial study shall be attached to the notice of intent to adopt the proposed declaration that is sent to every responsible agency and trustee agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project.

The actual Mitigated Negative Declaration was not "attached to the notice of intent to adopt the proposed declaration that is sent to every responsible agency..." The Staff Report admits this on Page 4: "A revised Draft Mitigated Negative Declaration (DMND) [was] (sic) prepared by staff, filed at the County Recorder's Office for public review and filed with the State Clearinghouse for

review by State agencies on January 16, 2004." This is directly contrary to Section 15073 (c), and it is misleading to suggest (as "Finding 5" does) that the full mandates of Guidelines Section 15073 have been fulfilled.

Staff Response: All recipients of both the original and revised Initial Study received the Notice of Intent which clearly stated the intention of the County to adopt a Mitigated Negative Declaration and the time frame for the public review of the document. The revised Initial Study and Notice of Intent to adopt a Mitigated Negative Declaration were All those who expressed interest in reviewing the document, including the appellant, were mailed a copy of the Initial Study and the Notice of Intent. The appellant submitted copious comments on both instances. In the opinion of staff, the environmental document was circulated for public review in substantial compliance with all the provisions of Section 15073 of the CEQA Guidelines.

5. Appellant Contention: *"Finding 6" claims that "The site is suitable for the use proposed." This "finding" attempts to establish suitability simply by declaring that the use is suitable. As mentioned above, and in the attached LandWatch letters, this proposal is inconsistent with the Greater Salinas Area Plan, which means that the proposed use is not "suitable for the use proposed." Furthermore, the Use Permit is in conflict with existing Farmland Security Zone Contracts, rendering it unsuitable for the use proposed. As a general matter, productive agricultural land is not "suitable" for the construction office buildings, and the construction of other facilities, directly related to agricultural production, should be minimized.*

Staff Response: The finding that the subject project site is suitable for the use proposed is based on the review of the application by all County land use agencies and their conclusion that the proposed project as conditioned and with recommended mitigation measures is consistent with the Greater Salinas Area Plan and the Zoning Ordinance, and complies with all their applicable regulations. (See also staff response under appellant contention No.3 under responses to Decision Was Contrary to Law below)

6. Appellant Contention: *"Finding 7" claims that the proposed project "will not, under the circumstances of the particular case, be detrimental to health, safety, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County." For all the reasons cited in the attached letters, it is clear that this "finding" is without any basis in fact. It is particularly not to the general welfare of the County for scarce and irreplaceable agricultural land to be paved over for office buildings and agricultural processing facilities that could be located in other places, where the removal of agricultural land from production is not required.*

Staff Response: The finding that the proposed project "will not, under the circumstances of the particular case, be detrimental to health, safety, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County" is a finding that is required by the Zoning Ordinance for all use permit applications that are approved. In this instance, the finding is based on the review of the application by all County land use agencies

and their conclusion that the proposed project as conditioned and with recommended mitigation measures is consistent and complies with all their applicable regulations as further elucidated in staff responses to other contentions.

7. Appellant Contention: *In the "Findings and Decision" of Resolution No. 04010 of the Planning Commission (sent out on 2/27/04), the Use Permit description contains a 25,670 square-foot office building. This contradicts previous discussion and project descriptions, which cite the office building component as being 35,670 square feet. No reason is given for a change; at least this part of the "Findings and Decision" seems to be contradicted by the evidence.*

Staff Response: The appellant is correct in that the office square footage -25,670 sq. ft. - mentioned in the project description in the Planning Commission Resolution, reflected only the first phase of that portion of the project. The total office area of the project is 35,670 sq. ft.

<u>Appellant Contention:</u> <i>The decision was contrary to law.</i>
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1. Appellant Contention: *The California Environmental Quality Act (CEQA) was violated during the environmental review process for this Use Permit:*

- *The Revised Mitigated Negative Declaration did not include the actual mitigation measures proposed, as required in CEQA Guidelines 15071. This was addressed fully in a LandWatch letter (February 23, 2004).*
- *It is extremely doubtful that the applicant had agreed to all mitigation measures before the Revised Mitigated Negative Declaration was released for public review. This is explicitly required by CEQA Guidelines Section 15071, and noted fully in the February 23, 2004 LandWatch letter.*
- *As mentioned above and more fully in the February 23, 2004 LandWatch letter, the Revised Mitigated Negative Declaration was not circulated for public review as required by CEQA Guidelines Section 15073.*

At the very least, the Revised Mitigated Negative Declaration and Revised Initial Study must be recirculated.

Staff Response: 1) The Revised Mitigated Negative Declaration did include revised mitigation measures drafted as a result of the additional analysis requested by the Planning Commission at the December 10, 2003 public hearing. These revisions are clearly identified in the Revised Initial Study submitted to the Planning Commission (hereby included as Exhibit G) and made available to the public for review prior to the February 25, 2004 hearing. Minor amendments to the language of the revised mitigation measures were suggested by staff as clarifications, and adopted by the Commission at the public hearing. CEQA allows the lead agency, as a result of the public review process, to conclude that certain mitigation measures are infeasible or undesirable and to substitute those mitigations measures with other measures which the lead agency determines are equivalent or more effective. (CEQA Guideline section 15074.1.) The County may also require revisions to the project in response to comments on the project's effects. Such project revisions which are not new avoidable effects and replacement of mitigation measures with more effective mitigation measures do

not require recirculation of the Mitigated Negative Declaration. (CEQA Guideline section 15073.5.) See also staff response to Appellant's Contention regarding Finding #5 regarding the adequacy of the public review.

2. Appellant Contention: *The proposed Use Permit may result in significant unmitigated impacts, and thus the CEQA requires a full Environmental Impact Report (EIR) in order to approve the project. No EIR is required to deny the proposal. There may be impacts in the areas of: Air Quality, Hazardous Materials, Traffic, and Agricultural Resources, as well as other areas. Substantial evidence for these impacts was presented in an extensive letter from LandWatch (February 16, 2004), as well as in later letters, yet this evidence was ignored or simply denied by County Staff and the applicant.*

Staff Response: In view of the whole record, the material submitted by the appellant does not constitute *substantial evidence* that the project may result in significant impacts. CEQA Guideline Section 15384 (a) defines substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion." This guideline also states that "Whether a fair argument can be made that the project may have a significant impact on the environment is to be made by examining the whole record before the lead agency" (emphasis added). CEQA Guideline Section 15384 (b) states that "Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." However, under this guideline, "argument, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate" do not constitute substantial evidence. The arguments made by appellant do not constitute substantial evidence that the project may have a significant impact. The specific alleged impacts are each discussed above. It is worth noting that many of the attachments are not comments on the environmental document for this project nor did the individuals participate in the public hearings before the Planning Commission.

3. Appellant Contention: *The subject parcels are under Farmland Security Zone (FSZ) contracts, which do not permit the uses proposed by this Use Permit. As such, the proposed Use Permit must be denied. Because the Use Permit calls for (among many inconsistent elements) a 35,000 square-foot office building, it cannot be considered consistent with the "Compatible Uses" for these parcels. Furthermore, the normal operations at this proposed processing plant do not fit under "Compatible Uses." LandWatch letters (dated February 16, 2004, February 16, 2004, and February 23, 2004) made these points repeatedly, yet neither County Staff nor the applicant's representative addressed the arguments presented by LandWatch. The State did not approve the proposal, and specifically mentioned only the "cooler" element as even being possibly consistent-not the office building.*

Staff Response: The project's compatibility with the Farmland Security Zone Contracts was discussed at length by staff in the Initial Study prepared for the project (hereby included as Exhibit G). Staff's analysis concluded that the project is clearly compatible with the Principles of Compatibility stated in California Government Code Section 51238.1. The Board of Supervisors has determined that

the proposed use is not in conflict with the existing Farmland Security Zone Contracts (Board of Supervisors Resolution No. 03-394, dated December 2, 2003). The contracts allow for the processing of agricultural commodities, and as the Department of Conservation observed, the proposed agricultural processing plant will process agricultural commodities grown and harvested on the applicant's properties. The office component of the project is a small part of the overall facility. The project as a whole, including many of the office functions, contributes to the commercial viability of agricultural production.

4. Appellant Issue: *This project is inconsistent with the Monterey County General Plan:*

- *General Plan Policy 30.0.1 states, "The County shall prevent non-agricultural uses which could interfere with the potential of normal agricultural operations on viable farmlands designated as prime..." The parcels in question are prime farmland. Many parts of the proposal (the office building, worker fitness room, etc.) are obviously 'non-agricultural uses.' The project will clearly interfere with 'normal agricultural operations,' by displacing 'normal agricultural operations' on 34 acres of prime farmland, and because 'normal agricultural operations' in the field do not include this type of processing.*
- *This proposal is claimed to be an "Agricultural Processing Plant," under the Monterey County Zoning Ordinances. Cited as evidence is the listing of "cooler" under the definition (21.06.020). However, the definition also says that "Agricultural Processing Plants" are places where processing occurs "...preparatory to sale or shipment in their natural form..." Whether one interprets the definition with latitude or narrowly, this text clearly differentiates "processing" from "shipping" or "sales." As such, even if the cooler element of PLN020069 were considered an "Agricultural Processing Plant," the office building, truck loading bays, parking spaces, and various other elements of the Use Permit obviously do not fit under the definition of "Agricultural Processing Plant." Their existence is in conflict with General Plan Policy 30.0.1.*
- *If this proposal were to be considered an "Agricultural Support Service," which does include loading docks (as well as coolers), it would be in conflict with the Greater Salinas Area Plan Policy 30.0.8. Thus, whether the proposed Use Permit is considered an "Agricultural Processing Plant" or an "Agricultural Support Service," it is still in conflict with the General Plan.*
- *In a separate problem, allowing two definitions for a cooler under the Zoning Ordinance, yet only providing policy guidelines for one (Greater Salinas Area Plan Policy 30.0.8) is internally inconsistent. This General Plan inconsistency must be resolved before a decision can be rendered on PLN020069.*

Staff Response: 1) General Plan Policy 30.0.1 must be put within the context of the Plan's Goal No. 30 addressing agricultural land uses. This Goal states "To

protect all viable farmlands designated as prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses" (emphasis added). The inclusion of agricultural processing plants as an allowed use in the "Farmlands, 40 Acre Minimum" Zoning District, anticipated the necessity of these processing plants as an integral part of the agricultural industry. There is no question that processing plants are an agriculture-related use which is compatible with this zoning designation.

2) The complete definition of an agricultural processing plant under Section 21.06.020 of the Zoning Ordinance states "*a structure, building, facility, area, open or enclosed, or any other location for the refinement, treatment, or conversion of agricultural products where a physical, chemical or similar change of an agricultural product occurs.*" The Ordinance cites several examples of agricultural processing including coolers (whether separate or as part of larger facilities) and storing of agricultural products preparatory to sale or shipment in their natural form including all customarily incidental uses. The proposed project with all its incidental components -including the ones cited by the appellant- clearly fits this definition.

3) The Zoning Ordinance separately defines an Agricultural Support Service and an Agricultural Processing Plant. While some of the components of both may be similar, their main difference is that support services are "*a necessary and accessory facility principally established to serve on site farming or ranching activities which rely on the on site agriculture as its major means of support*" (emphasis added). The appellant speculates if the project were to be considered an Agricultural Support Service -which it is not- it would be inconsistent with Greater Salinas Area Plan Policy 30.0.8.

4) The appellant alleges that the Zoning Ordinance provides two different definitions for coolers and that Policy 30.0.8 only provides guidelines for one of the definitions. This is incorrect in that this Policy merely states the required findings for approval and development of agricultural support services on lands designated as "farmlands." The proposed project is not an agricultural support service but an agricultural processing facility and therefore is not subject to the provisions of the Policy. The fact that the Zoning Ordinance differentiates between agricultural support services and agricultural processing plants does not create an internal inconsistency in the General Plan.

EVIDENCE: Oral testimony, staff reports, and documents in the administrative record.

EVIDENCE: Staff report for the Board of Supervisors' March 30, 2004 public hearing.

EVIDENCE: Planning Commission Staff Report dated February 16, 2004 for the February 25, 2004 Planning Commission Hearing.

EVIDENCE: Original and Revised Initial Study, Revised Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

EVIDENCE: Minutes of the December 10, 2003 and February 25, 2004 Planning Commission hearings.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors does hereby deny the appeal of Landwatch Monterey County from the February 25, 2003 Planning Commission decision on the project and adopt the Mitigated Negative Declaration and Condition Compliance and Mitigation Monitoring and Reporting Plan and approve the D'Arrigo Brothers application (PLN020069) subject to Mitigation Measures and Conditions of Approval contained in Condition Compliance and Mitigation Measure Monitoring and Reporting Plan, attached hereto as Exhibit F and incorporated herein by reference.

On motion by Supervisor Lindley, seconded by Supervisor Johnsen, the foregoing Findings and Decision are adopted this 30th day of March, 2004, by the following vote:

AYES: Supervisors Calcagno, Lindley, Johnsen

NOES: Supervisors Armenta, Potter

ABSENT: None

I, Sally R. Reed, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book 72, on March 30, 2004.

Dated: April 8, 2004

Sally R. Reed, Clerk of the Board of Supervisors,
County of Monterey, and State of California.

By

John E. Anderson
Deputy

ACOPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON _____

THIS DECISION IS SUBJECT TO REVIEW PURSUANT TO THE CODE OF CIVIL PROCEDURE, SECTION 1094.5. THE TIME WITHIN WHICH JUDICIAL REVIEW OF THIS DECISION MUST BE SOUGHT IS GOVERNED BY THE CODE OF CIVIL PROCEDURE, SECTION 1094.6. ANY PARTY SEEKING JUDICIAL REVIEW OF THIS FINAL DECISION MUST COMPLY WITH THE TIME LIMITS SET FORTH IN THE CALIFORNIA CODE OF CIVIL PROCEDURE, SECTION 1094.6.

**Monterey County Planning and Building Inspection
Mitigation Monitoring / Condition Compliance
Reporting Plan**

Project Name: D'Arrigo Brothers Agricultural Processing Plant

File No: PLN020069 APN: 177-111-003-000; 177-011-005-000

Approval by: Board of Supervisors **Date:** March 30, 2004

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cont. Number	Mitig. Number	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	1	<p>TRAFFIC</p> <p>In order to mitigate potential impacts from project vehicular and truck traffic on Hatton Avenue through the Town of Spreckels and on Harkins Road, the applicant shall prepare a Traffic Management Program to be reviewed and approved by the Public Works Director. The program shall include but not be limited to the following:</p> <ul style="list-style-type: none"> a. A policy prohibiting truck traffic circulation from the facility through Hatton Avenue and Harkins Road; b. Placement of signs in the truckers' lounge and other conspicuous locations throughout the facility, specifically prohibiting truck circulation on Hatton Avenue and Harkins Road and directing field truck traffic to use Spreckels Boulevard; c. Placement of increased size signage along Harkins Road and Hatton Avenue at locations approved by Public Works, specifying vehicle weight limitation; d. Specific trip reduction measures. (Public Works) 	<p>Applicant to prepare Traffic Management Program for review and approval by the Director of Public Works.</p>	Applicant	<p>Traffic Management Program to be approved by Public Works before issuance of certificate of occupancy. Operation of the facility must comply with program in an on-going basis.</p>	

Permit Condition Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (date/date)
	2	<p>TRAFFIC</p> <p>As requested by the City of Salinas, the applicant (via Keith Higgins and Associates) has provided an analysis of the Abbott Street/Harkins Road intersection that shows the intersection level of service (LOS) will degrade from LOS C/D (am/pm) under Existing Conditions to LOS E/F under the City of Salinas' General Plan Buildout scenario. This project directly contributes toward this cumulative service level decline. The applicant shall pay the City of Salinas a pro-rata fair share toward the cost to mitigate this cumulative impact, estimated at \$1,306.</p> <p>Abbott-Sanborn-Blanco Intersection: Similarly, an analysis was completed for the Abbott-Sanborn-Blanco intersection that shows this intersection service level will degrade from LOS D/D under Existing Conditions to LOS E/F under the City's General Plan Buildout scenario. This project also directly contributes to this cumulative intersection service level decline. The applicant shall pay to the City of Salinas a pro-rata fair share toward the cost of mitigating this cumulative impact, estimated at \$4,877.</p> <p>Sanborn Road street segment: Finally, an analysis was completed for the Sanborn Road street segment between Abbott Street and US 101. This project will add traffic along this corridor, which will contribute toward the congestion thereon and cumulative service level decline. The City is currently in the process of designing a congestion relief project along this corridor, to which the applicant shall contribute a pro-rata fair share toward the cost to mitigate the cumulative impacts thereon. Said pro-rata fair share contribution is estimated at \$10,634.</p>	Applicant to provide written evidence from the City of Salinas confirming compliance.	Applicant	Prior to issuance of building permit for first phase of the project	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (date/done)
		Payment for the three improvements noted above shall be made to the City of Salinas prior to Monterey County's issuance of the first building permit for the project. The applicant shall provide evidence in the form of a written statement from the City Engineer directed to the County Planning & Building Inspection Department indicating the applicant has complied with this mitigation measure requirement. (City of Salinas)				
	3	TRAFFIC In order to mitigate the potential significant impacts from the project on the regional road and intersection infrastructure, the applicant shall execute a Mitigation Fee Agreement between Applicant and the County, subject to review and approval by Caltrans and the City of Salinas in which the Applicant will agree to pay to the County the amount of \$194,502 as its pro-rata fair share contribution to the cost of future improvements for the State Route 101 Prunedale Improvement Project (PIP), and \$65,846 as its pro-rata fair share contribution to the cost of future improvements for the State Route 101/Airport Blvd/Sanborn Road Interchange project, for a total payment of \$260,348. (Public Works)	Execution of Agreement subject to review and approval by the Public Works Department, TAMC the County Counsel Office. Caltrans to be notified at time of payment.	Applicant	Prior to final inspection of buildings in first phase of the project.	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed, where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	4	<p>TRAFFIC</p> <p>In order to mitigate potential safety impacts from additional vehicle trips generated by the proposed facility, and to facilitate turn movements into and out of the facility, the Applicant shall construct, at the Applicant's sole cost, all road widening, paving, and striping improvements to create right turn tapers and a left-turn lane on Harris Road along the frontage of the Project site. The Applicant shall provide, at the Applicant's sole cost, all necessary engineering plans and specifications for the said improvements to the satisfaction of the Public Works Department, shall dedicate any additional right-of-way or easements required to construct said improvements, and shall obtain an Encroachment Permit from the Public Works Department prior to initiating construction of the improvement. This requirement is made in accordance with recommendations contained in the <i>D'Arrigo Bros. Co. Traffic Impact and Pavement Analysis Report for the Proposed Cooler Facility off Harris Road, Monterey County, California</i>, Higgins & Associates, September 25, 2003. (Public Works)</p>	Preparation of engineering drawings and specifications, dedication of additional easements and rights of way as may be necessary for construction of a southbound left-turn lane on Harris Road along the frontage of the Project site.	Applicant	Prior to final inspection of buildings in first phase of the project	

Permit Cond. Number	Mtg. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	5	<p>TRAFFIC</p> <p>In order to mitigate potential safety impacts from additional vehicle trips generated by the proposed facility, and to facilitate access to and egress from the facility the Applicant shall enter into an Agreement to construct, at the Applicant's sole cost, full frontage improvements, including concrete curb, gutter, sidewalk, and any necessary pavement widening, together with the dedication of any right-of-way or easements required to construct said improvements, along the entire Harris Road frontage of the project site when, in the opinion of the Public Works Department, it is appropriate to construct such frontage improvements in conjunction with the construction of similar improvements at adjacent properties. The Agreement shall provide that the Applicant will prepare at the Applicant's sole cost all necessary engineering plans and specifications for said improvements to the satisfaction of the Public Works Department, and shall obtain an Encroachment Permit from the Public Works Department prior to initiating construction of the improvement. The Agreement shall further provide that said improvements shall be designed in accordance with the Monterey County Public Works Department Standard Details and Specifications, and all driveways shall be designed with adequate turning radii for large semi trucks and trailers.</p> <p>(Public Works)</p>	<p>1) Execution of Agreement subject to review and approval by the Public Works Department and the County Counsel Office.</p> <p>2) Dedication of any right-of-way or easements required to construct required improvements.</p> <p>3) Preparation of all necessary engineering plans and specifications for construction of improvements to the satisfaction of the Public Works Department.</p>	Applicant	Agreement to be executed before issuance of any permits for construction of these improvements. Right of way dedication & plan preparation required before initiation of related work.	

Permit Condition Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1		<p>PBD029 - SPECIFIC USES ONLY</p> <p>This Use Permit (PLN020069) allows development of an approximately 219,000 square foot agricultural processing facility. The property is located at 20911 Harris Road, Salinas (Assessor's Parcel Numbers 177-111-003-000; 177-011-005-000). This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities.</p> <p>(Planning and Building Inspection)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

Permit Cond. Number	Mtg. Number	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (date/dates)
2		<p>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A Permit (Resolution) was approved by the (<u>Monterey County Board of Supervisors</u>) for Assessor's Parcel Numbers 177-111-003-000 & 177-011-005-000 on (<u>March 30, 2004</u>). The permit was granted subject to 28 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (Planning and Building Inspection)</p>	Proof of recordation of this notice shall be furnished to PBL.	Owner/ Applicant	Prior to Issuance of grading and building permits.	

Permit Cond. Number	Minis. Number	Impact Addressed, and Responsible (Land Use Department)	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Filing	Verification of Compliance (name/date)
3		<p>PBD016 - INDEMNIFICATION AGREEMENT</p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (Planning and Building Inspection/County Counsel)</p>	<p>Applicant to execute standard agreement.</p> <p>Agreement to be recorded after review and approval by the County Counsel Office and the Planning and Building Inspection Department.</p>	Applicant	Prior to issuance of any building permits	

Permit Cond. Number	Mitig. Number	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions (to be performed. Where applicable, a certified professional is required for action to be accepted)	Responsible Party for Compliance	Timing	Verification of Compliance (milestone)
4		PBD022 - MITIGATION MONITORING PROGRAM The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (Planning and Building Inspection)	1) Enter into agreement with the County to implement a Mitigation Monitoring Program. 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.	Owner/ Applicant	Prior to issuance of grading and building permits.	
5		PBD021 - LIGHTING - EXTERIOR LIGHTING PLAN All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection)	Submit three copies of the lighting plans to PBI for review and approval.	Applicant	Prior to issuance of building permits.	
6		SIGNS All signage shall comply with the provisions of Chapter 21.60.040 (Agricultural Zoning District Sign Regulations) of the Zoning Ordinance. No signs shall be constructed before an overall sign plan is reviewed and approved. (Planning and Building Inspection)	Submit sign plans for review and approval by Planning and Building Inspection	Applicant	Prior to construction of any signs	

<i>Permit Cord Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional's required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (time/date)</i>
7		PBD018(B) - LANDSCAPE PLAN & MAINTENANCE The site shall be landscaped. At least 60 days prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for the review of the plans. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping. The landscaping shall be installed and inspected prior to occupancy. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)	Landscape plans to be prepared by a landscape architect. Landscaping to be installed or bonded prior to issuance a certificate of occupancy for the first phase of the project.	Applicant	Prior to issuance of a certificate of occupancy for first phase of the project.	
8		EH1 - WATER SYSTEM PERMIT Obtain a new or amended water system permit from the Division of Environmental Health. (Environmental Health)	Submit necessary application, reports and testing results to EH for review and approval.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of grading/ building permits	
9		EH28 - HAZ MAT BUSINESS RESPONSE PLAN Comply with Title 19 of the California Code of Regulations and Chapter 6.95 of the California Health and Safety Code (Hazardous Material Registration and Business Response Plans) as approved by the Director of Environmental Health. (Environmental Health)	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Continuous	

<i>Permit Contd. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (Name/Date)</i>
10		EH30 - HAZARDOUS WASTE CONTROL Comply with Title 22, Division 4.5 of the California Code of Regulations and Chapter 6.50 of the California Health and Safety Code (Hazardous Waste Control) as approved by the Director of Environmental Health. (Environmental Health)	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Continuous	
11		EH31 - HAZ MAT RISK MGMT. PLAN Submit a Risk Management Plan (RMP) to the Director of Environmental Health for review and approval. The RMP shall comply with Title 19, Chapter 4.5 of the California Code of Regulations and Chapter 6.95, Article 2 of the California Health & Safety Code. The facility shall be required to comply with all provisions of the RMP, as approved by the Director of Environmental Health, including but not limited to the installation of: 1) an ammonia detection and alarm system; 2) automatic control and monitoring systems for refrigeration, and 3) ammonia diffusion tanks. The facility shall also be required to employ RETA (Refrigerating Engineers and Technicians Association) certified refrigeration operators and provide initial and annual training to all employees for responding to emergency incidents. (Environmental Health)	Submit plan to the Hazardous Materials Program of the Division of Environmental Health for review and approval.	Applicant	Prior to occupancy. Continuous	
12		EH15 - WASTE DISCHARGE REQUIREMENTS Comply with the Waste Discharge Requirements to be issued by the Regional Water Quality Control Board. (Environmental Health)	Submit application to CRWQCB for review and issuance of Waste Discharge Requirements or a waiver of Waste Discharge Requirements. Provide a copy to Environmental Health.	Applicant	Prior to the issuance of building permits	

Permit Control Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
13		DRAINAGE PLAN A drainage plan shall be prepared by a registered civil engineer addressing on-site and off-site impacts that includes routing stormwater runoff from the paved parking areas to an oil-grease/water separator and construction of detention facilities to mitigate the impact of impervious surface stormwater runoff. The detention facility shall be fence for public safety. (Water Resources Agency)	Submit plans to Water Resources Agency	Applicant	Prior to the issuance of grading & building permits for first phase of project	
14		WR44 - WATER USE INFORMATION The applicant shall provide the Water Resources Agency a water balance analysis describing the pre-development and post-development water use on the property. Any proposed water use shall require the identification and implementation of mitigation measures, if feasible, by the applicant (Water Resources Agency)	Submit the water balance analysis to Water Resources Agency for review and approval.	Applicant	Prior to issuance of grading & building permits	
15		WR45 - WELL INFORMATION The applicant shall provide the Water Resources Agency information on the well to serve the project including a map showing the well location and any available well logs/e-logs. (Water Resources Agency)	Submit all applicable well information to the Water Resources Agency for review and approval.	Applicant	Prior to issuance of any grading or building permits	
16		WR8 - COMPLETION CERTIFICATION The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater detention/retention facilities have been constructed in accordance with approved plans. (Water Resources Agency)	Submit a letter to the Water Resources Agency, prepared by a registered civil engineer or licensed contractor, certifying compliance with approved drainage plan.	Applicant/ Engineer/ Contractor	Prior to final building inspection	

Permit Cond. Number	Wing Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
17		<p>WR40 - WATER CONSERVATION MEASURES</p> <p>The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:</p> <ol style="list-style-type: none"> All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources Agency) 	Compliance to be verified by building inspector at final inspection.	Applicant	Prior to final building inspection/occupancy	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a qualified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (signature)
18		<p>PAVEMENT MANAGEMENT/MAINTENANCE.</p> <p>The Applicant shall execute a Road Maintenance Agreement with the County whereby the Applicant will agree to pay the County Road Fund the amount of \$30,208 per year to mitigate the Project's pro rata fair share of pavement maintenance on County roads and State Highway ramps in the Project area, in accordance with the analysis provided in the <i>Pavement Evaluation Study, Maintenance and Rehabilitation Strategy for D'Arrigo Bros. Cooler Facility Project, Monterey County, California</i>, Kleinfelder, Inc., August 14, 2002, said report contained in the <i>D'Arrigo Bros. Co. Traffic Impact and Pavement Analysis Report for the Proposed Cooler Facility off Harris Road, Monterey County, California</i>, Higgins & Associates, September 25, 2003 as Appendix D. (Public Works)</p>	<ol style="list-style-type: none"> 1) Execute agreement. 2) Applicant to pay required fees annually for the time period (years) stated in the agreement 3) To include consultation with Caltrans District 5. 	Applicant	<p>Agreement to be recorded prior to issuance of certificate of occupancy for the first phase of the project.</p> <p>Fees to be paid annually</p>	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Guidance on Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
19		<p>HYDRANT LOCATION</p> <p>Hydrants for fire protection shall be provided at locations approved by the Salinas Rural Fire District and shall conform to the following requirements:</p> <p>a. FIRE FLOW - Pursuant to Uniform Fire Code Appendix III-A, the minimum fire flow requirement for 100,000 square foot commercial facilities built with Type V-N construction is 8000 gallons per minute with a residual pressure of 20 psi under normal operating conditions for duration of 4 hours. Fire flow for facilities protected with automatic fire sprinkler systems may be reduced to 2000 gallons per minute with a residual pressure of 20 psi under normal operating conditions for a duration of 4 hours.</p> <p>b. TIMING OF INSTALLATION - Approved fire protection water supply systems must be installed and made serviceable prior to the time of construction.</p> <p>c. HYDRANT/FIRE VALVE (LOCATION) - The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway.</p> <p>d. FIRE HYDRANTS - Hydrants shall be installed in accordance with spacing set forth in Uniform Fire Code Appendix III-B and in accordance with the following specifications:</p> <p>e. HYDRANT SIZE - The hydrant shall have a minimum of two (2) 2-1/2 inch outlets NST and one (1) 4-1/2 inch outlet NST. The riser shall be a minimum of six (6) inches and shall be wet barrel type with a coefficient of 0.9.</p> <p>f. SIGNING OF WATER SOURCES - Hydrant or fire valve identification may be allowed as specified in the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988.</p>	Hydrant location plan to be approved by the Salinas Rural Fire District.	Applicant	Prior to issuance of building permits	

Permit Cond. Number	Meeting Number	Impact, Addressed, and Responsible Jurisdiction Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be completed.	Responsible Party for Compliance	Filing	Verification of Compliance (Timeline)
20		FIRE SPRINKLER SYSTEM - The buildings and shade structures that have an area in excess of 5000 square feet shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for: <i>"The buildings and shade structures that have an area in excess of 5000 square feet shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection."</i> (Salinas Fire District)	Sprinkler system to be approved by the Salinas Rural Fire District.	Applicant	Prior to occupancy	
21		FIRE ALARM SYSTEM - The buildings that are protected with automatic fire sprinkler systems shall be fully protected with an approved central station, proprietary station or remote station automatic fire alarm system as defined by National Fire Protection Association Standard 72 - 1996 Edition. Plans and specifications for the fire alarm system must be submitted and approved by the enforcing agency prior to requesting a framing inspection. All fire alarm system inspections and acceptance testing shall be done in accordance with Chapter 7 of NFPA 72 - 1996 (Salinas Fire District)	Alarm system to be approved by the Salinas Rural Fire District.	Applicant	Prior to occupancy	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
22		<p>ROADWAY REQUIREMENTS - The access roads shall be designed, built and maintained in accordance with the following standards:</p> <p>a. ROAD ACCESS - Access roads shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access.</p> <p>b. ROADWAY SURFACE - The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus.</p> <p>c. ROADWAY TURNAROUNDS - Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roads shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.</p> <p>d. ROAD WIDTH - Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches. (Salinas Fire District)</p>	Access road plan to be approved by Salinas Rural Fire District.	Applicant	Prior to issuance of building permit for first phase of project.	

<i>Permit Condition Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (time/date)</i>
23	ROOF CONSTRUCTION – Roof construction shall be Class A or Class B, with fire resistive materials, or as approved by the Reviewing Authority. This requirement shall apply to all new construction and existing roofs that are repaired so as to affect 50 percent or more of the roof. Vegetation removal will not be allowed as a means of removing high or very high fire hazard area designation from an entire parcel. (Salinas Fire District)	Roof type to be approved by the Salinas Rural Fire District.	Applicant	Prior to issuance of building permits for first phase of project.	
24	SIZE OF LETTERS, NUMBERS AND SYMBOLS FOR ADDRESSES (ALTERNATE STANDARDS) – When construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 6 inches with a 1 inch stroke, and contrasting with the background colors of the sign. (Salinas Fire District)	Letters numbers and symbols to be approved by the Salinas Rural Fire District.	Applicant	Prior to occupancy	
25	BUILDING IDENTIFICATION – Each building shall be identified and a building number or letter shall be affixed to the building on each side. (Salinas Fire District)	Identification numbers to be approved by the Salinas Rural Fire District.	Applicant	Prior to occupancy	

Permit Control Number	Mtg. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (date/date)
26		REFRIGERATION SYSTEM - The refrigeration system shall be designed, installed and maintained in accordance with nationally recognized standards. The fire department shall be furnished with plans for installation and information for emergency response. (Salinas Fire District)	Refrigeration system to be approved by the Salinas Rural Fire District.	Applicant	Prior to occupancy	
27		EMERGENCY KEY AND DATA BOX - An emergency key and data box shall be purchased, installed and maintained with emergency access keys and emergency response information. The emergency key and data box shall be obtained from the Knox Company and the model purchased shall be approved by the fire district. (Salinas Fire District)	Key and data box to be approved by the Salinas Rural Fire District.	Applicant	Prior to occupancy	
28		AIR POLLUTION CONTROL The number of truck trips using the proposed plant shall be limited to 330 existing line truck trips, 50 new line truck trips and 150 field truck trips. The number of truck trips shall not exceed 530 trips (265 trucks). This limitation is necessary to assure that the number of truck trips does not exceed the Monterey Bay Unified Air Pollution Control District's thresholds of significance for air emissions. The applicant shall submit an annual report to the District indicating the average annual truck trips at the facility and assuring that the trips do not exceed the District's thresholds of significance.	Applicant to submit annual report to the Monterey Bay Unified Air Pollution Control District and the Planning and Building Inspection Department no later than January 30 of the following year.	Applicant	Annual	