

## DOCKETED

<b>Docket Number:</b>	08-AFC-08A
<b>Project Title:</b>	Hydrogen Energy Center Application for Certification Amendment
<b>TN #:</b>	201933
<b>Document Title:</b>	Keri Cobb Comments: Resolution No. 2014-2961 - A resolution of the City Council of the City of Wasco denying the appeal filed for Conditional Use Permit No. 489-87 Amendment and upholding the Planning Commission Action
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*Comment Received From: Keri Cobb*

*Submitted On: 3/27/2014*

*Docket Number: 08-AFC-08A*

**Resolution No. 2014-2961 - A resolution of the City Council of the City of Wasco denying the appeal filed for Conditional Use Permit No. 489-87 Amendment and upholding the Planning Commission Action**

*Additional submitted attachment is included below.*

## **RESOLUTION NO. 2014 - 2961**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WASCO DENYING THE APPEAL FILED FOR CONDITIONAL USE PERMIT NO. 489-87 AMENDMENT AND UPHOLDING THE PLANNING COMMISSION ACTION**

**WHEREAS**, Savage Services Corporation (“Applicant”), filed an application requesting Conditional Use Permit No. 489-87 Amendment to allow the operating capacity of their coal transfer facility to be increased to 1,500,000 tons of coal per year; and,

**WHEREAS**, the Planning Commission approved Conditional Use Permit No. 489-87 Amendment at their regularly scheduled hearing on February 10, 2014 after receiving both written and oral testimony; and,

**WHEREAS**, the Association of Irrigated Residents (Appellant) filed an appeal of the Planning Commission action on February 13, 2014; and,

**WHEREAS**, the City Council of Wasco held a public hearing on March 18, 2014 to hear the appeal of Conditional Use Permit No. 489-87 Amendment; and,

**WHEREAS**, notice of public hearing was given in the manner provided in Title 17 of the Wasco Municipal Code and said public hearing has been duly and timely conducted, during which the appeal was explained by a representative of the Planning Department and all persons desiring were duly heard.

### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WASCO, AS FOLLOWS:**

1. The proposed use is conditionally permitted within, and would not impair the integrity and character of the subject land use district and complies with all the applicable provisions of the Zoning Ordinance
2. The approval of the Conditional Use Permit for the proposed use is exempt from the requirements of the California Environmental Quality Act per California Public Resources Code Section 21080(b)(6).
3. This action is subject to and will only be valid upon final certification of the project and environmental document proposed under California Energy Commission Docket Number 08-AFC-8A (HECA Hydrogen Energy Plant).
4. The City Council of Wasco denies the appeal of Planning Commission approval of Conditional Use Permit No. 489-87 Amendment, upholds Planning Commission Resolution No. 14-01, and hereby reaffirms the Planning Commission approval as Conditioned in Exhibit A.

This Resolution was adopted at a regular meeting of the City Council for the City of Wasco on March 18, 2014 by Councilmember West, seconded by Councilmember Martin, and said Resolution was thereupon adopted by the following vote:

AYES: Martin, Wegman, West

NOES: Cortez, Espitia

ABSENT: None

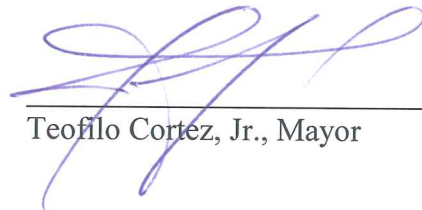
ABSTAIN: None

Attest:

A handwritten signature in blue ink, appearing to read "Duviet Rodriguez", written over a horizontal line.

Duviet Rodriguez, City Clerk

Approved:

A handwritten signature in blue ink, appearing to read "Teofilo Cortez, Jr.", written over a horizontal line.

Teofilo Cortez, Jr., Mayor

**EXHIBIT A**  
**CONDITIONS OF APPROVAL**  
**CUP 489-87 AMENDMENT**

1. All structures shall conform at least to the Seismic Zone 3 requirements of the Uniform Building Code, which requires "earthquake resistant" construction measures. The project structures would be designed to withstand groundshaking due to maximum expected earthquake at the site without collapse.
2. The City of Wasco reserves the right to review all structural engineering through a qualified engineer of the city's choosing, the cost of which would be reflected as an additional charge in the building permit.
3. The conveyor tunnel sections shall be designed as short pipes with flexible, watertight connections at each joint. This would mitigate the effects of differential settlement along the reclaim tunnel.
4. Settlement underneath the coal storage silos would be mitigated by the placement of concrete foundations at least 12 inches below the lowest adjacent final grade. A maximum allowable bearing capacity of 3,000 pounds per square foot (psf) shall be used for all structures.
5. Landscaping in the form of ground cover, trees, and bushes as approved by the City of Wasco shall be used to mitigate increases in runoff and erosion in areas not covered by structures or paving.
6. Mitigation measures to control fugitive dust emissions shall consist of totally enclosed storage systems, enclosed railcar unloading, covered conveyor systems, and baghouse dust control at appropriate points, construction dust shall be controlled with a water spray in accordance with applicable regulations. In addition, the city of Wasco retains the right to initiate revocation of the CUP in the event the facility is out of compliance with SJVUAPCD (San Joaquin Valley Unified Air Pollution Control District) conditions. The ATC (Authority to Construct) permit issued for the project would require testing of the facility following construction. All SJVUAPCD conditions must be met before a Permit to Operate (PTO) shall be issued for the project.
7. The bottom dumper (No. 1) shall be enclosed in a building with curtains on the ends where the railcars enter and exit. Separate dust collection systems shall be used to collect particulates from the two sides of the railcar during unloading. Air from both dust collection systems shall exhaust through a baghouse.
8. All of the transfer points shall be fully enclosed and exhaust to a baghouse dust collection system.
9. All aboveground conveyors shall be equipped with covers. Belt scrapers and collection pans would be provided, as needed, along return belt areas. There shall be no open storage of coal during normal terminal operations. Coal shall be transferred directly from conveyors into enclosed storage bins.
10. The feeders and most of the reclaim conveyor are located underground. The other transfer emission point shall be located at the surge bin and shall be totally enclosed and vented to a baghouse. Connections between the surge bin, the weigh bin, and the loadout chute shall be sealed.
11. Trucks shall be loaded inside a structure enclosed on two sides. Each truck shall have canopies to prevent coal losses during transport. During loading, the canopies shall be opened just wide enough to

allow the loadout chute to enter as the truck pulls up to the loading area. The bottom of the chute shall be positioned just below the top of the canopy, producing a partial enclosure. The trailer bed shall slope toward the center from both the front and rear. Coal loading shall begin on the slope at the front of the bed to minimize the drop height.

12. All on-site roads with truck traffic, including the staging area, shall be paved to reduce dust generation. Sweeping shall be used, as needed, to remove dust buildup on the on-site roadway.
13. Proper expansion of new storm drainage facilities to serve areas not presently developed should mitigate any drainage problems that would result from urban growth in Wasco. Continued collection of storm drain fees should assure expansion and maintenance of the system.
14. Mitigation measures include on site drainage with filtering systems to collect any localized pollutants (solids or liquids) from truck fueling and maintenance and laydown pad areas before runoff can be collected by a public facility, and the addition of curb and gutter around the entire project site. In addition, facility sweeping and housekeeping operations would minimize surface dust that would be picked up by surface runoff.
15. The stormwater collection system shall minimize flooding potential due to the proposed project so that no significant adverse impacts would result.
16. The proposed facility shall be designed to include a number of noise-attenuation features, primarily the enclosure of essentially all the transfer equipment.
17. Any potentially annoying noise sources, such as public address systems or equipment alarms, shall be directed towards the interior of the facility to minimize potential impact on nearby residences.
18. Truck traffic in the City of Wasco shall be confined to the designated truck routes identified in the HECA Traffic Study Technical Memorandum Revision 2 docketed 8/1/2013 and as described herein:
  - a. State Route 43 between Kimberlina Road and Poso Avenue.
  - b. Poso Avenue between State Route 43 and J Street.
  - c. J Street between Poso Avenue and 9<sup>th</sup> Street
  - d. H Street between J Street and 9<sup>th</sup> Street
  - e. 9th Street between H Street and J Street
  - f. Wasco Avenue between Poso Avenue and the Wasco City limits.
19. Coal storage facilities shall be constructed to minimize self-heating.
20. Stored-coal temperature shall be constantly monitored.
21. Silos shall be designed to prevent buildup of "old" coal.
22. A laydown pad shall be constructed which shall be used to cool and turn coal in the event a hot spot develops.
23. Site surfaces shall be swept to minimize coal dust collections.
24. Storage systems shall be properly ventilated.
25. Metal Detectors shall be placed on conveyors to remove spark sources.

26. All transfer and conveyance points shall be enclosed with air streams vented through fabric filter collectors to remove greater than 90 percent of the entrained particulates. The collected dust shall be pneumatically conveyed and loaded out with the coal.
27. All maintenance, inspection, and source testing conditions required by the San Joaquin Valley Unified Air Pollution Control District in the Authority to Construct issued for the proposed project, all conditions required by the Kern County Fire Department, and Mine Safety and Health Administration guidelines regarding methane detection shall be compiled with..
28. In order to address any adverse impacts caused by the coal trucks on area road conditions, Savage, in consultation with city officials, shall agree to reconstruct area roads as follows:
  - a. Reconstruct "J" Street from Poso Avenue north to and including the "H" Street intersection to a Traffic Index (T.I.) of 9 Standard.
  - b. Reconstruct Poso Avenue from State Highway 43 to "J" Street to a T.I. of 9 Standard.
  - c. Reconstruct Wasco Avenue from Poso Avenue south to the Wasco city limits to a T.I. of 9 standard.
  - d. Reconstruct "H" Street from "J" Street to 9<sup>th</sup> Street to a T.I. of 9 standard.
  - e. Reconstruct 9<sup>th</sup> Street from "H" Street to "J" Street to a T.I. of 9 standard.

Reconstruction of these roadway segments shall be complete prior to operation of the Wasco Coal Terminal in association with the facility constructed under California Energy Commission Docket Number 08-AFC-8A. The applicant at their option may choose to either reconstruct these roadway segments, or pay the full cost for the City of Wasco to reconstruct these roadway segments. The full cost of reconstruction shall be determined by the City upon completion of the improvements and upon final calculation of construction costs shall be considered the Actual Cost of Construction.

29. The applicant shall pay a quarterly user fee to address the long term impacts of truck traffic on local coal truck route street segments, on terms described in this paragraph. The user fee shall be based on a cost per ton of transferred coal in accordance with and in the amount identified in the engineer's report on file with the City of Wasco, initially set at \$0.0558 per ton. This fee shall be adjusted annually on the first of each calendar year according to the Los Angeles-Riverside-Orange County Area CPI index. The fee shall be paid on a calendar year quarterly basis. Not later than 30 days after the end of each calendar quarter (beginning with the calendar quarter in which the first coal delivery is made from the Wasco Coal Terminal to the CEC facility), the applicant will provide the City of Wasco Finance Department with a load report indicating the total tonnage of coal transferred from the Wasco Coal Terminal to the CEC facility during such calendar quarter. Based on such load report and using the user fee per ton in effect during the subject calendar quarter, the applicant will also submit the calculated user fee payment based on that load report. This user fee shall be in effect from the date the first coal delivery is made from the Wasco Coal Terminal to the facility constructed under California Energy Commission Docket Number 08-AFC-8A for as long as the Wasco Coal Terminal is supplying coal to the CEC approved facility.
30. The applicant shall satisfy any requirements of the California Department of Transportation regarding improvements or payment of fair share fees towards traffic signalization at the intersection of Poso and State Highway 43.
31. The haul truck schedule shall be adjusted to shift the interface period ahead or behind so as to minimize the number of trucks in town during school bus activity.
32. Savage shall maintain a staff of drivers that are professional and safety conscious. Savage drivers shall receive training both at the beginning and annually during the course of employment. The initial course



shall be the National Safety Association Profession Driver Improvement Course. The school bus interface and additional topics shall be addressed early on in monthly safety meetings.

33. Savage shall place proper cautionary signing (posting) (i.e., Truck Crossing, School Bus Crossing, etc.).
34. Savage trucks shall be equipped with two-way radio communications to facilitate tracking of school bus movement, helping to smooth the flow of both truck and bus traffic.
35. The Savage Coal Transfer station shall process no more than 1,500,000 tons of non-metallic minerals (SIC 3299) per year and shall operate a maximum of 20 cumulative truck loading hours per day in accordance with the facility's San Joaquin Valley Air Pollution Control District Permit to Operate.
36. All Savage-controlled train car movement shall be maintained at speeds of less than 10 mph.
37. Empty car storage shall be on the three side tracks and shall terminate just below Sixth Street to not impede or cross the designated pedestrian and traffic crossing area.
38. Savage shall work with the railroad to provide appropriate information and hazard training to advisors and students.
39. All buildings, structures, and equipment for housing and handling coal shall be of non-combustible construction.
40. Construction should minimize areas where coal dust can accumulate and access would be provided for cleaning or washing down areas. The coal receiving, storage, and load-out areas shall be enclosed under negative pressure, where possible. These areas shall be vented through fabric filters that shall remove dust with greater than 90 percent efficiency.
41. Explosion venting, self-closing doors, and drain systems shall be provided where required.
42. Storage of coal shall be limited to a short duration in accordance with approved design stipulations. The storage silos have been designed to reduce buildup of "old" coal on the sidewalls of the system.
43. Means shall be provided to facilitate the removal of burning, wet, or smoldering coal. This shall include access to material plus equipment. The project shall include a "laydown pad" where coal could be cooled in the event that hot spots develop. In addition, storage silos shall be designed and sized to minimize the development of hot spots and would provide means to continuously monitor coal temperatures.
44. Every building or room where dry coal would be processed or handled shall be provided with approved portable multipurpose fire extinguishers in accordance with NFPA 10.
45. Conveyor belts shall have a fixed fire suppression system.
46. NFPA 14 shall be used to provide hose systems.
47. Training and housekeeping procedures shall be a regular part of Savage employment requirements.
48. Automatic detection for foreign objects shall be provided at initial loading of conveyors.



49. Belt conveyors shall be: designed to resist ignition, provided with a device arranged to automatically shut off driving power in the event of a belt slowdown, designed so that the hydraulic system for belt alignment shall use only fire retardant hydraulic fluids or shall be protected by automatic fire protection, and a means shall make a provision to remove tramp metal and other foreign objects.
50. NFPA 120 Standards for Coal Preparation Plants shall be enforced.
51. On-site hydrants and/or monitors shall be provided. Hydrants shall be able to provide 1500 gpm at 20 psi for four hours. The hydrants shall be maintained by approved personnel.
52. Any impact from sanitary wastewater disposal shall be mitigated by proper sizing and construction of the sewer system connection currently proposed.
53. Any impacts to area flooding resulting from construction of the proposed facility shall be mitigated by the project's stormwater drainage system.
54. The project shall comply with all landscaping requirements as specified in the city zoning ordinance.
55. Buildings, tanks, and coal silos shall be painted a flat, earthtone color with consideration to colors that would reduce heat transfer to the tank and silo interiors.
56. The coal terminal shall be subject to a vigorous maintenance program which would ensure that the facility stays well-painted and maintained. The maintenance plan shall be reviewed and approved by the city public works department.
57. Lighting attached to any structure shall be directed to the interior of the site to minimize light and glare impacts to travelers on Ninth, J, and H streets and to residences to the north of the site.
58. High Pressure sodium vapor lights shall be used instead of mercury, lights to reduce glare.
59. Light standards within any on-site parking areas and interior driveways shall be no higher than 12 feet and directionally-shaded to reduce glare.
60. If archaeological materials are encountered during project construction, the on-site personnel shall not alter the material and its context until a qualified archaeologist is retained to evaluate the finds and propose recommendations for protection of the resources.
61. All necessary building permits must be obtained from the City of Wasco Building Inspection Department.
62. The method of water supply and sewage disposal shall be as required and approved by the City of Wasco.
63. All signs shall be approved by the Planning Director prior to installation.
64. All vehicle parking and maneuvering areas shall be surfaced in compliance with the Building Inspectors approval.
65. Vehicle parking areas shall be a minimum of 9 feet by 20 feet in size and shall be designated by painted stripes.

66. Concrete wheel blocks shall be installed at each parking space.
67. All new on site utility services shall be placed underground.
68. The method of fire prevention shall be required (but not limited to) and approved by the Kern County Fire Department.
69. This Conditional Use Permit is non-transferable except with prior approval of the Planning Commission.
70. Coal shall only be delivered to facilities which currently exist and are using coal or to future facilities whose environmental documents specifically address usage of coal delivered from this project. All facilities receiving coal from the Wasco Coal Terminal must be approved by the appropriate lead agency and must have undergone an environmental review which identifies the usage of coal from this facility.
71. Any transportation of coal to consumers outside of Kern County will be restricted to the use of State Highways while the vehicles are in Kern County.
72. Any pipes holding flammable liquids shall be equipped with automatic shut off valves and designed to minimize breakage potential.
73. All vehicles and equipment used on or at project site shall be kept in good repair and be properly maintained so as to minimize noise, air and visual pollution.
74. This facility shall only receive non-metallic minerals (SIC 3299).
75. The rail car shaker shall be used only to fluidize the coal for the top half of each coal car or for 6 minutes after the car is in position whichever occurs first. The shaker shall be used for no more than 30 seconds during this time period. Savage shall install on or before December 1, 1990 a means approved by the Planning Department to continuously monitor and record the shaker use during all rail car unloading. Savage shall make these records available to the City of Wasco.
76. On or before January 1, 1991 Savage shall develop a training program for all operations of the shaker in order to maximize operation performance and shall monitor the performance of the operators and correct any deficiencies which may arise.
77. Savage shall organize (or have a third party organize) the railcars such that the majority of those rail cars which are responsible for the creation of the most noise during the unloading process, be unloaded during the hours of 7 a.m. to 10 p.m. NOTE: Railcars deemed as being responsible for noise creation are those which have an end slope of less than 42 degrees.
78. Noise emitted by the Savage coal Company shaker shall not exceed the criteria set forth by Dawson, H. "Practical Aspects of the Low Frequency Noise Problem" Journal of Low Frequency Noise and Vibration, Vol. 1, No. 1, 1982. Evidence of compliance shall be submitted to the Planning Department by March 1, 1991.
79. Savage shall develop and implement an alternative means to the shaker to clean the center portion of all rail cars by December 1, 1990.

80. In order to minimize any loss of coal onto the BNSF tracks during coal delivery to the Savage facility, rail cars that deliver coal to the terminal should have consistent car-to-car specifications that are compatible with the design of the existing receiving system (e.g. model, type, opening width & length, hopper opening dimensions and door control sequencing). Any loose coal remaining on rail car undercarriage structure following unloading shall be removed prior to returning rail cars to the siding tracks, and Savage shall inspect the sidings where trains are placed on a weekly basis and, as necessary, promptly clean-up any material amounts of coal found on the tracks, subject to BNSF permission and safety requirements.
81. This approval is subject to and will only be valid upon final certification of the project and environmental document proposed under California Energy Commission Docket Number 08-AFC-8A and written notice from applicant that it intends to commence service to the HECA project.
82. Upon final approval of the HECA project by the California Energy Commission (CEC) it may be necessary to make minor modifications to these conditions of approval to ensure consistency with the final conditions of certification imposed by the CEC on the HECA project. The City of Wasco Planning Director shall have authority to make minor modifications to the conditions of approval to ensure consistency with the CEC approval. Any modifications deemed by the Director to be significant shall require review by the City of Wasco Planning Commission.