



MERCED COUNTY
BOARD OF SUPERVISORS

SUMMARY ACTION MINUTES

Continued Meeting
FRIDAY, FEBRUARY 2, 2001
9:00 a.m.

MERCED COUNTY
ADMINISTRATION BUILDING
2222 "M" STREET
BOARD ROOM, THIRD FLOOR
MERCED, CALIFORNIA 95340
(209) 385-7366

CHAIR GLORIA CORTEZ KEENE.....DISTRICT 1
KATHLEEN M. CROOKHAM....DISTRICT 2
JOE RIVERO.....DISTRICT 3
DEIDRE F. KELSEY....DISTRICT 4
JERRY O'BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

DEMITRIOS O. TATUM
ACTING COUNTY ADMINISTRATIVE OFFICER

DENNIS MYERS
COUNTY COUNSEL

*All supporting documentation is available for public review in the Office of the Clerk of the Board of Supervisors located in the County Administration Building, Third Floor, 2222 "M" Street, Merced, California, 95340
During regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday.
(209) 385-7366*

9:00 A. M.

PLANNING – CONTINUED PUBLIC HEARING

Appeal to Conditional Use Permit Application No. 99012 and Reclamation Plan

Applicant: Calaveras Materials, Inc. - Woolstenhulme Ranch Mine

Appeal(s) filed by: H.G. Kelsey, Barbara Burroughs on behalf of the Concerned Citizens of the Merced River School District and California Women for Agriculture

Proposal: To excavate 456 acres of a 635-acre site over a 35 year period to produce 15 million tons of Portland cement-grade concrete sand and gravel. Concurrent with mining of 14 successive phases, the perimeters of created open water bodies would be reclaimed to upland and wetland habitat. 179 acres of existing riparian habitat will be preserved. The site is located along the west side of State Highway 59, south of Turlock Road and north of the Merced River in the Hopeton area

REVIEW BOARD ORDER – SEE PAGE 3, 4, 5, 6, 7 and 8

OPENED PUBLIC HEARING, RECEIVED TESTIMONY AND THE BOARD CERTIFIED THE EIR, ADOPTED THE STATEMENT OF OVERRIDING

CONSIDERATIONS AND APPROVED THE MITIGATION MONITORING PROGRAM SUBJECT TO THE ENVIRONMENTAL FINDINGS LISTED IN THE STAFF REPORT AND APPROVED CONDITIONAL USE PERMIT APPLICATION NO. 99012 AND RECLAMATION PLAN SUBJECT TO THE PROJECT FINDINGS LISTED IN THE STAFF REPORT AND THEREBY DENYING THE APPEAL

AYES: 1, 2, 3, 5 NOT PRESENT: 4

ADOPTED RESOLUTION AND ADJOURNED THE MEETING IN MEMORY OF CAROL FRAGIE GABRIALT UNTIL FEBRUARY 4, 2001 AT 4:00 P.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – FEBRUARY 2, 2001

9:00 A.M. SCHEDULED ITEM

2001-02-02 PLANNING – CONTINUED PUBLIC HEARING - Appeal

The time and date previously set for a Continued Public Hearing to consider an Appeal to Conditional Use Permit Application No. 99012 and Reclamation Plan with Supervisor Kelsey not present.

The Chairman opens the public hearing and asks if there is anyone present that wishes to speak.

Cathy Weber, President-League of Women Voters of Merced County, states their concerns with the size of the proposal, the project time frame and the potential life of habitat, wetlands and water quality. She states the League is recommending the following: the Project meet all existing state and federal standards, project be approved not as a whole but in phases, that the first 5-year phase be on land in the least agriculturally valuable and environmentally sensitive portion of the property and that if approval be granted-it be for the Agricultural and Habitat Preservation Alternative.

Sally Magneson, Merced Group of the Tehipite Chapter, Sierra Club, reads letter by Marsh Pitman dated January 23, 2001 relative to this project working collaborately with UC Merced Project Planning.

Jack Uren, Merced resident, speaks in opposition to the project and Supervisor Kelsey's absence. He further reviews his submitted letter dated January 30, 2001 relative to the Final Environmental Impact Study.

Attorney Bill Gnass, representing the Applicants, reviews the Planning Commission recommendation before the Board. He states the applicant has agreed to comply with the mitigation measures including payment for road maintenance. Mr. Gnass reviews the costs incurred by the Applicant on the studies and requests the Planning Commission recommendations be upheld.

The Board recesses at 9:50 a.m. and reconvenes at 10:35 a.m. with Supervisor Kelsey not present.

Burt Gilpin, CMI Project Manager, reviews his experience and educational background and addresses questions relative to safety, air quality, traffic hazard, road wear, high processing demand and high transportation costs. He reviews slides of the Site Purchased, Site Designation, Natural Habitat Reserves, Aggregate Reserves, Biology Studies, the technical studies performed involving an EIR, Dust Control, Pond Oriented Reclamation, Reclamation Edge, Final Reclamation, Site Towers and the high demand for PCC Grade Aggregate. Mr. Gilpin advises CMI is willing to meet all Mitigation Measures and Conditions of Approval set forth by the Planning Commission and urges the Board to uphold the decision of the Planning Commission.

Terry Howard, CMI Plant Superintendent, responds to questions and provides statistics including the cost for operation, employment and tailings in reference to the State of California Mineral Report conducted by Mr. James. Mr. Howard states 99 tons of mineral aggregate will be needed for scheduled upcoming projects in Merced County and only five aggregate producers exist in Eastern Merced County and they will not be able to meet these standards. Mr. Howard reviews the project mining and geology report process.

The Board recesses at 11:55 a.m. and reconvenes at 12:00 a.m. with Supervisor Kelsey not present.

Ken Schmidt, Groundwater Hydrogeologist of Fresno, reviews his experience stating his involvement on this site began in 1997. Mr. Schmidt speaks relative to the monitoring wells and the procedures, predictions of water drawdown, storage (confined or unconfined), drawdown statements and recharge.

Dr. N. Thomas Sheahan, Vice President and Principal Hydrogeologist for URS Corporation, discusses Letter dated January 29, 2001, submitted by URS Corporation regarding Opinions Concerning Adequacy of the Hydrogeological Aspects of the Draft and Final Environmental Impact Reports for the Woolstenhulme Sand and Gravel Mining Project and Comments on the Pegasus Geoscience letter of January 22, 2001. Dr. Sheahan speaks in support of CEQA guidelines stating he has reviewed Draft/ Final EIR and all requirements have been addressed. He responds to Mr. Koltermann's letter dated January 29, 2001.

Supervisor O'Banion leaves the Chambers at 12:47 p.m.

Dr. Sheahan rebuts and points out the assumptions made in Mr. Koltermann's report and further discusses the Theis Equation and dewatering calculations.

Supervisor O'Banion enters the Chambers at 12:50 p.m.

Discussion is had on the dewatering process and the length of time to replenish surface groundwater and the excavation process.

Following a lengthy discussion, the Board recesses at 1:15 p.m. and reconvenes at 2:25 p.m. with Supervisor Kelsey not present.

Ed Taczanowsky, Building Industry Association (BIA) Executive Vice-President, representing non-union housing of 300 members of the National Association of Homebuilders states he is very concerned with home affordability.

Ray Gene Velduis, Dairyman and neighbor to the applicant, states he has not seen a changed in water or shortage in the past eight years.

Tom Ryan, RGP Planning Development, speaks on the adequacy of the EIR and rebuts Mr. Herum statements questioning the EIR.

Rick Goacher, Rick Goacher Planning and Development Services and preparer of the Reclamation Plan, responds to Mr. Herum's remarks relative to the application submittal to the State.

Guy Maxwell, Building Industry Association, urges the Board to provide affordable housing for Merced County homeowners.

Chris Robinson, Robinson Cattle Company, speaks in support of agriculture conservation and in support of CMI Company stating they are willing to work with their community and neighbors.

Mike Bettencourt, farmer, addresses farmland, water issues and states comments made by Ms. Burroughs consisted of half-truths.

Pat Ferrigno, property owner residing in Merced River School District, submits letter dated January 23, 2001 refuting personal remarks by Barbara Burroughs and questioning School District representation.

Michelle LaMae, Engineer - San Francisco Aggregates, states they are in support of the project and the benefit to the county residents.

Rod Lawley, President of A-Plus Materials, states he operated a gravel plant between November 1999 - December 2000 which was unsuccessful as tailings were full of sand, rock and clay.

Lydia Miller, San Joaquin Valley Raptor Center, states they are not opposed to the project and reads a letter into the record dated February 2, 2001 relative to the EIR.

Rich Lundin, Geologist and Consultant for Upper Merced River Valley Landowners Association, request the opportunity to provide a report by Bill Leonard on behalf of the Mariposa Band of Mi-Wuk Indians.

Attorney Gnass, representing Applicants, provides information on the archeologist study. Mr. Gnass requests the Board certify the EIR, adopt mitigations on agriculture land, deny the appeals to Conditional Use Permit and accept the Conditions set forth by the Planning Department.

Attorney Herum, representing Appellants, states concerns continue to exist and there are still some unanswered concerns related to Monitoring Wells 1 – 6; the Theis Equation referenced only applies to Confined Aquifers; the EIR asks more questions than it and urges the Board to rely on the California Regional Water Quality Control Board. He further states individually and cumulatively these deficiencies prevent the Board from certifying that the EIR complies with the requirement of the California Environmental Quality Act and urges the Board to refuse to certify the EIR.

The Board recesses at 4:20 p.m. and reconvenes at 4:25 p.m. with Supervisor Kelsey not present.

Acting Planning Director Bill Nicholson responds to concerns stating Condition 13 addresses monitoring programs.

Following a lengthy discussion, Supervisor O'Banion moves, seconded by Supervisor Crookham, the Board adopt the Statement of Overriding Considerations for Phase 9, 11 and 13 prepared for Conditional Use Permit Application No. 99012 and Reclamation Plan; certify the

Environmental Impact Report and adopt Related Environmental Findings prepared for Conditional Use Permit Application No. 99012 and Reclamation Plan; and, based on Findings, the Board approves Conditional Use Permit Application No. 99012 and Reclamation Plan subject to the following Conditions, thereby denying the Appeal:

1. Conditional Use Permit No. 99012 is granted, and accompanying Reclamation Plan and Addendum is approved, for the mining of sand and cobbles to an average depth of 20 feet and maximum depth of 30 feet, and reclamation of, the 635 acre Woolstenhulme Ranch, as described in the conditions of this permit.
2. (Condition deleted at the Planning Commission Hearing held on November 15, 2000)
3. The Addendum to the Reclamation Plan shall be modified to reflect native vegetation planting at a density acceptable to the Department of Fish and Game and Office of Mine Reclamation.
4. The applicant shall provide a Final Reclamation Plan reflecting these conditions and mitigation reporting responsibilities, for review and validation by staff, prior to submittal of ten finished copies.
5. All mitigation measures recommended in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
6. The following actions shall be implemented by the permit holder in relation to aesthetic screening and the agreement of November 14, 2000 between Hopeton School and Calaveras Materials, Inc.:
 - a. Setback to mining along the Hopeton School property boundary shall be 50 feet. However, the excavation that borders school property shall be backfilled to original ground level, with overburden obtained from Phase 12, to increase the final reclaimed "buffer" between the property line and the top of the reclaimed cut slope to 150 feet: in effect, depositing a 100-foot wide strip of land within the northern reaches of the excavation. The excavation created by mining east of the school property and the 150-foot buffer in Phase 11 shall also be backfilled with overburden to original grade.
 - b. To accommodate the reclamation described above, operations may extend into periods of time when school is in session. However, during those times, CMI will consult the instructional staff at the school to determine if operations should be modified or scheduled for times when school is not in session due to potential impacts of noise. This measure is consistent with the intent of Mitigation Measure 4.4.1b of the Final EIR dated November 1, 2000.
 - c. The permittee will, at its sole expense, construct a chain-link fence, six feet high, around the west, south and east boundaries of the school property prior to mining phases north of the Dana Slough (Phases 9, 10, 11 and 12)
 - d. Mining of Phase 11 will commence on the south side and progress northerly towards the School.

- e. Within the first two years of project approval, CMI will plant, within the 50-foot setback surrounding the school property, the vegetative screen required by Mitigation Measure 4.10.1b. The vegetative screen shall be an Opaque screen and shall be developed in conformance with Section 18.38 of the County Code, Landscape Standards. The landscape plan shall be submitted for approval prior to mining north of the Cowell Ditch.
 - f. Consistent with the Mining and Reclamation Plan, trees located in setbacks and trees located in riparian areas will be preserved.
 - g. The permittee will consult with the Board of Trustees during reclamation of Phase 11, in an effort to achieve a final end-use consistent with habitat restoration and potential use as an educational "Aquatic Discovery Park."
7. Water quality and groundwater testing shall monthly occur under a program regulated by County Environmental Health, to include attention to the domestic water supply at Hopeton School, as well as for regional implications. This could include additional monitoring wells to the six proposed in the Reclamation Plan Addendum (Section 3.3.4) and three proposed on Lloyd Pereira property and surface water quality testing in the open water sloughs and lakes. The applicant shall undertake costs of testing and provide results to County Environmental Health, and take corrective measures determined by the Environmental Health Director. Results would also be available for public inspection. After completion of the third phase, the County will make a comprehensive review of all monitoring information and success of reclamation. If any serious problems are identified, further mining will be suspended until such problems are corrected.
 8. Mining and de-watering shall occur from the locations most distant from the setback areas and progress toward the setback areas. A detailed plan shall be prepared to monitor de-watering impacts, with provisions for rapid conduct of best management practices to be undertaken in the event of negative effects on sloughs and riparian vegetation. The list of best management practices and clear lines of authority for implementation by project staff shall be included in the plan. The plan shall be accepted by the Department of Fish and Game prior to de-watering.
 9. A detailed plan shall be prepared for the control of invasive plants and animals. The plan shall be accepted by the Department of Fish and Game prior to acceptance of any phase as being reclaimed as open water habitat under the provisions of SMARA.
 10. 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.
 11. 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 Section 18.43 in the amount acceptable to the Planning and Community Development Director and the State Department of Conservation.
 12. Upon completion of the project, all machinery and equipment associated with the mining operation shall be removed from the property.
 13. The applicant shall furnish the Planning and Community Development Director with a report describing compliance with the Reclamation Plan and Mitigation Monitoring and Reporting

Program by July 1st 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.

14. For noise attenuation purposes, use of all equipment, including trucks, graders, loaders, etc., shall be limited to 7 a.m. to 6 p.m., Monday through Saturday.
15. If the Conditional Use Permit is not initiated within one year, it shall become automatically void without further action. The Planning Commission may extend the initiation date if a request is filed by the applicant prior to its expiration (County Code Section 18.50.09B).
16. During the course of Mining activities, the operators shall avoid impacts to mature oak trees to the maximum extent feasible.
17. 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.

Discussion is had on the fees CMI pays for road improvements.

The Chairman calls for a Vote on the Motion on the Floor. Motion carries.

Ayes: Cortez Keene, Crookham, Rivero, O'Banion

Not Present: Kelsey

Following further discussion, County Counsel Dennis Myers recommends the Board add Condition No. 2 in its entirety to the Conditions of Approval to Conditional Use Permit No. 99012 and Reclamation Plan that was deleted at the Planning Commission Meeting on November 15, 2000.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, the Board adds Condition No. 2 to the Conditions of Approval for Conditional Use Permit 99012 and Reclamation Plan as follows:

Condition No. 2:

The Mining and Reclamation Plan is modified to remove proposed Phases 9, 11, and 13 and the Final Plan document shall be modified to reflect this change. The mining and reclamation project shall otherwise be located, developed and operated in a manner described on the approved plot plans sections, phasing map, elevations, Reclamation Plan narrative, Addendum to the Reclamation Plan, mitigation measures, mitigation monitoring and reporting program, and conditions of this permit. All of these text and map changes shall be incorporated into the Final Reclamation Plan. Reconsideration of incorporating Phases 9 and 13 back into the project may be considered without submittal of a new or modified application following adoption of a General Plan Amendment by Merced County to incorporate the State Division of Mines and Geology's "Mineral Land Classification of Merced County, California." Reconsideration would be based on the written request of the applicant.

Ayes: Cortez Keene, Crookham, Rivero, O'Banion

Not Present: Kelsey