



**Friends of
Small Places**

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MAR 15 2007

HUMBOLDT COUNTY
PLANNING DIVISION

Attn: Martha Spencer
Humboldt County Planning Department
Community Development Services
3015 "H" Street
Eureka, California 95501

March 15, 2007

Re: Mineral Resources GP Update Group 2, Chapter 16, Mineral Resources

Dear Planning Commissioners:

This letter is being submitted on behalf of Friends of Small Places for inclusion in the public record for the March 15, 2007 meeting. In addition to our own comments, we fully support the observations and recommendations prepared and submitted by the Healthy Humboldt Coalition.

In particular, Friends is deeply concerned about the following comment in the staff report: "New residential owners then become concerned that there is an active mining operation in the vicinity of their residences and claim that it is a nuisance through the hearing process, even though the mining operations had been conducted under the conditions of their previous permit for many years."

Frankly, we find this comment to be strikingly offensive and irresponsible.

Unless illegal and non-permitted, residential development does not happen without the knowledge of the county planning, building, and tax assessor departments. If new residential development is to be allowed, then standards must be adopted and enforced by the county that protect both residential neighbors and existing surface mining operations; even if it means more stringent conditions are added to the surface mining permit when it comes up for its 15 year renewal, or modification for expanded activities.

Additionally, surface mining operators can no longer expect to routinely operate outside the conditions of their permits. A basic condition of conditional use and surface mining permits and reclamation plans are that the owner and operator be in complete and consistent compliance with other permits issued by the various resource agencies. The

majority of nuisance complaints by residential neighbors to the county regarding surface mining operations almost always involve illegal or non-permitted activities. For example, in May 2005 the North Coast Unified Air Quality Management District (NCUAQMD) Hearing Board issued an Abatement Order against Kernen Construction and Mad River Sand and Gravel for their nuisance operation of a hot mix asphalt plant and gravel crusher associated with a surface mining operation on Hatchery Road. In addition, a Clean Water Act legal action is pending against these same operators, which also includes Kernen's Glendale site. In November 2005, Jack Noble's Van Duzen River Ranch surface mining operation was issued a Cease and Desist Order by the Army Corps of Engineers for the illegal land-clearing and building of temporary crossings and haul roads; in January 2006 a proposed gravel crushing expansion, that was denied by the Planning Commission and then approved on appeal to the Board of Supervisors, was halted by residents filing legal action based on faulty planning staff recommendations and inadequate CEQA analysis; and a Draft Order from the State Water Board was just issued on March 7 revoking Mr. Noble's 401 Water Quality Permit for lack of CEQA. In December 2006, Mercer Fraser's Essex site was issued a violation letter from the code compliance unit for stockpiling soil and construction debris in the Streamside Management Zone in violation of the "conditions of their previous permit".

These are serious problems, solely caused by the operator and lack of oversight and enforcement by the county, that result in nuisance conditions for nearby residential neighbors - not the other way around. Sadly, the list of violations and violators is much longer, with very few stories of conscientious surface mining operators.

We would like to note, the abovementioned serious violations were only brought to enforcement action by "new residential owners that became concerned that there is an active mining operation in the vicinity of their residences and claim that it is a nuisance through the hearing process, even though the mining operations had been conducted under the conditions of their previous permit for many years."

Humboldt County has an obligation to conserve its mineral resources, and to protect the natural and human environments in which they occur. Identification of these resources and their haul routes is crucial to prevent further encroachment on existing areas. Development of a Mineral Resource Overlay Zone would define those areas that are not suitable for non-compatible development. Perhaps reaching a consensus on where we cannot build out will help build a consensus for where and how we can accommodate growth.

The staff's report also comments on the existence of naturally occurring asbestos in relation to a Klamath River Aggregates (Ammon Quarry) permit renewal and application of the California Asbestos ATCM to the permit issued by the NCUAQMD for the Willow Creek site. The Conditional Use Permit was denied by the Planning Commission, but then overturned by the Board of Supervisors. Consequently, residents appealed that decision and won an out of court settlement, whereby the applicant withdrew their Use Permit. Additionally, the Barn II and Rousseau quarries in Kneeland, both of which tested positive for asbestos by the NCUAQMD, but were not reported to the County because these are noncommercial quarries (borrow pits) operated for use on THP properties (gravel for logging roads). As lead agency for mineral resources, the County

should have some method for permitting these quarries as well.

Friends would like to see the NCUAQMD more involved in the GP update of the Mineral Resource and Air Quality elements. We supports Healthy Humboldt in their recommendation that a liaison be established to formally adopt rules of communication and cooperation between the County Planning Department and the NCUAQMD.

The county staff points to "numerous existing policies, standards and Co., State and Federal regulations" and "any remaining issues are often so specific that general standards would not be useful". However, a recent review of the State's Mineral Resources Management Program by the State Mining and Geology Board shows that while ordinance review statewide is good, mineral resource management policy compliance rate is very poor and the CEQA process is basically dysfunctional.

Of particular note, fees collected to offset road use by heavy trucks and other mitigations are far lower than many other counties, or special "gravel material in lieu of fee" arrangements are made with only certain operators, and follow up and enforcement of reclamation plans upon the expiration of permits has long been neglected in Humboldt County.

Friends of Small Places vigorously supports the staff recommendations as listed under "Plan Alternative A" beginning on page 13 of the Preliminary Hearing Draft for Mineral Resources dated Feb. 15, 2007.

We also support the establishment of a Mineral Resource Combining Zone (MR-S3) and enactment of Permitted Land Use Designations (MR-S4) be adopted as the New Standards for the framework of the GP Update for Mineral Resource Policies (page 20 of Preliminary Hearing Draft for Mineral Resources).

Thank you for your time and consideration.

Sincerely,



Kristen Lark
Environmental Projects Director
Friends of Small Places