



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, DECEMBER 23, 2003

Closed Session – 9:30 a.m.

Regular Meeting – 10:00 a.m.

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

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

DEMITRIOS O. TATUM
COUNTY EXECUTIVE OFFICER

RUBEN E. CASTILLO
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*

SCHEDULED ITEMS

9:30 A. M.

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning:

Conference with Legal Counsel-Significant exposure to litigation (Subdivision (b) of Section 54956.9): One Case

Conference with Legal Counsel-Determination to Initiate Litigation (Subdivision (c) of Section 54956.9): One Case

THE BOARD RECESSED AT 9:30 A.M. AND RECONVENED AT 10:00 A.M. WITH SUPERVISOR CORTEZ KEENE NOT PRESENT AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

10:00 A. M.

PLEDGE OF ALLEGIANCE

PUBLIC OPPORTUNITY TO SPEAK ON ANY MATTER OF PUBLIC INTEREST WITHIN THE BOARD'S JURISDICTION INCLUDING ITEMS ON THE BOARD'S AGENDA, EXCEPT FOR THOSE ITEMS SPECIFICALLY SCHEDULED AS PUBLIC HEARINGS (See Board Clerk - Testimony limited to five minutes per person)

PRESENTATION

Recognition of Achievement as State Chief Probation Officer of the Year – Bill Davidson, Chief Probation Officer-Merced County

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Auditor-Debt Serv (Dairy Loan Program)-\$100,000 and Sheriff-\$8,187

APPROVED AS RECOMMENDED AYES: 2, 3, 4, 5 NOT PRESENT: 1

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 25)

APPROVED AS RECOMMENDED PULLING ITEM NO. 11 FROM THE AGENDA AYES: 2, 3, 4, 5 NOT PRESENT: 1

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, County Auditor, Board of Supervisors Members

10:30 A. M.

EXECUTIVE OFFICE - PROPOSED ORDINANCE - SECOND READING AND POSSIBLE ADOPTION

An Ordinance Establishing the Merced County Redevelopment Agency and declaring the Board of Supervisors to be the Redevelopment Agency

REVIEW BOARD ORDER – SEE PAGE 8 AND 9

MENTAL HEALTH - PROPOSED ORDINANCE – SECOND READING AND POSSIBLE ADOPTION

An Ordinance changing Fees set for Mental Health Services performed by the Merced County Mental Health Department (Repeals Ordinance No. 1692 and amends County Code Chapter 9.48)

REVIEW BOARD ORDER – SEE PAGE 9

PLANNING - PUBLIC HEARING

Appeal of the Planning Commission Certification of Supplemental Environmental Impact Report and appeal of Conditional Use Application No. 03001 submitted by Joe Mitchell, etal. Said Application submitted by Michael Brasil to establish a New Dairy Facility for 600 Milk Cows or 1,144 animal units on property located on the northwest corner of First Avenue and Griffith

Avenue in the Stevinson area

REVIEW BOARD ORDER – SEE PAGE 9, 10, 11, 12 , 13 AND

14

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 25)

APPROVED AS RECOMMENDED PULLING ITEM NO. 11 FROM THE AGENDA
AYES: 2, 3, 4, 5 NOT PRESENT: 1

Public Works

1. Adopt Resolution authorizing Chairman to sign Right-of-Way Contract and Donation Easement Deed from Maria R. Hernandez and Angelica Hernandez for acquisition of the land necessary for construction of the Safe Routes to School Project in the Planada area.
AUTHORIZED CONTRACT NO. 2003279 AND ADOPTED RESOLUTION NO. 2003-221
2. Adopt Resolution authorizing Chairman to sign Right-of-Way Contract and Donation Easement Deed from Efren M. Armenta and Angelita G. Armenta for Trustees of the Family Trust for acquisition of the land necessary for construction of the Safe Routes to School Project in the Planada area.
AUTHORIZED CONTRACT NO. 2003280 AND ADOPTED RESOLUTION NO. 2003-222
3. Adopt Resolution authorizing Chairman to sign Right-of-Way Contract and Donation Easement Deed from Aurelia M. Rodriguez, Trustee for acquisition of the land necessary for construction of the Safe Routes to School Project in the Planada area.
AUTHORIZED CONTRACT NO. 2003281 AND ADOPTED RESOLUTION NO. 2003-223
4. Approve and authorize Chairman to sign Addendum to Contract No. 2002194 with Yummy Hot Dogs for operation of a mobile food-vending cart in Courthouse Park.
5. Approve Discharge from Accountability for Collection of Past Due Landfill credit account balances totaling \$591.28.

Travel Requests

6. Approve Travel Requests submitted by Public Works, Child Support Services, Human Services Agency and Health as recommended by Executive Office.

Budget Transfers

7. Approve Budget Transfer submitted by Fire-\$17,650 as recommended by Executive Office.

Claims for Damages

8. Act on Claims for Damages submitted by Brad Devries as recommended by Risk Management.

Mental Health

9. Approve and authorize Chairman to sign Renewal Contract No. 2001130 with Children's System of Care-Enrollee-based Programs for Children and Youth for At Risk Children and Youth.
10. Approve and authorize Chairman to sign Renewal Contract No. 200212 with Youth Specialty Services for interagency collaboration and coordination in the establishment and enhancement of resources to at-risk children and youth.
11. Approve and authorize Chairman to sign Renewal Contract No. 2003026 for provision of Inpatient Psychiatric Services for Non-Medi-Cal beneficiaries with BHC Sierra Vista.

PULLED FROM THE AGENDA – NO ACTION TAKEN

Planning

12. Approve and authorize Chairman to sign Addendum to Contract No. 2000202 with Planning Partners for Project processing and environmental review assistance.
13. Approve and authorize Chairman to sign Addendum to Contract No. 2000203 with Robert Borchard for project processing and environmental review assistance.

Business-Economic Opportunities

14. Set first reading for January 13, 2004 at 10:30 a.m. and second reading and possible adoption for January 27, 2004 at 10:30 a.m. to consider proposed Ordinance to Extend by an additional one year the grant to Comcast of San Joaquin, Inc. of a non-exclusive franchise to construct, operate and maintain a cable television system in the unincorporated territories in the County of Merced (Amends Ordinance Nos. 1528, 1697 and 1713).

District Attorney

15. Approve and authorize District Attorney to submit Application to augment and extend the Contract No. 2001104 with Office of Criminal Justice Planning for Central Valley Rural Crime Prevention Program funding.

Board of Supervisors

16. Set public hearing for February 3, 2004 at 10:30 a.m. to consider an Appeal received by Bryant Owens to Major Subdivision Application No. 03001 - Ranchwood Contractors.

Executive Office

17. Approve and authorize Chairman to sign Renewal Contract with Merced County Superior Court for Services and Reimbursement for Court Operations.

AUTHORIZED CONTRACT NO. 2003282

18. Approve and authorize Chairman to sign Renewal Contract No. 2000132 with J. Stanley Bunce for The Employee Assistance Program.

19. Approve and authorize Chairman to sign Renewal Contract with Merced County Coalition of Unions for health, dental and vision insurance coverage for 2004.

AUTHORIZED CONTRACT NO. 2003283

Board Recognition

20. Authorize Certificates of Recognition to the Merced County 4-H Award Winners.

REVIEW BOARD ORDER – SEE PAGE 8

21. Authorize Certificate of Recognition to Hilmar Middle School in celebration of the Grand Opening.
22. Authorize Certificates of Recognition to Livingston Middle School, Yamato Colony School, Selma Herndon School and Campus Park School in honor or excellent academic performance index growth rating.
23. Authorize Certificates of Recognition to Merced County Association of Realtors 2003 Officers and in honor of the Realtor of the Year-Violette Torres, Affiliate of the Year-Anthony Rodriguez, Bill Del Nero Lifetime Achievement Award-Hans Marsen, Lifetime Achievement Award-Bob Gilbert, Jesse Fees Memorial Award-Vicki Bandoni and Kay Flanagan-Spinelli and Presidents Award to Ellie Wooten.
24. Authorize Certificate of Recognition to Merced Lao Family Community, Inc. in celebration of the Merced Hmong New Year.
25. Authorize Certificate of Recognition to Hospice in celebration of the 7th Annual Christmas at Home in a Winter Wonderland Event.

REGULAR CALENDAR

BOARD ACTION

HEALTH

26. Amendment to Contract No. 2001271 with State Dept. of Health Services-Office of Traffic Safety for an expanded Child Safety Seat Program and approve the necessary budget transfer-\$8,007.

APPROVED AS RECOMMENDED AYES: 2, 3, 4, 5 NOT PRESENT: 1

AREA AGENCY ON AGING

27. Amendment to Contract No. 1034 for Congregate Meals Program and Contract No. 1033 for Home Delivered Meals with Community Action Agency and approve the necessary budget transfer-\$50,788.

APPROVED AS RECOMMENDED AYES: 2, 3, 4, 5 NOT PRESENT: 1

SHERIFF

28. Change vacant Correctional Facilities Admission Clerk position to Security Systems Operator position and adopt Resolution.

ADOPTED RESOLUTION NO. 2003-224 AS RECOMMENDED AYES: 2, 3, 4, 5
NOT PRESENT: 1

COUNSEL

29. Resolution authorizing the reorganization and unification of the Turlock Joint Elementary School District and the Turlock Joint Union High School District and approve the creation of the Turlock Joint Unified School District.

ADOPTED RESOLUTION NO. 2003-225 AS RECOMMENDED AYES: 2, 3, 4, 5
NOT PRESENT: 1

HUMAN SERVICES AGENCY

30. Continuum of Care Advisory Council recommendations by Merced County Association of Governments (MCAG) for appointments with understanding Council is under the responsibility and jurisdiction of MCAG: Government Agency Representative-1 Year Term: Michelle Ellis, Program Specialist with Merced County Office of Education; Faith-Based Organization Representative-2 Year Term: Ryan Sakson, Director of Love, INC. and Non-Profit Organization Representative-1 Year Term: Terry Tatum, Director of United Way of Merced County.

APPROVED AS RECOMMENDED AYES: 2, 3, 4, 5 NOT PRESENT: 1

EXECUTIVE OFFICE

31. Direct Management Services to pursue the renewal of Dr. Hamm's contract for POST psychological testing and the potential for contracting with other qualified psychologists.

APPROVED AS RECOMMENDED AYES: 2, 3, 4, 5 NOT PRESENT: 1

32. Contract with Merced County Superior Court regarding financing the construction of the New Court Facility per SB 1732.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003294 AYES: 2, 3, 4, 5 NOT PRESENT: 1

33. Authorize Merced County Superior Court to temporarily utilize space in the Law Library for file storage.

APPROVED AS RECOMMENDED AYES: 2, 3, 4, 5 NOT PRESENT: 1

34. Human Resources and Core Administration Reorganization.

REVIEW BOARD ORDER – SEE PAGE 14

BOARD APPOINTMENTS

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: 2, 3, 4, 5 NOT PRESENT: 1

35. General Services re: Surplus Public Sale and Auction notification.
36. Mental Health re: Annual Report of the Mental Health Advisory Board. (On file with Clerk)
37. Merced County Office of Education re: Notice of Election Results in Merced County on proposed creation of the Turlock Joint Unified School District Ballot Measure.
38. San Joaquin Valley Air Pollution Control District re: Notice of Public Workshop on Developing an Ozone Attainment Demonstration Plan for the San Joaquin Valley Air Basin.
39. Lassen County Board of Supervisors re: State-Local government financing letter to Governor Schwarzenegger.
40. Calif. State Association of Counties re: Challenge Awards Directory for 2003. (On file with Clerk)
41. Governor's Office of Emergency Services re: Notification that the U.S. Small Business Administration has declared the primary county of Madera and the contiguous counties of Mariposa, Merced, Mono and Tuolumne a disaster area.
42. Governor's Office of Emergency Services re: Notification that the U.S. Small Business Administration has declared the primary county of Merced and the contiguous counties of

Fresno, Madera, Mariposa, San Benito, Santa Clara, Stanislaus and Tuolumne a disaster area.

43. State Board of Equalization re: Notice of Public Hearing and adoption of Timber Yield Tax Rate.
44. NACo re: Notification of survey request for an important research project being conducted by NACo in conjunction with The Ohio State University and the Rural Policy Research Institute (RUPRI).

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF EDWARD KINNEY, WILLIAM J. LYONS, SR. AND MARYJANE BRIZARD UNTIL TUESDAY, JANUARY 13, 2004 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – DECEMBER 23, 2003

CONSENT ITEM NO. 20

2003-12-23 BOARD OF SUPERVISORS

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board authorizes Certificates of Recognition to the following Merced County 4-H Award Winners:

Five Year Silver Clover Award: Jeff Morgado and Tina Olson (Ballico-Cressey), Shelley Wright (Dos Palos), Melinda Vincent (Dos Palos Colony), Patricia Stroup (Hilmar Colony), Mary Brooks, Louise King, Michelle Nance, Jeffy Heyer, Sally Ladousier and Rita Nord (Lancers), Jeannette Pacheco (Le Grand), Karen Twitchell (Los Banos Community), Brianne Mills (Los Banos/Dos Palos), Kathleen Fucillo, Terry Roduner, Jerry Timothy, Mark Roduner and Amy Timothy, Shelly Gibson (Merced River), Karen Parreira (Our Lady of Fatima), Kathy Copeland and Monteen Gomes (St. Anthony's) and Tammy Rocha (Westside)

Ten Year Gold Clover Award: Karen Ellington (Hilmar Colony), Kathleen Brown and Phillip Painter (McSwain), Sally Carlucci and Margaret Patricio (Our Lady of Fatima), Alpha Gipe (Plainsburg) and Jamie Trindade (St. Anthony's)

15 Year Pearl Clover Award: Olivia Prader (Countywide) and Sherri Hennagan (Los Banos/Dos Palos)

20 Year Diamond Clover Award: Shannon De Anda (Lancers)

30 Year Ruby Clover Award: Everett Younce (Countywide)

45 Year Emerald Clover: Angie Spina (Our Lady of Fatima)

2003 Meritorious Awards: Rolla Spina Leader Award to Corky and Pam Schroeder and Tak Date Service Award to Merced County UCCE County Director Jim Farley
Ayes: Crookham, Nelson, Kelsy, O'Banion
Not Present: Cortez Keene

10:30 A.M. SCHEDULED ITEM

2003-12-23 COUNTY EXECUTIVE OFFICE - ORDINANCE NO. 1716 ADOPTED

The time and date previously set for Second Reading and possible adoption of a Proposed Ordinance titled An Ordinance Establishing the Merced County Redevelopment Agency as submitted by County Executive Office.

County Executive Officer Demetrios Tatum reviews the Staff Report.

The Chairman asks if there is anyone present who wishes to speak. No one speaks.

Upon motion of Supervisor Nelson, seconded by Supervisor Kelsey, duly carried, the Board waives further reading of Proposed Ordinance titled An Ordinance Establishing the Merced County

Redevelopment Agency declaring the Board of Supervisors to be the Merced County Redevelopment Agency and adopts Ordinance No. 1716.

Ayes: Crookham, Nelson, Kelsey, O'Banion

Not Present: Cortez Keene

10:30 A.M. SCHEDULED ITEM

2003-12-23 MENTAL HEALTH - ORDINANCE NO. 1717 ADOPTED

The time and date previously set for Second Reading and possible adoption of a Proposed Ordinance titled An Ordinance Changing Fees Set for Mental Health Services Performed by the Merced County Mental Health Department as submitted by Mental Health.

The Chairman asks if there is anyone present who wishes to speak. No one speaks.

Upon motion of Supervisor O'Banion, seconded by Supervisor Kelsey, duly carried, the Board waives further reading of Proposed Ordinance titled An Ordinance Changing Fees Set for Mental Health Services Performed by the Merced County Mental Health Department and adopts Ordinance No. 1717.

Ayes: Crookham, Nelson, Kelsey, O'Banion

Not Present: Cortez Keene

10:30 A.M. SCHEDULED ITEM

2003-12-23 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of the Planning Commission Certification of Supplemental Environmental Impact Report and appeal of Conditional Use Application No. 03001 submitted by Joe Mitchell, etal. Said Application submitted by Michael Brasil to establish a New Dairy Facility for 600 Milk Cows or 1,144 animal units on property located on the northwest corner of First Avenue and Griffith Avenue in the Stevinson area.

Planning Director Bill Nicholson and Staff Planner Mark Hamilton are present and review the Staff Report. Mr. Nicholson distributes the letters submitted for the Planning Commission on November 19, 2003 as follows: Letter 1-Marsha Burch, on behalf of the Mitchell Family Trust dated October 28, 2003; Letter 2-Mitchell Family Trust received on November 12, 2003 by email; Letter 3-Seasholtz Companies received November 14, 2003; Smith Brothers and Orrin received November 14, 2003 and Letter 5-James R. Burns received November 14, 2003. Mr. Nicholson reviews the project site regional location.

Quad-Knopf, Inc. EIR Consultant Gene Smith reviews CEQA requirements and the Draft Supplemental EIR dated August, 2003 and Final Supplemental EIR dated October, 2003 for the Michael Brasil Dairy, Conditional Use Permit #03001 prepared by Quad-Knopf. Aerial photos of the Brasil Dairy are shown.

Mr. Nicholson reviews the neighboring owners, their opposition comments and how their property is impacted. Mr. Nicholson states the Planning Staff is recommending the Board support the Planning Commission recommendations based on their findings and conditions in the Staff Report.

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

Michael Smith, Central California Permit Services representing Michael Brasil, briefly reviews the Planning Commission hearing and requests the Board uphold the Planning Commission decision to deny the appeal.

Joe Mitchell, Mitchell Family Trust, appears stating the letter submitted by the Mitchell Family dated December 23, 2003 is requesting that additional conditions be added, not that they are opposed to the project. He reviews and questions the mitigation measures, requests additional conditions such as baseline measure studies and the impact on the groundwater and a dust buffer zone be incorporated into project.

Bryant Owens, Plainsburg Road property owner, compares various planning mining project decisions, stating water containment exists and requests the Board not let this happen with the water issues existing.

William Smith, property owner, states he is in total support with the Mitchell Family Trust.

Tom DeNio, Citizens Voice organization advocate, speaks relative to land and water usage.

Joe Ramos, Field Representative of Western United Dairymen, appears and reviews involvement with project, information on file and recommends the Board move forward on this project.

J.P. Cativiela, Dairy CARES Organization representing Dairy Farmers and Processors, reviews the jobs that are created by the dairy industry and speaks in support of this project that is environmentally sound.

Michael Mitchell, representing EAC Engineering that completed the design of the facility for Mr. Brasil, reviews the facility operation.

The Board discusses the standards, project review and monitoring of the project both annual and bi-annual by Planning and Environmental Health.

Following discussion, Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board denies the Appeal and upholds the determination of the Planning Commission recommendation, approves Conditional Use Permit No. 03001 and adopts Resolution No. 2003-227, Concerning Certification of the Final Environmental Impact Report (EIR) for the Brasil Dairy (Conditional Use Permit No. 03001), adoption of a Statement of Findings regarding Significant Effects and Alternatives, adoption of a Statement of Overriding Considerations and adoption of a Mitigation Monitoring Plan subject to the following Conditions:

1. The Project shall be located, developed, and operated in a manner as described in the approved plot plans and ground water management plans.
2. The project shall comply with all applicable regulations administered by the County Fire, Health, Planning and Public Works Departments.
3. The project shall comply with all conditions and mitigation measures of this permit.

4. For the purpose of condition monitoring, an annual inspection fee in the amount of \$300.00 shall be paid prior to issuance of any building permit.
5. The applicant shall dedicate 10 feet right of way along the Griffith Avenue frontage of the property to achieve a total half width of 30 feet, which is deemed necessary for rural roadways.
6. The applicant shall construct a paved driveway approach and install a streetlight (on wooden pole) at the proposed truck access onto First Avenue.
7. The applicant shall either make a payment of \$15,000 to the County Road Fund to pay for the cost of improving the project's frontage on First Avenue and Griffith Avenue, or enter into a Road Impact Agreement with the County that will specify other equivalent means of improving the revised road frontage (MM).
8. The federal EPA, California Air Resources Board, and/or San Joaquin Valley Air Pollution Control District should sponsor and complete detailed emissions studies of air emissions from all areas of confined animal facilities, including emissions rates from various sources, activities, and facilities. Concurrently, these agencies should evaluate and document the effectiveness of various emissions control options for managing or lessening air pollutant emissions from confined animal facilities. Upon completion of the emissions studies set forth above, and should it be determined that controls on emissions from confined animal facilities are necessary to reach attainment status, the SJVAPCD should incorporate the resulting emissions inventory into its attainment planning for criteria pollutants for which the Air Basin is in nonattainment (currently ozone and PM₁₀) (MM).
9. Pre-construction surveys for kit fox shall be performed. A qualified biologist shall conduct these pre-construction surveys no less than 14 days and no more than 30 days prior to any construction-related activities. The primary objective is to identify kit fox habitat features (potential dens and refugia) on the project site and evaluate them sufficiently to ascertain if a kit fox is using them. If an active kit fox den is detected within (or immediately adjacent to) the area of work, the USFWS will be contacted immediately to determine the best course of action. If no kit fox activity is detected, the work shall continue as planned and a written report will be submitted to the Corps and Service within five days after completion of the surveys. The applicant shall follow the Standardized Kit Fox Construction Practices developed by the USFWS (1997) and described in the Mitigation Monitoring Program (MM).
10. A qualified ornithologist shall conduct a pre-construction survey for nesting raptors (including both tree and ground nesting raptors) on site within 30 days of the onset of ground disturbance, if ground disturbance is to occur during the breeding season (February 1 to August 31). These surveys shall be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor were detected, an appropriate construction buffer would be needed (up to 250 feet). The actual size of the buffer would depend on species, topography, and type of construction activity that would occur in the vicinity of the nest. A qualified ornithologist shall conduct pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during construction (MM).
11. If burrowing owls are detected on site during the non-breeding season, they can be passively relocated by placing one-way doors in the burrows and leaving them in place for a minimum of three days. Once it has been determined that owls have vacated the site, the burrows can be collapsed and ground disturbance can proceed (MM).

12. Project-related lighting shall be minimized and directed away or shielded from sensitive areas. Minimizing and/or directing/shielding lighting away from sensitive areas will ensure that disruption of night-active species will not occur. This will help reduce or minimize any accelerated nighttime predation rates on the dairy and adjacent agricultural fields. Around residences and other areas where it may be appropriate, landscaping shall be used to shield the agricultural fields from additional lighting (MM).

13. If, in the course of project construction or operation, any archaeological or historical resources are uncovered, discovered, or otherwise detected or observed, activities within 50 feet of the find area shall cease. A qualified archaeologist shall be contacted and advise the County of the site's significance. If the County deems the findings significant, mitigation measures shall be prescribed that fully meet the intent of Mitigation Measure CUL-1 prior to any resumption of work in the affected area of the project. If, in the course of project construction or operation, any skeletal remains are uncovered, discovered, or otherwise detected or observed, activities in the affected area shall cease. A qualified archaeologist, the County Planning Director, the County coroner and the Native American Contact shall be consulted, and appropriate measures shall be required that may include avoidance of the burial site or reburial of the remains (MM).

14. For all new or expanding confined animal facilities, the Division of Environmental Health shall make a final inspection of the facility prior to the commencement of operations to confirm the dairy meets all local and state requirements (MM).

15. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall have a plan where positive drainage shall be included in project design and construction to ensure that excessive ponding does not occur. The design shall comply with Title 3, Division 2, Chapter 1, Article 22, §646.1 of the Food and Agriculture Code for construction and maintenance of dairy or facility surroundings, corrals, and ramps (MM).

16. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall not have dirt or unpaved corrals, or unpaved lanes, be located closer than 25 feet from the milking barn or closer than 50 feet from the milk house. Corral drainage must be provided (MM).

17. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor have a paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the milking barn. This paved area shall be curbed (minimum of 6 inches high and 6 inches wide) and sloped to a drain. The perimeter of the area shall be constructed in a manner that will retain the wash water to a paved drained area. Paved access shall be provided to permanent feed racks, mangers, and water troughs. Water troughs shall be provided with: (1) a drain to carry the water from the corrals; and (2) pavement (concrete or equivalent) which is at least 10 feet wide at the drinking area (MM).

18. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor have the cow standing platform at permanent feed racks shall be paved with concrete or equivalent for at least 10 feet back of the stanchion line (MM).

19. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall recognize that as unpaved areas are cleaned, depressions tend to form, allowing ponding and increased infiltration. Regular maintenance shall include filling of depressions. Personnel shall be taught the correct use of manure collection machines (wheel loaders or elevating scrapers) (MM).

20. The Regional Water Quality Control Board should evaluate the potential emissions to groundwater of salts, nutrients, and other substances from all areas of confined animal facilities, including corrals, treatment ponds, and cropped application fields. Based on the results of this study, the Regional Water Quality Control Board should adopt uniform standards that apply to all confined animal facilities within the Central Valley for permitted seepage rates from all areas, including corrals, treatment ponds, and application fields; maximum permeability rates for areas that require lining to prevent ground water degradation; and implementation of an anti-degradation policy for groundwater (MM).

21. The applicant shall complete the purchase of the 40 acres immediately west of the project site (County Assessor's Parcels 055-131-001 and 002) and shall design all wastewater disposal and conveyance facilities in accordance with the requirements of the County's Animal Confinement Ordinance and the approved CNMP. In addition, all future cropping on the added acreage shall comply with the requirements of the CNMP (MM).

22. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall ensure that all existing water supply wells are to be inspected by the Merced County Division of Environmental Health to ensure that each well is properly sealed at the surface to prevent infiltration of waterborne contaminants into the well casing or surrounding gravel pack. If any of the wells are found not to comply with the Merced County Well Ordinance standards, the applicant shall retain a qualified professional as described in the County Well Ordinance to install the required seal or functional equivalent (MM).

23. The Merced County Environmental Health Division shall maintain compliance for the operations of the Brasil Dairy and further continued with monitoring by the Merced County Mosquito Abatement District, the project sponsor shall be held responsible if fly nuisance conditions are confirmed, and are attributable to operations at a confined animal facility, the Division of Environmental Health shall require the owner/operator to remedy the nuisance condition within a specified period of time. The Division shall notify the parties reporting the nuisance of its findings, and shall provide follow-up inspections to ensure that the nuisance condition is cured. Should the condition persist, the Division shall initiate and enforcement action against the offending operator (MM).

24. The Merced County Environmental Health Division shall maintain compliance for the operations of the Brasil Dairy and further continued with monitoring by the Merced County Mosquito Abatement District, the project sponsor shall make sure that all confined animal facilities shall implement the following Best Management Practices to address potential fly problems that may arise from the approval of the proposed Dairy facility. The Best Management Practices are described in the Mitigation Monitoring Program (MM).

25. The Merced County Environmental Health Division shall maintain compliance for the operations of the Brasil Dairy and further continued with monitoring by the Merced County Mosquito Abatement District, the project sponsor shall use cultural and biological methods for

controlling flies at confined animal facilities may be augmented with prudent use of insecticides registered for use at California dairies and other confined animal facilities by the California Department of Pesticide Regulation. These chemicals are used only in compliance with Federal and State laws and regulations regarding pesticide storage, application, and disposal. Chemicals classified as restricted materials shall be applied only under permits issued by the Merced County Agricultural Commissioner. Only a State licensed Pesticide Applicator shall apply restricted pesticides. Insecticides shall be prepared and applied in conformance with practices recommended by the University of California Cooperative Extension and the manufacturer. The chemical pest control measures are described in the Mitigation Monitoring Program (MM).

Ayes: Crookham, Nelson, Kelsey, O'Banion

Not Present: Cortez Keene

ACTION ITEM NO. 34

2003-12-23 EXECUTIVE OFFICE

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board approves the reorganization plan as presented for the Human Resources Division and approves the following personnel actions effective January 12, 2004:

- a. Delete one Assistant County Executive Officer (Position #6) in Budget Unit 13000.
- b. Establish the classification of Director of Human Resources, Range 80.2, approve classification specification and allocate one position to Budget Unit 13000.
- c. Establish the classification series of Human Resources Analyst I/II/III, Range 64.0/67.5/71.7, mid-management level and approve the classification specifications.
- d. Approve title and classification change of four Management Analyst I/II/III in Budget Unit 13000 (Positions #1, 4, 11 and 17) to Human Resources Analyst I/II/III.
- e. Approve title and classification change of one Management Services Office Supervisor in Budget Unit 13000 (Position #5) to Human Resources Office Supervisor.
- f. Approve incumbents' retention of current seniority points as they are merged into the new Human Resources Analyst series and Human Resources Office Supervisor classifications.
- g. Modify the classification series of Management Analyst I/II/III, Range 64.0/67.5/71.1, mid-management level, and approve the classification specifications.
- h. Authorize "A" level management benefits to Mr. Robert Morris, as Acting Director of Human Resources.
- i. Adopt Resolution No. 2003-226 amending the Salary and Position Allocation Resolutions.

Direct the County Executive Office and Human Resources Staff to review and make necessary changes to the Merced County Employment At-Will Manual, Human Resources Rules and Regulations, Resolution No. 92-01, Departmental Salary Allocation Resolution No. 91-209, Recruitment and Selection Resolution No. 91-32 and County Executive Office Operations Directives to reflect reorganization.

Ayes: Crookham, Nelson, Kelsey, O'Banion

Not Present: Cortez Keene