[Disapprove certification of San Francisco Cruise Terminal Mixed Use Project and Brannan Street Wharf Project FSEIR]

Motion disapproving the certification by the Planning Commission of the Final Supplemental Environmental Impact Report for the San Francisco Cruise Terminal Mixed Use Project and Brannan Street Wharf Project located at Pier 30-32, Seawall Lot 330, and in the location of Piers 34 and 36, in the Port of San Francisco; requesting that seven addition issues be addressed in a revised FSEIR.

WHEREAS, The San Francisco Cruise Terminal Mixed Use Project and Brannan Street Wharf Project (collectively the "Projects") are proposed to be constructed at Piers 30-32, on Seawall Lot 330, and in the location of Piers 34 and 36 and consist of three principal components: a mixed-use/cruise terminal component proposed for Pier 30-32, a residential component proposed for Seawall Lot 330 (collectively "The Cruise Terminal Mixed Use Project"); and a public open space proposed for the locations of Piers 34 and 36 (the "Brannan Street Wharf Project"). The projects are situated just south of the Bay Bridge along The Embarcadero between Bryant and Townsend Streets; and

WHEREAS, The Port of San Francisco and San Francisco Cruise Terminal, LLC (collectively "the project sponsor") submitted an application for environmental review of the Projects on November 29, 2000 (City Planning File No. 2000.1229E); and

WHEREAS, The Planning Department for the City and County of San Francisco (the "Department") determined that a Supplemental Environmental Impact Report ("SEIR") was required to supplement the Waterfront Land Use Plan Final EIR (City Planning File No.
WHEREAS, On November 17, 2001, the Department published the Draft Supplemental Environmental Impact Report ("DSEIR") for the Projects; and

WHEREAS, On December 20, 2001, the Commission held a duly noticed public hearing on the DSEIR, at which time opportunity for public comment was received on the DSEIR, and written comments were received through January 16, 2002; and

WHEREAS, The Department prepared responses to comments on environmental issues received at the public hearing on the DSEIR and submitted in writing to the Department, prepared revisions to the text of the DSEIR, and corrected errors in the DSEIR, and published a Draft Summary of Comments and Responses on April 30, 2002; and

WHEREAS, A Final Supplemental Environmental Impact Report ("FSEIR") for the Projects was prepared by the Department, consisting of the DSEIR, all supporting studies and materials, any consultations and comments received during the review process, any additional information that became available and the Draft Summary of Comments and Responses, and an errata thereto, all as required by law; and

WHEREAS, On May 9, 2002, the Commission reviewed and considered the FSEIR and, by Motion No. 16404, found that the contents of said report and the procedures through which the FSEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, By Motion No. 16404, the Commission found (1) that the FSEIR is adequate, accurate and objective, and reflects the independent judgment and analysis of the Department and the Commission and that the Summary of Comments and Responses contained no significant revisions to the DSEIR; (2) adopted findings relating to significant
impacts associated with the Projects; and (3) certified the completion of the FSEIR in compliance with CEQA, the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, By letter to the Clerk of the Board of Supervisors dated May 28, 2002, Bluewater Network filed a timely appeal of the FSEIR certification to the Board of Supervisors pursuant to Administrative Code Section 31.16(a); and

WHEREAS, The Board of Supervisors held a duly-noticed public hearing on June 24, 2002 to consider the appeal of the FSEIR; and

WHEREAS, The FSEIR files and all correspondence and other documents have been made available for review by the Board of Supervisors, the Planning Commission and the public; these files are available for public review by appointment at the Planning Department offices at 1660 Mission Street, and are part of the record before the Board of Supervisors; and

WHEREAS, This Board has reviewed and considered the FSEIR and the FSEIR files, and heard testimony and received public comment and written correspondence from the public and public agencies regarding the adequacy of the FSEIR; now, therefore, be it

MOVED, That this Board of Supervisors disapproves and reverses the certification of the FSEIR by the Planning Commission; and, be it

FURTHER MOVED, That the Board of Supervisors request that following issues be addressed in a revised FSEIR:

1. Respond to the comments of the State Lands Commission in its May 9th 2002 letter to the Planning Commission, and incorporate text corrections in the EIR where appropriate;

2. Strengthen the mitigation measure addressing ballast water impacts by having the project sponsor initiate and maintain a program to prohibit cruise ships from releasing unauthorized ballast water discharges into San Francisco Bay under
requirements that are at least as protective as the requirements of California Public Resources Code Section 71200 et seq. (AB 703) and subsequent regulations applicable to cruise ships that pertain to the management of ballast water for the control of non-indigenous species. Expand the role of the working group identified in Mitigation Measure D @ to review and evaluate new technologies for treating ballast water, if and when approved by federal and state agencies, and to make recommendations to the project sponsor for incorporation of and to make recommendations to the project sponsor for incorporation of such technologies into the project or imposition of requirements on cruise vessels in the future;

3. Include an improved explanation of the feasibility of the air quality mitigation measure suggested by commentors, including the Bay Area Air Quality Management District and Portside Neighborhood Committee;

4. Strengthen the air quality mitigations by expanding the role of the working group to establish specific criteria for adoption by the project sponsor, aimed at reducing the air quality impacts of cruise ships using the project. The role of the working group should also encompass review and recommendation to the project sponsor for adoption of expanded potential mitigation measures, and recommendation for adoption of fee incentive programs to reward cruise lines that meet or exceed emissions reduction criteria. Such potential mitigation measures to be evaluated by the working group for adoption include (a) requiring ships to use low-sulfur diesel fuel while in port, (b) using technologies and fuels that reduce nitrogen oxide and PM emissions, (c) operational controls such as reduced speed on approach, and (d) requiring the project sponsor to contribute to programs that will result in the reduction of pollutants in the area;
5. Strengthen the mitigation for ship-related water quality to prohibit cruise ships from releasing any gray water, wastewater, or other hazardous material into San Francisco Bay.

6. Strengthen the discussion of TBT and its impacts in the EIR, using additional sources to illustrate the problem.

7. Strengthen the discussion of Whale strikes in the EIR, using additional sources such as National Marine Fisheries Services.
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June 24, 2002  Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

June 24, 2002  Board of Supervisors — APPROVED AS AMENDED
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
I hereby certify that the foregoing Motion was APPROVED AS AMENDED on June 24, 2002 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board