



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

**William Nicholson**  
*Director*

2222 "M" Street  
Merced, CA 95340  
(209) 385-7654  
(209) 726-1710 Fax  
www.co.merced.ca.us

**PLANNING COMMISSION AGENDA  
SPECIAL MEETING OF DECEMBER 3, 2003, 9:00 A.M.  
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,  
MERCED, CALIFORNIA**

**I. CALL MEETING TO ORDER**

**II. ROLL CALL OF COMMISSIONERS**

Larry Whitney; Kimberly Clauss; Steve Sloan, Chairman; Lynn Tanner; David Wager.

**III. APPROVAL OF MINUTES**

**NONE**

**IV. CITIZEN COMMUNICATIONS**

Public opportunity to address the Planning Commission on items of interest over which the Planning Commission has jurisdiction.

**SPEAKERS**

**If you would like to address the Planning Commission on any item on the agenda, please pick up a 3" x 5" card in the foyer, fill it out with your name, address, and item you wish to speak on, and give it to someone at the staff table (to the left of the podium) prior to speaking.**

**V. PUBLIC HEARING**

- A. CONDITIONAL USE PERMIT NO. 01009 – Bettencourt Ranch Mine (Santa Fe Aggregate, Inc.) – To expand existing open-pit aggregate mining operations onto an adjacent 536.6-acre site located south of and adjacent to the Merced River and northeast of Oakdale Road. Elements of the project include the mining and processing of 25.5 million tons of aggregate on 419 acres, continued operation of the existing Santa Fe Aggregates Winton processing plant on the existing project site, and the future reclamation of four separate pits into ponds and islands to serve as habitat for fish and wildlife. In addition, approximately 75 acres of the project site would be reclaimed for agricultural use. An Environmental Impact Report has been prepared for the proposed project in accordance with the requirements of the California Environmental Quality Act (CEQA). **TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Dan Skidmore**

VI. **CORRESPONDENCE**

None

VII. **GENERAL BUSINESS**

None

VIII. **DIRECTOR'S REPORT**

None

IX. **ADJOURNMENT**

**APPEALS**

Any person may appeal any action of the Planning Director or Planning Commission within five (5) calendar days after the day the action is made. [Within ten (10) calendar days of action on subdivisions]. The deadline for appeals of Planning Commission actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Planning Commission meeting. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Planning Director's actions may be filed with the Planning Department and appeals of Planning Commission actions may be filed with the Clerk of the Board of Supervisors. Appeals must state appellant's name, action appealed and reasons for appeal. A filing fee set by Resolution of the Board of Supervisors must be submitted with the written appeal.



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Steve Sloan indicated to the audience that each person wishing to speak is limited to five minutes. If they have any written comments, they can be submitted into the record.

Ruben Castillo, County Counsel, asked how long the initial comment period was. Rick Hansen, EIP, responded 50 days, but the extension was to 78 days.

Bill Nicholson, Planning Director, handed out a 2-page letter with the corrections to the staff report and briefly went over the corrections.

Chairman Steve Sloan indicated for the record, that a correction needs to be made on the Resolution, that it should say Exhibit A at the top of the document.

The public hearing opened at 9:50 a.m.

Ron Turcotte, President at Santa Fe Aggregates, stated that Santa Fe Aggregates started as a family business. He stated that there are two aggregate sites in Merced County. At the Bettencourt Ranch site, approximately 97% of the sand and gravel harvested and processed at the facility, will be consumed in Merced County. He handed out a letter with 112 people in support of the Bettencourt Ranch project. He thanked the Commission for their consideration of this project.

Tom Shephard, Counsel for Santa Fe Aggregates, stated that Santa Fe Aggregates agrees and complies with all the mitigation measures in the staff report. He feels the EIR should provide a good faith analysis of environmental impacts. Santa Fe Aggregates does use tailings as base rock and is a supply that prolongs life of new materials. He feels that loss of agricultural land is unavoidable.

Pat Ferrino, Bettencourt Family representative, handed out a letter to the Commissioners, from Bill Schmid, who lives directly across from the Merced River and is in favor of the application. She invited anyone who has concerns regarding the Bettencourt project to visit the site to answer any questions or concerns to this project.

Don Bergam, CEO for the Merced Chamber of Commerce, stated that Merced County needs tons of aggregate. He asked for approval of this project for the economic vitality of the community.

Linda Falasco, Executive Director of Construction Materials Association of California, handed out a letter to the Commissioners and indicated that aggregate supplies are nearly depleted and the shortage is significant. We are in need of aggregate and she urged for certification of the EIR and asked for approval of the project.

Scott Ross, Santa Fe Aggregate employee at the Winton Site, stated that he tests the products to make sure of the quality. He asked for approval of this project.

Terry Howard, chairman of Calaveras Materials, stated that aggregates are essential to everything we do here in Merced County. He stated that the permitted supplies are running out. Population is expected to grow 50% by 2020. He urged the Commissioners to look over this project very carefully.

Garth Pecchinino, of Tolladay, Fremming & Pecchinino, has worked with this project for the last four years. He recommends approval for this project and stated that it will

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be better for Merced County. Aggregates are important for the businesses in Merced County.

Harry Strawbridge, Atwater resident, in favor of this application, has been out to the project site and feels it's a great project. He urged for approval of this project.

Diane Moore, of Moore Biological Consultants in Lodi, stated she is in favor of this project. The primary goal is to provide habitat values on lands adjacent to the Merced River. The site is farmed in annual crops. They have limited wildlife habitat values.

Ken Ulm, production manager for Santa Fe Aggregates, stated that they have employed many great employees and offer an excellent benefit package to the employees. He is involved in protecting the environment.

### **BREAK**

John Williams, Researcher for LASER, feels that agricultural and farmland must be protected and have readily available aggregates. He stated that LASER supports mining. He also stated that it's important to find a way to obtain economic benefits while still protecting farmland. He feels the final Reclamation Plan from June 2002 has not been updated since and feels it needs to be.

Clark Hulbert, Vice President and District Manager for Teichert Construction, and in favor of this application, stated they have an annual volume of 65 million dollar in engineering construction projects, which utilize products supplied by Santa Fe Aggregates. They are dependent upon the success of Santa Fe Aggregates.

Fred Sherman, Snelling resident, stated that he farms in Snelling and Winton by the Bettencourts projects and said he needs the aggregate products. He stated that there is no shortage of farmland.

Lydia Miller, San Joaquin Raptor Rescue Center, handed out a letter to the Commissioners and since there is a lack of a Reclamation Plan that the project should not move forward. She asked that all letters received by the public be considered by the Commissioners for their decision.

Bryant Owens, Le Grand Resident, handed out a letter of opposition to this project and briefly read the letter to the Commissioners. He asked the Commissioners to briefly look over the conflicts during the review process before they make a decision regarding this project.

### **BREAK**

The public hearing closed at 11:26 a.m.

William Nicholson, Planning Director, stated that regarding the tailings, the Draft EIR contains information on why the tailings alternative was not chosen. The issue was addressed. The Reclamation Plan was a component of the Draft EIR in appendix C. The final EIR was provided and available for review. All the mitigation measure and conditions of approval become components under Planning staff review, that are monitored every year. They do have an adequate Reclamation Plan and no modifications are needed. Staff and consultants are available for any questions.

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**MOTION: M/S CLAUSS - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION ADOPTS RESOLUTION NO. 03001 FOR CONDITIONAL USE PERMIT NO. 01009, CERTIFYING THE ENVIRONMENTAL IMPACT REPORT, ADOPTING ALL RELATED FINDINGS, APPROVING ALL MITIGATION MEASURES AND THE MITIGATION MONITORING PROGRAM, AND STATEMENT OF OVERRIDING CONSIDERATIONS.**

**MOTION: M/S CLAUSS - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED DECEMBER 3, 2003, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES THE RECLAMATION PLAN FOR CONDITIONAL USE PERMIT NO. 01009 SUBJECT TO THE 9 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

1. Conditional Use Permit No. 01009 is granted, and accompanying Reclamation Plan is approved, for the mining of sand and cobbles to an average depth of 40 feet and maximum depth of 55 feet, and reclamation of, the 419 acres known as Bettencourt Ranch.
2. The mining and reclamation project shall be located, developed and operated in a manner described on the approved plot plan, sections, phasing map, elevations, Reclamation Plan narrative, Reclamation Plan, mitigation measures, mitigation monitoring and reporting program, and conditions of this permit. Any changes or proposed modifications to the approved project would be based on a written request of the applicant.
3. Upon completion of on-site mining the processing plant may continue to operate at historic production rates for processing materials transported from off-site resource areas. At closing of on-site mining operations, the Planning Commission will review the processing facility operation and determine whether modifications or additional conditions of approval are warranted to ensured continued compatibility of this facility with adjacent land uses.
4. All mitigation measures recommended in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
5. Prior to exercising the permit, the applicant shall enter into a reimbursement agreement with the County Road Division to maintain the structural section of County Roads.
6. Prior to exercising the permit, the applicant shall provide the County with a financial guarantee for reclamation of the site under the provisions of SMARA and County Code §18.43 in the amount acceptable to the Planning and Community Development Director and the State Department of Conservation.
7. Upon completion of the project, all machinery and equipment associated with the mining operation shall be removed from the property, except for the processing plant (Winton plant).
8. The applicant shall furnish the Planning and Community Development

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Director with a report describing compliance with the Reclamation Plan and Mitigation Monitoring and Reporting Program by July 1<sup>st</sup> of each year. With each report the permittee shall provide a map to scale, showing current progress of mining and reclamation, revegetation, wetland protection and other phased and time-sensitive permit conditions and provision of the Reclamation Plan programs.

9. If the use authorized is abandoned or discontinued for a period of one year or more, the Planning and Community Development Department may initiate revocation proceedings at a public hearing before the Planning Commission.

### **VI. CORRESPONDENCE**

None

### **VII. GENERAL BUSINESS**

The Brasil Dairy project has been appealed and will be going before the Board of Supervisors on December 23, 2003.

The application for Administrative Permit No. 03105 that was revoked was also appealed and is going before the Board of Supervisors.

General Plan Steering Meeting on December 17, 2003 at 1:30 pm, following the Planning Commission Meeting.

Bill Nicholson invited the Commissioners and legal Counsel, Ruben Castillo, for a Christmas lunch on December 17<sup>th</sup> following the Planning Commission meeting.

### **VIII. DIRECTOR'S REPORT**

None

### **IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:40 a.m.