

1 [Finding appeal of statutory exemption for Wharf J-10 timely.]

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3 **Motion finding the appeal of the statutory exemption issued on April 15, 2003 for Wharf**
4 **J-10 timely filed.**

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6 WHEREAS, On April 15, 2003, the Planning Department determined that the proposed
7 work for Wharf J-10 was excluded from review under the California Environmental Quality Act
8 ("CEQA") because the proposed work consisted of specific actions necessary to prevent or
9 mitigate an emergency as provided in California Public Resources Code Section 21080(b)(4)
10 and the CEQA Guidelines, 14 California Code of Regulations Section 15269(c); and,

11 WHEREAS, On May 6, 2003, F. Alioto Fish Company appealed the Planning
12 Department's decision to find the proposed work statutorily exempt from CEQA; and,

13 WHEREAS, CEQA was recently amended to provide that such determinations are
14 appealable to the elected decision-making body, but the Board of Supervisors has not yet
15 adopted procedures providing for appeals of any determinations other than certification of an
16 environmental impact report; and

17 WHEREAS, The Board of Supervisor's held a duly noticed public hearing on June 10,
18 2003, to consider whether the appeal filed by Appellants was timely; and

19 WHEREAS, This Board reviewed and considered the written record before the Board
20 and all of the public comments made in support of and opposed to the question of whether the
21 appeal was timely; now, therefore, be it

22 MOVED, This Board hereby finds that the appeal is timely filed based on the facts and
23 in consideration of the equities in this matter and because the appeal was filed substantially in
24 compliance with the time limits set forth in the Administrative Code Section 31.16 for appeals

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1 of environmental impact reports and there are no other time limits placed on appeal of any
2 other CEQA determination.

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