



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: April 15, 2011
To: Interested Person
From: Rachel Whiteside, Land Use Services
503-823-7605 / Rachel.White@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-100529 GW

GENERAL INFORMATION

Applicant: Kinder Morgan Liquid Terminals Inc
500 Dallas, Suite 1000
Houston, TX 77002

Representative: Curt Bagnall,
CH2M Hill
2020 SW 4th Ave #300
Portland, OR 97201

Site Address: 11400 NW ST HELENS ROAD

Legal Description: TL 200 13.14 ACRES LAND & IMPS, SECTION 03 1N 1W; TL 100 3.58 ACRES, SECTION 03 1N 1W

Tax Account No.: R961030050, R961030080

State ID No.: 1N1W03AA 00200, 1N1W03AD 00100

Quarter Section: 1918

Neighborhood: Linnton, contact Ed Jones at 503-799-5368;
Forest Park, contact Jim Emerson at 503-283-4096.

Business District: None

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: None

Other Designations: 100-Year Flood Plain

Zoning: IHi – Heavy Industrial with a River Industrial Overlay Zone
IHgq – Heavy Industrial with the River General (g) and River Water Quality (q) Overlay Zones

Case Type: GW – Greenway Review

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

Kinder Morgan is requesting Greenway Review to install a 360-foot long, 30-foot deep, subsurface sheet pile barrier within the greenway setback. The Terminal has an intermittent seep of petroleum hydrocarbons to the Willamette River. The barrier wall project, performed under the oversight of the Oregon Department of Environmental Quality (DEQ), is an interim action to control the seep as part of a larger source control investigation. Associated work includes the repair or replacement of two existing cathodic protection anode wells, installation of 11 new cathodic protection anode wells, repair or replacement of 5-10 existing monitoring and remediation wells in the immediate area of the barrier wall, and repair of an existing storm drain.

The proposed barrier wall includes driving 30-foot deep steel sheets along the upland side of the uppermost existing wood pile bulkhead. Temporary fill is required between two existing bulkheads and the 10-foot elevation along the beach. The fill is required for bank stabilization during the construction of the sheet pile wall and will be removed immediately following the end of construction. Temporary access for construction and staging of materials is proposed on the adjacent site to the south. No permanent development is proposed on Tax Lot 100.

All necessary work is planned to be performed in the dry season when river levels are at their lowest – during the late summer/early fall months. Performing the work during this time allows for the use of standard construction equipment from the shoreline and will insure that all work happens outside of the river, limiting impacts to listed fish species and their habitat.

The site does not currently meet the Greenway Setback Landscape Standard in Section 33.440.230. Due to the extreme fire hazards and existing dock facilities located on the site, the applicant has proposed a reduced planting scheme that can comply with Fire Code and Home Land Security requirements while still enhancing the natural portions of the riverbank.

A Type II Greenway Review is required for this proposal because development is proposed within the greenway setback and temporary construction measures are required riverward of top of bank of the Willamette River.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in **Section 33.440.350, Greenway Approval Criteria, and the Willamette Greenway Design Guidelines.**

ANALYSIS

Site: The site's riverfront consists of riprap bank stabilization and a length of sandy beach with a small amount of vegetation. The Terminal is almost entirely paved and developed with buildings, storage tanks, and fuel distribution infrastructure. With the exception of a small amount of vegetation riverward of the Terminal perimeter fence along the river in the southern portion of the property, little to no vegetation exists on site. There is a single tree outside on the southwest corner of the site, outside of a containment wall. On the southern most portion of the site's riverfront, there are two trees along the riverbank along with several small bushes. The trees and bushes are located below the OHW elevation.

Zoning: This site is zoned Heavy Industrial (IH), with a Greenway River Industrial (i) overlay designation. The adjacent site where construction staging is proposed is zoned Heavy Industrial (IH), with Greenway River General (g) and River Water Quality (q) overlay designations.

The **Heavy Industrial (IH)** zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The IH zone provides areas where all kinds of industries may locate, including those not desirable in other zones due to their

objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development.

The **Greenway overlay zones**, designated as “g”, “i”, and “q” are intended to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers; establish criteria, standards, and procedures for the development of land, change of uses, and the intensification of uses within the greenway; and implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368 and Metro's Title 3.

- The “g” overlay is intended to allow uses and development consistent with the base zoning, which allows for public use and enjoyment of the waterfront, and which enhance the river's natural and scenic qualities.
- The “i” overlay is intended to encourage and promote the development of river-dependent and river-related industries which strengthen the economic vitality of Portland as a marine shipping and industrial harbor, while preserving and enhancing the riparian habitat and providing public access where practical.
- The “q” overlay is designed to protect the functional values of water quality resources by limiting or mitigating the impact of development in the greenway setback.

Only river dependent or river related uses are allowed on sites with a River Industrial Greenway designation. The applicant notes that a number of industries are located at the site, which transport products and supplies to and from the site via barges and other ocean going vessels. In this overlay zone, any development within 75 feet of top of bank or riverward of the Greenway Setback is subject to Greenway Review. Since alterations are proposed to the site, within and riverward of the greenway setback, this proposal must comply with the Greenway Review approval criteria (33.440.350). In addition, development that is within or riverward of the Greenway Setback must be river-dependent or river-related or approved through a Greenway Goal Exception. The applicant states that where the proposed barrier wall is within the Greenway Setback because the barrier must be located between the source of contamination and the river. Removal or remedial actions of hazardous substances are considered river-related development.

Greenway Resources: The *Lower Willamette River Wildlife Habitat Inventory* (LWRWHI) has identified the proposed project as being located within Sites 5.2a and 5.2b. According to the LWRWHI, Sites 5.2a and 5.2b received numerical habitat ratings of 28 and 0, respectively, classifying them in the lowest ranking group, IV/V. Rank IV/V sites have existing vegetation on site with little value in terms of its ability to attract a wide variety of wildlife species. Rank IV/V sites do, however, contain the greatest potential for creative wildlife enhancement landscapes.

Land Use History: City records indicate that prior land use reviews include the following:

- **GP 013-89:** Approval of Greenway Review for a trailer 25 feet landward of top of bank.
- **LUR 91-00314 GW:** Approval of Greenway Review for two breasting platforms.
- **LUR 91-00732 GW:** Approval of Greenway Review for mooring dolphins and water access walkway.
- **LUR 93-00488 GW:** Approval of Greenway Review for the construction of a boathouse, ramp and ramp platform to support a river-dependent use.
- **LUR 94-00425 GW:** Approval of a Greenway Review for the construction of an office addition.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 17, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Bureau of Parks-Forestry Division

The Bureau of Environmental Services responded with comments regarding recommended plantings and permit information. Please see Exhibit E.1 for additional details.

The Site Development Section of BDS responded with the following comments: A geotechnical report, compliance with 24.50 Flood Hazard Area, and erosion control measures in conformance with Title 10 will be required to be documented as part of the building permit review process. Please see Exhibit E.5a and b for additional details.

The Life Safety Section of BDS responded that a separate building permit is required for the work proposed. Please see Exhibit E.7.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 17, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.440.350 Greenway Review Approval Criteria

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with **all** of the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all of the approval criteria are met.

A. For all greenway reviews: The Willamette Greenway Design Guidelines must be met for all greenway reviews. The Willamette Greenway Design Guidelines address the quality of the environment along the river and require public and private developments to complement and enhance the riverbank area. The Design Guidelines are grouped in a series of eight Issues:

A complete description of the Design Guidelines and their applicability is provided in pages C-3 through C-49 of the *Willamette Greenway Plan*. Findings for the individual guidelines are included below.

Issue A. Relationship of Structures to the Greenway Setback Area: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for complementary design and orientation of structures so that the greenway setback area is enhanced:

1. Structure Design
2. Structure Alignment

Issue B. Public Access: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for integration of the Greenway Trail into new development, as well as the provision of features such as view points, plazas, or view corridors:

1. Public Access
2. Separation and Screening
3. Signage
4. Access to the Water’s Edge

Findings: There is no Greenway Trail designation on private property at the site. For this reason, guideline issues A and B do not apply.

Issue C. Natural Riverbank and Riparian Habitat: This issue “applies to situations where the river bank is in a natural state, or has significant wildlife habitat, as determined by the wildlife habitat inventory.” These guidelines call for the preservation and enhancement of natural banks and areas with riparian habitat:

1. Natural Riverbanks
2. Riparian Habitat

Issue D. Riverbank Stabilization Treatments: This guideline “applies to all applications for Greenway Approval.” This guideline promotes bank treatments for upland developments that enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where possible:

1. Riverbank Enhancement

Issue E. Landscape Treatments: This issue “applies to all applications for Greenway Approval which are subject to the landscape requirements of the Greenway chapter of Title 33 Planning and Zoning of the Portland Municipal Code.” These guidelines call for landscaping treatments that create a balance between the needs of both human and wildlife populations:

1. Landscape Treatment
2. Grouping of Trees and Shrubs
3. Transition

Findings: These criteria call for protecting and enhancing the shoreline environment in a manner that will improve the appearance and habitat values of the riverfront, while also accommodating the river-dependent and river-related operations at the site. The shoreline along the Kinder Morgan site has undergone significant alterations over time with the installation of mooring dolphins, docks, access ramps and other development associated with the industrial activities that occupy the site. The shoreline presently includes a mix of bank protection measures that have been installed to control erosion (riprap) or to facilitate industrial use (docks). The shoreline does not have any public access requirements, nor are there any public beaches along the site’s riverfront.

The area where the barrier wall is to be placed is an area of fill material, with three wood pile bulkheads that form and stabilize the riverbank. Rock riprap exists between the bulkheads to protect the bulkheads and riverbank. The barrier wall will be installed on the upland side of the uppermost wood pile bulkhead. The installation of the barrier wall will require temporary disturbance below top of bank in the form of additional temporary fill between the uppermost bulkhead and a middle bulkhead at the OHWM elevation and between the middle bulkhead and the beach. The temporary fill locations are shown on Exhibit C.8. These fill areas provide additional slope stability in the steep bank areas along the sheet pile wall alignment. These fills will be placed prior to sheet pile wall construction and removed during demobilization.

In total, the project will temporarily disturb approximately 15,475 square feet riverward of top of bank (TOB). The area of work landward of TOB, within the 25-foot greenway setback, is already permanent disturbance area. The applicants have proposed the following construction methods to avoid and/or limit detrimental impacts to the bank and shoreline environment: no in-water construction and sediment fences riverward of all work and staging areas (see Exhibit C.8).

Overall, as set forth in the findings above, the bank will be protected during construction. With the condition that development is consistent with Exhibit C.8, Construction Management Plan, these guidelines are met.

Issue E. Landscape Treatments: This issue “applies to all applications for Greenway Approval which are subject to the landscape requirements of the Greenway chapter of Title 33 Planning and Zoning of the Portland Municipal Code.” These guidelines call for landscaping treatments that create a balance between the needs of both human and wildlife populations:

4. Landscape Treatment
5. Grouping of Trees and Shrubs

6. Transition

Findings: The City of Portland Harbor Master provided comments to the Bureau of Development Services during the review of permit 10-120832 CO (for a tank replacement) that the facilities at the site present an extreme risk for fire and lush landscaping should be discouraged (Exhibit A.1). Based upon the International Fire Code and Portland Fire Code, the applicant prepared a plan that identifies exclusion areas as well as possible planting areas (Exhibit C.7). No trees are proposed or recommended at the site due to the possible interference with the river-dependent development and possible fire hazard.

Within the 370 feet of riverbank that is available for plantings, the applicant has proposed a total of 163 shrubs to be clustered at the north and south ends of the site. The applicant has proposed planting Oregon grape as it is low-growing and identified as a fire-resistant plant. While Oregon grape is a native plant listed on the *Portland Plant List*, it is not a species typically found in riparian areas. For this reason, staff has modified the applicant's planting plan to include different plant species that are both fire-resistant and appropriate for the riverbank habitat.

Generally, greenway plantings must be installed prior to the final erosion control inspection of the associated development. During the review of permit 10-120832 CO, the property owner entered into an Option 2 Nonconforming Upgrade Agreement (PR 11-114412) to defer required greenway landscaping for up to 4 years. The property owner has chosen to defer plantings while they continue work with DEQ to determine the extent of hazardous substance removal/remediation on the site.

The staff-modified plantings will enhance the habitat and scenic values of the shoreline as they mature, while accommodating the existing river-dependent development and proposed hazard remediation actions on the site. With the condition that plantings consistent with Exhibit C.6 be installed at the time of final erosion control inspection or in compliance with the timeline approved under PR 11-114412, Option 2 Nonconforming Upgrade Agreement, these guidelines are met. Alternatively, the approved greenway planting plan and timeline may be altered through a future Type II Greenway Review.

Issue F. Alignment of Greenway Trail: This issue “applies to all applications for Greenway Approval with Greenway Trail shown on the property in the Willamette Greenway Plan.” These guidelines give direction in the proper alignment of the greenway trail and call for consideration of habitat protection, the physical features of the site and the necessity of maintaining year-round use of the trail:

1. Year-Round Use
2. Habitat Protection
3. Alignment

Issue G. Viewpoints: This issue “applies to all applications for Greenway Approval with a public viewpoint shown on the property in the *Willamette Greenway Plan* and for all applications proposing to locate a viewpoint on the property. These guidelines provide direction about the features and design of viewpoints, as required at specific locations:

1. Design
2. Facilities
3. Access to Water's Edge
4. Relationship to Trail

Issue H. View Corridors: This issue “applies to all applications for Greenway Approval with a view corridor shown on the property in the *Willamette Greenway Plan*”. These guidelines provide guidance in protecting view corridors to the river and adjacent neighborhoods.

1. Right-of-way Protection
2. View Protection
3. Landscape Enhancement

Findings: There are no Greenway Trail, (Greenway) Public Viewpoints, or (Greenway) View Corridors shown on the property in the *Willamette Greenway Plan*. For these reasons, guideline issues F, G and H do not apply.

SUMMARY FINDINGS for 33.440.350.A - Greenway Design Guidelines: Based on the foregoing, guideline issues A, B, F, G, and H do not apply. Guideline issues C, D and E are met. Accordingly, this criterion can be met.

- B. River frontage lots in the River Industrial zone.** In the River Industrial zone, uses that are not river-dependent or river-related may locate on river frontage lots when the site is found to be unsuitable for river-dependent or river-related uses. Considerations include such constraints as the size or dimensions of the site, distance or isolation from other river-dependent or river-related uses, and inadequate river access for river-dependent uses.

Findings: The site is within the River Industrial overlay zone and is occupied by a river dependent, bulk storage and distribution facility. No changes to the use are proposed with this review. Because the existing use of the site is consistent with the purpose of the River Industrial overlay zone, this criterion does not apply.

- C. Development within the River Natural zone.** The applicant must show that the proposed development, excavation, or fill within the River Natural zone will not have significant detrimental environmental impacts on the wildlife, wildlife habitat, and scenic qualities of the lands zoned River Natural. The criterion applies to the construction and long-range impacts of the proposal and to any proposed mitigation measures. Excavations and fills are prohibited except in conjunction with approved development or for the purpose of wildlife habitat enhancement, riverbank enhancement, or mitigating significant riverbank erosion.

- D. Development on land within 50 feet of the River Natural zone.** The applicant must show that the proposed development or fill on land within 50 feet of the River Natural zone will not have a significant detrimental environmental impact on the land in the River Natural zone.

Findings: The site does not contain the River Natural ("n") overlay zoning designation nor is it within 50 feet of land with this designation. Therefore, criterion C and D do not apply.

- E. Development within the greenway setback.** The applicant must show that the proposed development or fill within the greenway setback will not have a significant detrimental environmental impact on Rank I and II wildlife habitat areas on the riverbank. Habitat rankings are found in the *Lower Willamette River Wildlife Habitat Inventory*.

Findings: The project area has been identified within Sites 5.2a and 5.2b in the *Lower Willamette River Wildlife Habitat Inventory*. These are Rank V Habitat Areas and are noted for high physical and human disturbance with little vegetative cover. There is a Rank II habitat area immediately upstream (Site 6A), which consists of the sandy beach and mudflats and extensive native riparian vegetation on the bank. The nearest Rank I habitat area (Site 4.2A/D) is approximately one mile downstream of the project area.

Work within the greenway setback includes construction access, installation of the barrier wall, repair/replacement of any damaged monitoring or remediation wells, repair and installation of cathodic protection anode wells, and replacement of an existing outfall. With the implementation of adequate construction management controls, the project is expected to have few, if any, detrimental impacts on these nearby habitat areas. The primary concern is sediment and erosion into the river. Erosion mitigation controls will include the

installation of silt fencing riverward of the work area, including staging and laydown areas. During construction, daily inspections of the silt fencing will be performed. If, during these inspections, additional erosion control measures are needed, gravel may be utilized to enhance erosion control measures above OHW elevation.

Additionally, the applicant is proposing to add limited greenway plantings at the south end of the site. As the proposed native riparian vegetation matures, it will help buffer the adjacent Rank II area. For these reasons, this criterion is met.

F. Development riverward of the greenway setback.

1. The proposal will not result in the significant loss of biological productivity in the river;
2. The riverbank will be protected from wave and wake damage;
3. The proposal will not:
 - a) Restrict boat access to adjacent properties;
 - b) Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;
 - c) Interfere with fishing use of the river;
 - d) Significantly add to recreational boating congestion;
4. The request will not significantly interfere with beaches that are open to the public.

Findings: Any work occurring below ordinary high water (OHW) will be performed during the late summer/early fall months when the water levels are at their lowest and well below the proposed work area. By performing work tasks during the in-water work window, impacts to listed fish species and their habitat are avoided. The proposed project is designed to prevent petroleum hydrocarbons from reaching the Willamette River. Combined with the sediment and erosion control measures detailed on Exhibit C.8 to control stormwater and erosion during construction, no impacts to biological productivity or river water quality are expected from this project.

The existing riverbank is currently resistant to wake and wave damage. The existing bank stabilization treatment of terraced bulkheads and riprap minimize potential wave and wake damage. The southern 230 feet of the shoreline is somewhat more exposed to wave and wake damage; however, the existing condition shows no evidence of wave or wake damage. The proposed plantings in this portion of the shoreline should provide additional protection from erosion.

No changes in boat access to adjacent properties will result from the project. The project will not interfere with commercial navigational use of the river. The project will not result in any interference with fishing use of the river. No recreational boating congestion will occur as a result of this project.

There are no regularly used or public beaches near the site. As a result, no interference with beaches that are open to the public is expected as a result of this project.

For these reasons, this criterion is met.

G. Development within the River Water Quality overlay zone setback.

H. Mitigation or remediation plans.

Findings: The applicant has proposed to park construction equipment and access the existing onsite maintenance road from the adjacent site to the south. The adjacent site is located within the River Water Quality ("q") overlay zone, however the area proposed for temporary activities is already developed with exterior improvements (gravel) and utilized for exterior work activities (storage). These criteria only apply when a proposal includes development, exterior alterations, excavations, or fills in the River Water Quality overlay zone setback. Activities within existing exterior improvement areas that do not include new development are not subject to criteria G and H. Therefore, these criteria do not apply.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

Kinder Morgan proposes to install a 360-foot long, 30-foot deep, subsurface sheet pile barrier within the greenway setback to control an intermittent seep of petroleum hydrocarbons to the Willamette River. Associated work includes the repair or replacement of two existing cathodic protection anode wells, installation of 11 new cathodic protection anode wells, repair or replacement of 5-10 existing monitoring and remediation wells in the immediate area of the barrier wall, and repair of an existing storm drain. With a condition that plantings consistent with Exhibit C.7 be installed consistent with the timing of PR 11-114412, the applicant has demonstrated compliance with the Issues and Guidelines of the *Willamette Greenway Plan* as well as meeting the relevant approval criteria for the Greenway review.

ADMINISTRATIVE DECISION

Approval of:

- Construction of a 360-foot long, 30-foot deep, subsurface sheet pile barrier within the greenway setback;
- Placement of temporary fill for bank protection riverward of the Greenway Setback;
- The repair or replacement of two existing cathodic protection anode wells, installation of 11 new cathodic protection anode wells, repair or replacement of 5-10 existing monitoring and remediation wells in the immediate area of the barrier wall, and repair of an existing storm drain;
- Associated temporary disturbance for construction access through the Greenway Setback; and
- Installation of Greenway landscape plantings

per the approved site plans, Exhibits C.5 through C.8, signed and dated April 13, 2011, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.5 through C.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-100529 GW. No field changes allowed."
- B. Plantings consistent with Exhibit C.7 must be installed prior to the final erosion control inspection or the date stipulated by PR 11-114412.

Staff Planner: Rachel Whiteside

Decision rendered by: Rachel Whiteside **on April 13, 2011**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 15, 2011

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on January 11, 2011, and was determined to be complete on March 15, 2011.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 11, 2011.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 13, 2011.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 29, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional

information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **May 2, 2011 – (the first business day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;

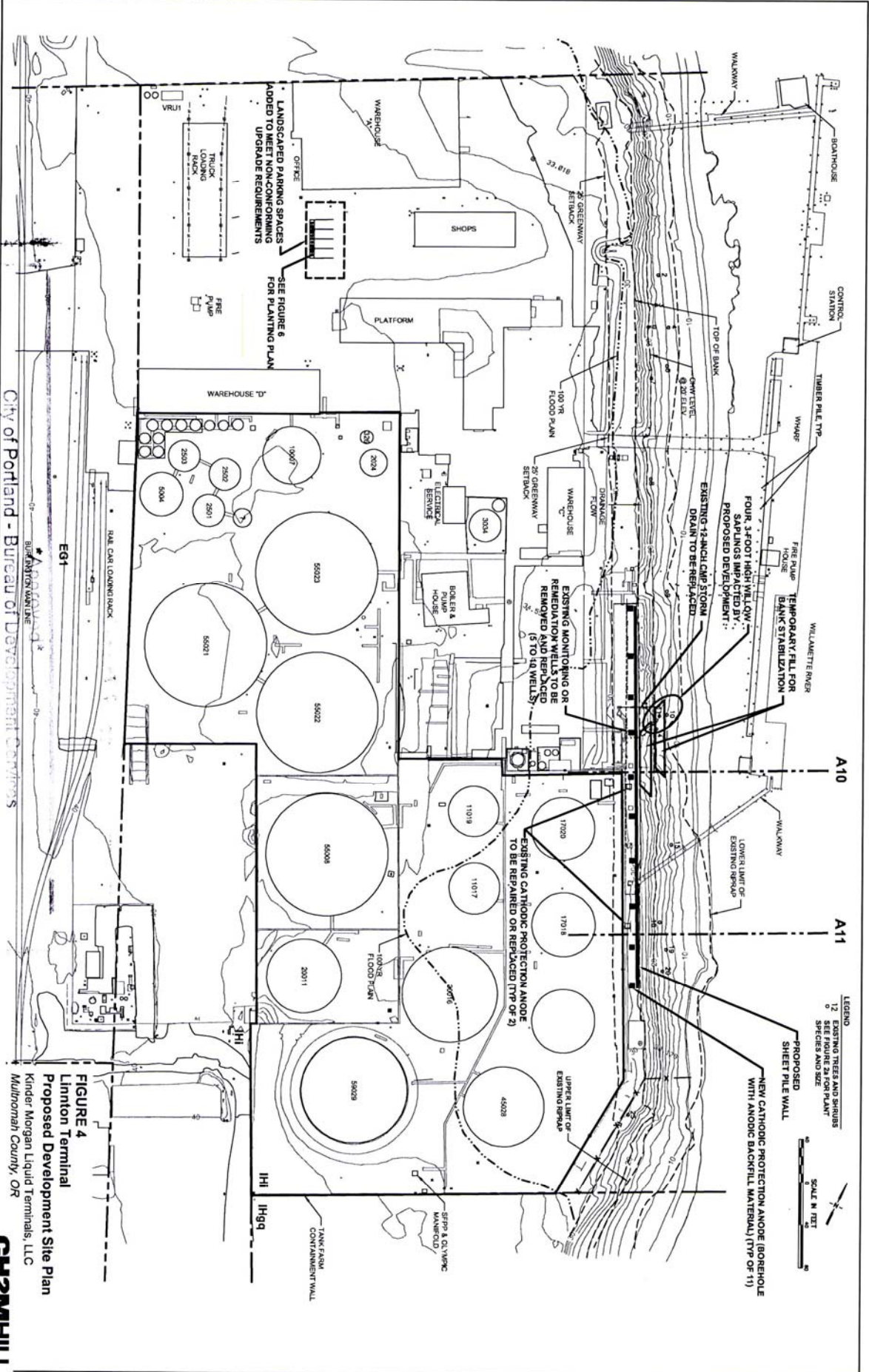
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original Narrative
 - 2. Revised Narrative, received March 11, 2011
 - 3. Statement from geotechnical engineer
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Location Map
 - 2. Existing Conditions Plan
 - 3. Existing Conditions Plan w/Plant Materials
 - 4. Existing Conditions Plan w/Aerial Background
 - 5. Proposed Development Plan
 - 6. Barrier Wall Cross Sections
 - 7. (Staff Modified) Proposed Planting Plan
 - 8. Construction Management Plan
 - 9. Temporary Fill Details
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5a&b. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Review Section of BDS
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter, sent January 25, 2011
 - 4. Meeting Summary from March 8, 2011 Interagency Meeting

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



PI: Ymer Rukhsida Date: 4/13/11

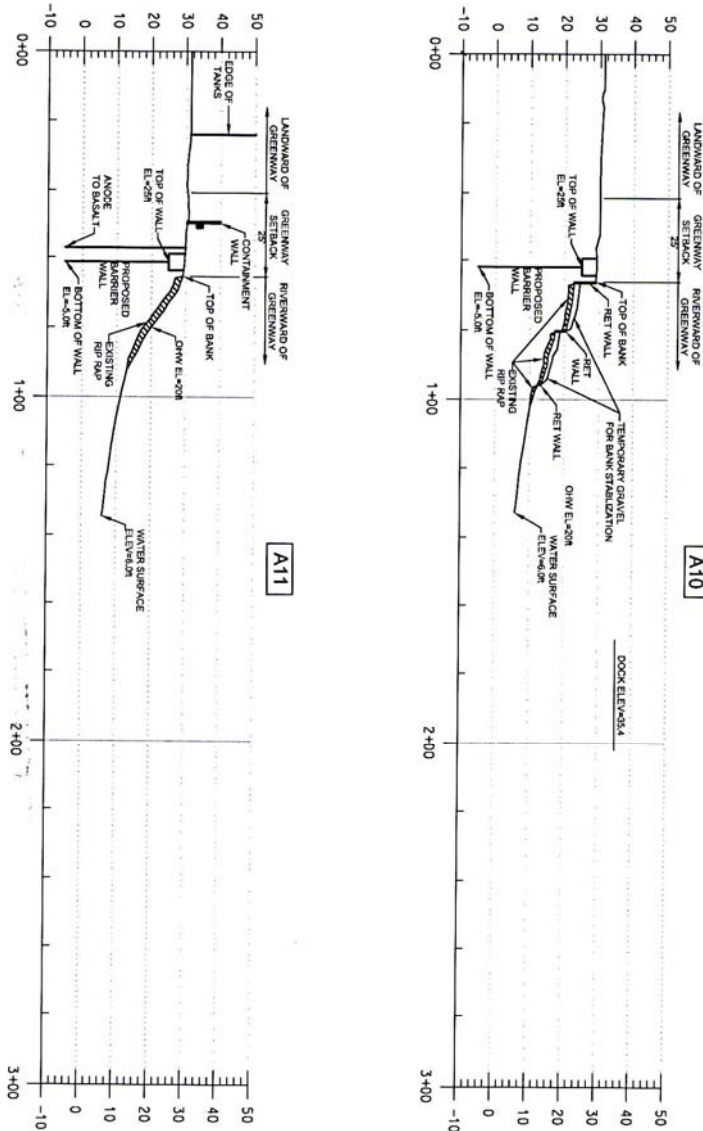
* This approval applies only to the reviews requested and is subject to a
 conditions of approval. Additional zoning requirements may apply.

CASE NO. LU 11-100529 GW

EXHIBIT C-5

FIGURE 4
Linnton Terminal
Proposed Development Site Plan
 Kinder Morgan Liquid Terminals, LLC
 Multnomah County, OR

CH2MHILL



City of Portland - Bureau of Development Services

Project: Riverview

Date: 4/13/11

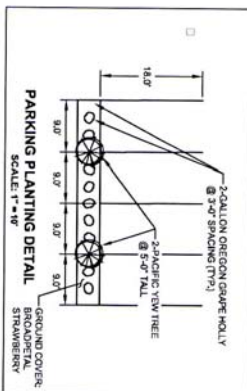
FIGURE 5
Linton Terminal
Cross Sections A10 and A11
Kinder Morgan Liquid Terminals, LLC
Multnomah County, OR

CASE NO. LU 11-100529 GW
EXHIBIT C-6

CH2MHILL

Planner R. M. K. S. I. D. E. Date 4/13/11
 * This approval applies only to the reviews requested and is subject to a
 combination of approval. Additional zoning requirements may apply.

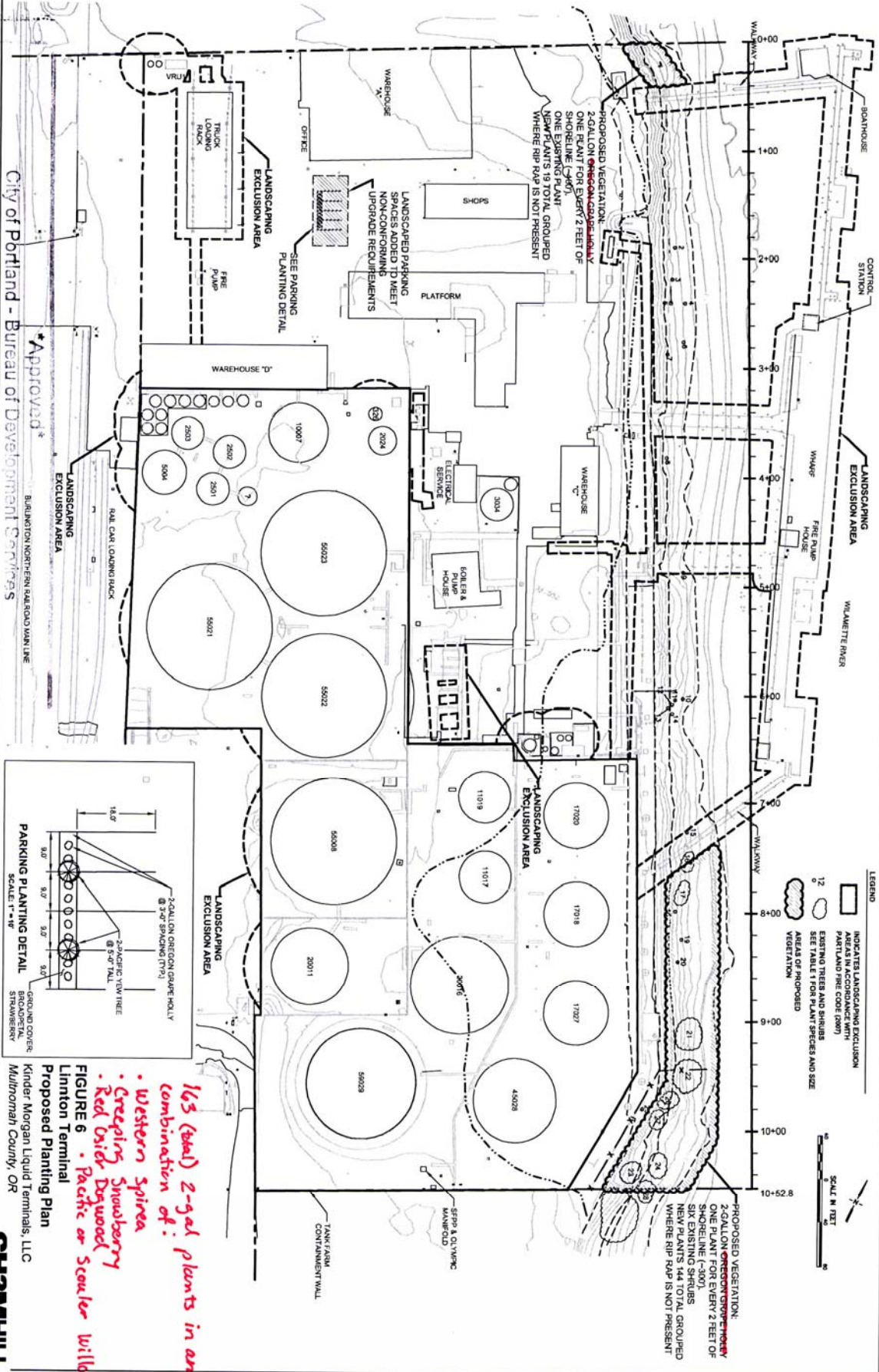
City of Portland - Bureau of Development Services

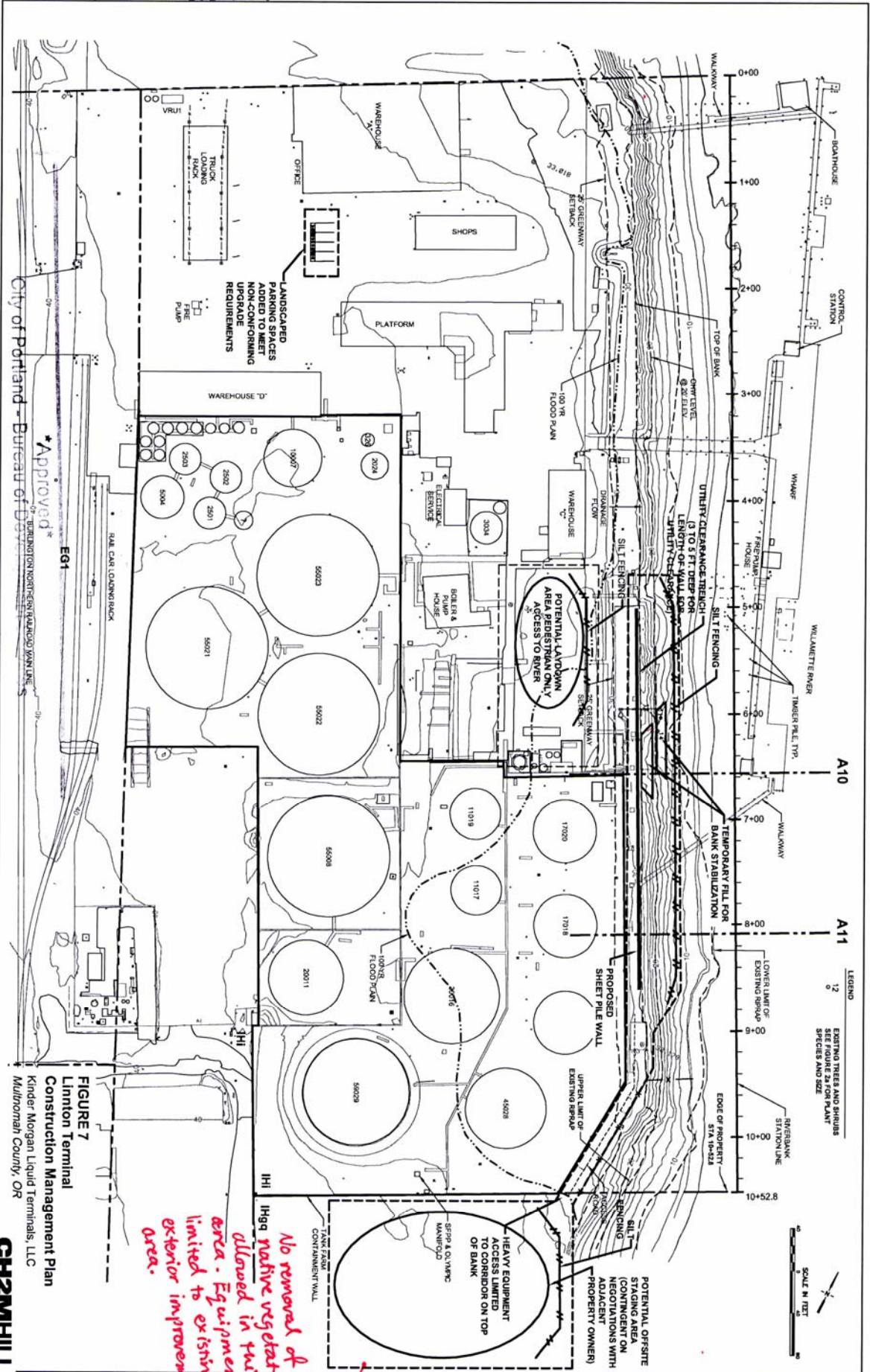


163 (total) 2-gal plants in any combination of:
 • Western spirea
 • Creeping snowberry
 • Red bird dogwood
FIGURE 6 • Pacific or Scouler willow
 Linton Terminal
 Proposed Planting Plan
 Kinder Morgan Liquid Terminals, LLC
 Multnomah County, OR

CH2MHILL

CASE NO. LU 11-1005296W
 EXHIBIT C-7





PI R. White

Date 4/13/11

* This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

CASE NO. LU 11-100529 GW
EXHIBIT C.8

CH2MHILL

FIGURE 7
Linnton Terminal
Construction Management Plan
Kinder Morgan Liquid Terminals, LLC
Multnomah County, OR

No removal of native vegetation allowed in this area. Equipment limited to existing exterior improvement area.