

Mendocino County Memorandum

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Date: October 7, 2011

To: Planning Commission

From: John Speka
Department of Planning and Building Services

Subject: **Review, Discussion and Set Date for Revocation Hearing of Use Permit and Reclamation Plan #U 15-92 (Laytonville Rock Quarry)**

Staff has made repeated requests to the operator of the above referenced quarry to have the required financial assurance mechanism submitted within a reasonable time frame. The requirement for such assurances is mandated in the conditions of approval for the permit, as well as the County Surface Mining Ordinance (Chapter 22.16) and the California Surface Mining and Reclamation Act (SMARA). With this review, staff is requesting guidance by the Planning Commission to help determine the most appropriate action to take against the permit holder.

Condition Number B-17 a. of the approved use permit states, in part, that:

Each year, following the annual site inspection, the [financial assurance instrument] amount shall be adjusted to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished...

Condition Number B-14 further states that:

This permit shall be subject to revocation or modification by the Planning Commission upon finding...[t]hat one or more of the conditions upon which such permit was granted have been violated.

Similarly, Section 22.16.120(B)(3) of the County Code states that:

The amount of financial assurances required of a surface mining operation for any one (1) year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

The following timeline will provide details as to the attempts made by Planning Staff to bring the operation into compliance with respect to financial assurances:

1. On October 22, 2010, a letter was sent to the operator requesting that a new financial assurance mechanism be submitted reflecting cost estimates approved earlier for the amount of \$25,642.00 pursuant to SMARA regulations.
2. A second letter was sent, dated January 4, 2011, requesting that financial assurance mechanism be submitted as per the initial request of October 22.
3. In a letter dated February 4, 2011, the operator was notified that a Notice of Violation was being attached to the use permit file pending the submittal of the requested material.
4. On May 11, 2011, a final request was sent notifying the operator that unless the requested financial assurance mechanism matter was resolved, discussion over possible revocation of the use permit could commence.
5. In a letter dated August 26, 2011, a letter was sent to the operator notifying them that a hearing was to be scheduled before the Planning Commission to begin discussion of revocation hearings. This hearing later took place on September 15, 2011.
6. Staff met with the operator who gave verbal assurances that the matter would be resolved by Thursday, September 22, when she was to have met with her bank and have the issue resolved. To date, nothing has been received by this office.

Staff remains hopeful that the operator will comply prior to the October 20 hearing by submitting the updated financial mechanism. However, should the required instrument not be received by that date, staff believes that a discussion is warranted as to the appropriate type of enforcement mechanism to be applied. Options include 1) daily fines of up to \$5,000.00 per day (MCC Section 22.16.200) or, 2) revocation of the permit as noted in the conditions of approval originally set.

Recommended Motion: Based on the continued lack of compliance by the operator, staff recommends that the Planning Commission set a revocation hearing for the November 17, 2011 Planning Commission meeting.