

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.27

On motion of Supervisor Benoit, seconded by Supervisor Tavaglione and duly carried, IT WAS ORDERED the reading being waived, that ordinances bearing the following titles, are adopted:

ORDINANCE NO. 348.4750

AN ORDINANCE OF THE COUNTY OF RIVERSIDE, AMENDING ORDINANCE NO. 348 RELATING TO ZONING

&

ORDINANCE NO. 555.19

AN ORDINANCE OF THE COUNTY OF RIVERSIDE, AMENDING ORDINANCE NO. 555 IMPLEMENTING THE SURFACE MINING AND RECLAMATION ACT OF 1975

Roll Call:

Ayes: Tavaglione, Benoit and Ashley
Nays: Buster and Stone
Absent: None

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on October 2, 2012 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: October 2, 2012
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
3.27

xc: Planning, Co.Co., MC, COB

1 permits or approvals pursuant to this ordinance, County Ordinance No. 460, and
2 Ordinance No. 555 which are necessary or convenient to facilitate development of the
3 project. The permits or approvals which comprise the fast track project may include
4 one or more of each of the following:

- 5 a. General plan amendment pursuant to Article 2 of this ordinance.
- 6 b. Specific plan or specific plan amendment pursuant to Article 2 of this
7 ordinance.
- 8 c. Determination of project conformance with an adopted specific plan
9 pursuant to Section 2.11 of this ordinance.
- 10 d. Zone change or other zoning ordinance amendment pursuant to
11 Article 20 of this ordinance.
- 12 e. Conditional use permit, including a conditional use permit for a solar power
13 plant, pursuant to Section 18.28 of this ordinance.
- 14 f. Public use permit pursuant to Section 18.29 of this ordinance.
- 15 g. Variance pursuant to Section 18.27 of this ordinance.
- 16 h. Plot plan pursuant to Section 18.30 of this ordinance.
- 17 i. Modification to an approved permit, including a substantial
18 conformance modification or a revised permit, pursuant to Section
19 18.43 of this ordinance.
- 20 j. Tentative land division including a vesting tentative map, pursuant to
21 County Ordinance No. 460.
- 22 k. Development agreement pursuant to Section 18.26b of this ordinance
23 and Board of Supervisors Resolution No. 2012-047 (Establishing
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1 Procedures and Requirements for the Consideration of Development
2 Agreements), as now adopted or hereafter amended.

- 3 l. Surface Mining Permit or Reclamation Plan pursuant to County
4 Ordinance No. 555.
- 5 m. Modification to an approved Surface Mining Permit or Reclamation
6 Plan, including a substantial conformance modification or a revised
7 permit or plan, pursuant to Section 13 of Ordinance No. 555.
- 8 n. Commercial Wind Energy Conversion System Permit (Commercial
9 WECS Permit) and Accessory Wind Energy Conversion System
10 Permit (Accessory WECS Permit) pursuant to Sections 18.41 and
11 18.42 of this ordinance.
- 12 o. Modification to an approved Commercial WECS Permit or Accessory
13 WECS Permit, including a substantial conformance modification or a
14 revised permit, pursuant to Section 18.42a of this ordinance.”
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16

17 Section 3. This ordinance shall take effect thirty (30) days after its
18 adoption.

19 BOARD OF SUPERVISORS OF THE COUNTY
20 OF RIVERSIDE, STATE OF CALIFORNIA

21 By: _____

Chairman

John Tavaglione

22 ATTEST: Kecia Harper-Ihem

23 CLERK OF THE BOARD:

24 By: _____

Deputy

(SEAL)

25 FORM APPROVED COUNTY COUNSEL

26 BY: _____

KARIN L. WATTS-BAZAN

DATE: 9/27/12

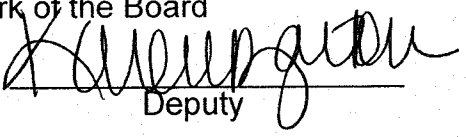
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STATE OF CALIFORNIA)
)
COUNTY OF RIVERSIDE) ss

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county held on October 2, 2012, the foregoing ordinance consisting of 3 Sections was adopted by the following vote:

AYES: Tavaglione, Benoit and Ashley
NAYS: Buster and Stone
ABSENT: None

DATE: October 2, 2012

KECIA HARPER-IHEM
Clerk of the Board
BY: 
Deputy

SEAL

1 ORDINANCE NO. 555.19

2
3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE

4 AMENDING ORDINANCE NO. 555

5 IMPLEMENTING THE SURFACE MINING AND RECLAMATION ACT OF 1975

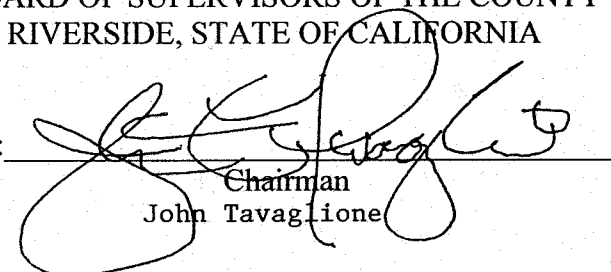
6
7 The Board of Supervisors of the County of Riverside ordains as follows:

8 Section 1. Section 4. of Ordinance No. 555 is amended to add a subsection e. as
9 follows:

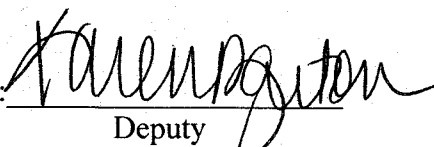
10 “e. Notwithstanding the above, or any other provision herein to the
11 contrary, the Board of Supervisors reserves exclusively to itself the duty to
12 investigate, hear, approve, conditionally approve or disapprove all surface
13 mining permits and reclamation plans including any modifications to said
14 permits and plans included as part of a fast track project as defined by
15 Section 21.34d of County Ordinance No. 348.”

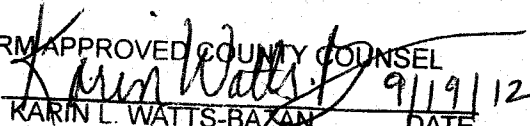
16
17 Section 2. This ordinance shall take effect thirty (30) days after its adoption.

18 BOARD OF SUPERVISORS OF THE COUNTY
19 OF RIVERSIDE, STATE OF CALIFORNIA

20 By: 
21 Chairman
22 John Tavaglione

23 ATTEST: Kecia Harper-Ihem
24 CLERK OF THE BOARD:

25 By: 
26 Deputy

27 FORM APPROVED COUNTY COUNSEL
28 BY:  9/19/12
KARIN L. WATTS-BAZAN DATE

(SEAL)

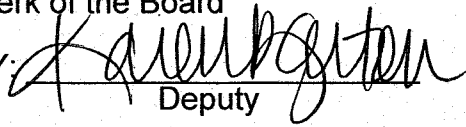
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STATE OF CALIFORNIA)
)
COUNTY OF RIVERSIDE) SS

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county held on October 2, 2012, the foregoing ordinance consisting of 2 Sections was adopted by the following vote:

AYES: Tavaglione, Benoit and Ashley
NAYS: Buster and Stone
ABSENT: None

DATE: October 2, 2012

KECIA HARPER-IHEM
Clerk of the Board
BY: 
Deputy

SEAL

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME
ENVIRONMENTAL FILING FEE CASH RECEIPT

Receipt #: 201200638

State Clearinghouse # (if applicable): _____

Lead Agency: COUNTY PLANNING *Date:* 10/02/2012

County Agency of Filing: Riverside *Document No:* 201200638

Project Title: ORDINANCE NO 348.4750 AMENDING ORDINANCE NO 348 AND 555.19

Project Applicant Name: COUNTY PLANNING *Phone Number:* 951-955-6097

Project Applicant Address: 4080 LEMON ST, 12TH FLOOR P.O. BOX 1409 RIVERSIDE, CA 92502

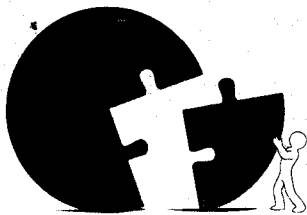
Project Applicant: Local Public Agency

CHECK APPLICABLE FEES:

- | | |
|---|----------------|
| <input type="checkbox"/> Environmental Impact Report | _____ |
| <input type="checkbox"/> Negative Declaration | _____ |
| <input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only) | _____ |
| <input type="checkbox"/> Project Subject to Certified Regulatory Programs | _____ |
| <input checked="" type="checkbox"/> County Administration Fee | <u>\$64.00</u> |
| <input type="checkbox"/> Project that is exempt from fees (DFG No Effect Determination (Form Attached)) | |
| <input checked="" type="checkbox"/> Project that is exempt from fees (Notice of Exemption) | |
| Total Received | <u>\$64.00</u> |

Signature and title of person receiving payment: 

Notes:



RIVERSIDE COUNTY PLANNING DEPARTMENT

Carolyn Syms Luna
Director

NOTICE OF EXEMPTION

TO: Office of Planning and Research (OPR) P.O. Box 3044 Sacramento, CA 95812-3044
 County of Riverside County Clerk

FROM: Riverside County Planning Department
 4080 Lemon Street, 12th Floor P. O. Box 1409 Riverside, CA 92502-1409
 38686 El Cerrito Road Palm Desert, CA 92201

Project Title/Case No.: Ordinance No. 348.4750 Amending Ordinance No. 348 and Ordinance No. 555.19 Amending Ordinance No. 555 Regarding Surface Mining Permits, Reclamation Plans, WECS Permits and Modifications to such Permits and Plans and Fast Track Procedures.

Project Location: The unincorporated area of Riverside County.

Project Description: Ordinance No. 348.4750 amends the fast track procedures set forth in Ordinance No. 348 to allow the potential to fast track surface mining permits, reclamation plans, wind energy conversion system (WECS) permits, as well as, modifications to these permits and plans. Additionally, Ordinance No. 555.19 amends Ordinance No. 555 to allow the Board of Supervisors to reserve to itself exclusive authority to investigate, hear, approve, conditionally approve or disapprove all surface mining permits and reclamation plans including modifications to such permits and plans included as a fast track project.

Name of Public Agency Approving Project: Riverside County Board of Supervisors

Project Sponsor: Riverside County Planning Department

Exempt Status: (Check one)

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269 (b)(c))
- Categorical Exemption (____)
- Statutory Exemption (____)
- Other: Section 15061(b)(3)

FILED
RIVERSIDE COUNTY

OCT 02 2012

LARRY W. WARD, CLERK
By *R. Anderson* R. Anderson Deputy

COUNTY CLERK
Neg Declaration/Ntc Determination
Filed per P.R.C. 21152
POSTED

OCT 02 2012

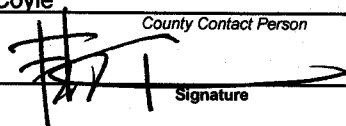
Removed: _____

By: _____ Dept.
County of Riverside, State of California

NOTICE OF EXEMPTION

Page 2

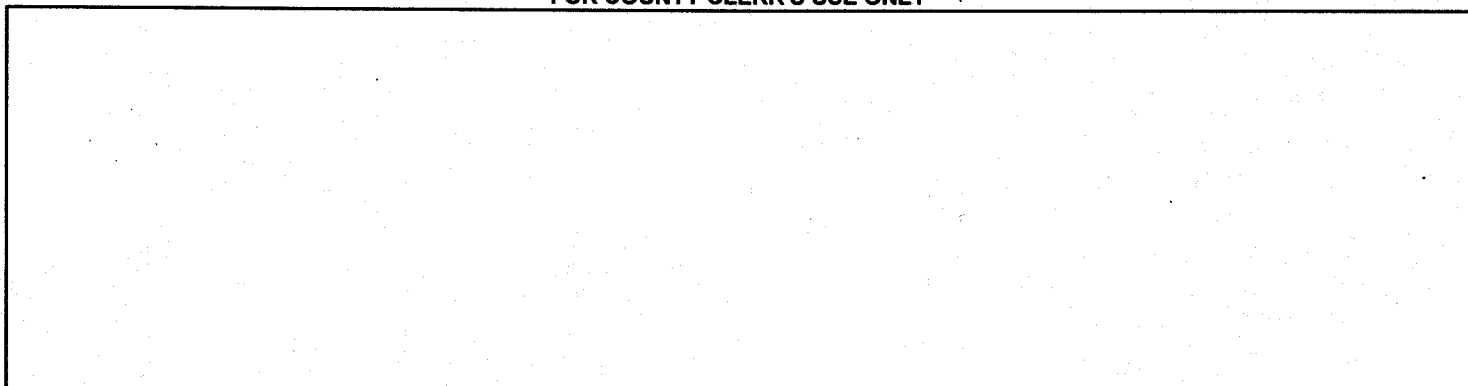
Reasons why project is exempt: The project is exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility the project may have significant effect on the environment. Ordinance No. 348.4750 allows for surface mining permits, reclamation plans, WECS permits and modifications to such permits and plans to potentially receive fast track authorization pursuant to the provisions of Board Policy No. A-32. Additionally, Ordinance No. 555.19 amends Ordinance No. 555.19 amends Ordinance No. 555 to allow the Board of Supervisors to reserve to itself exclusive authority to investigate, hear, approve, conditionally approve or disapprove all surface mining permits and reclamation plans including modifications to such permits and plans included as a fast track project as defined by Section 21.34d of Ordinance No. 348. These ordinance amendments are merely procedural in nature. There is no specific fast track project associated with this project and the ordinance amendments do not commit the County to approve any specific fast track project. To perform any environmental analysis at this early stage would require the County to speculate as to what property might be involved, what uses might be proposed and what impacts a future project might have. "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR". County of Inyo v. City of Los Angeles (1977) 71 Cal. App.3d.185, 193. Under these circumstances, environmental analysis at this time would be premature and meaningless. Before a fast track project or other project involving a surface mining permit, reclamation plan or WECS permit occurs on any particular site, all environmental issues will be analyzed in site-specific environmental reports or other environmental documents as required by CEQA. The evidence supporting the determination of exemption is set forth in full in the project record and the determination of exemption is consistent with State CEQA Guidelines section 15004(b) which provides: "Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment." "Determining whether a project qualifies for the common sense exemption need not necessarily be preceded by detailed or extensive fact finding. Evidence appropriate to the CEQA stage is all that is required." Muzzy Ranch Co. v. Solano County Airport Land Use Commission (2007) 41 Cal.4th 3272, 388.

Frank Coyle _____ (951) 955-6097 _____
County Contact Person Phone Number
 _____ Deputy Director _____ 10.2.12 _____
Signature Title Date

Date Received for Filing and Posting at OPR: _____

Revised: 10/02/12: Y:\Ord. 348.4750 & Ord. 555.19_NOE Form_10 02 12.docx

Please charge deposit fee case#: ZEA N/A ZCFG No. N/A - FREE POSTING per Ca. Govt. Code 6103 and 27383
FOR COUNTY CLERK'S USE ONLY





OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060
FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

October 4, 2012

THE PRESS ENTERPRISE
ATTN: LEGALS
P.O. BOX 792
RIVERSIDE, CA 92501

FAX: (951) 368-9018
E-MAIL: legals@pe.com

RE: ADOPTION OF ORDINANCE NO. 555.19 & 348.4750

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Monday, October 8, 2012**.

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office in duplicate, WITH TWO CLIPPINGS OF THE PUBLICATION.

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

Mcgil

Cecilia Gil, Board Assistant to
KECIA HARPER-IHEM, CLERK OF THE BOARD

Gil, Cecilia

From: mtinajero@pe.com on behalf of Master, PEC Legals <legalsmaster@pe.com>
Sent: Thursday, October 04, 2012 8:26 AM
To: Gil, Cecilia
Subject: Re: [Legals] FOR PUBLICATION: Adoption of Ord. No. 555.19 & 348.4750

Received for publication on Oct. 8. Proof with cost to follow.

On Thu, Oct 4, 2012 at 7:47 AM, Gil, Cecilia <CCGIL@rcbos.org> wrote:

Good Morning! Attached is an Adoption of 2 Ordinances, for publication on Monday, Oct. 8, 2012. Please confirm.
THANK YOU!

Cecilia Gil

Board Assistant to the
Clerk of the Board of Supervisors
[951-955-8464](tel:951-955-8464)

THE COUNTY ADMINISTRATIVE CENTER IS CLOSED EVERY FRIDAY UNTIL FURTHER NOTICE.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING.

--
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CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060
FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

October 4, 2012

THE DESERT SUN
ATTN: LEGALS
P.O. BOX 2734
PALM SPRINGS, CA 92263

FAX: (760) 778-4731
E-MAIL: legals@thedesertsun.com

RE: ADOPTION OF ORDINANCE NO. 555.19 & 348.4750

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Sunday, October 7, 2012.**

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office in duplicate, **WITH TWO CLIPPINGS OF THE PUBLICATION.**

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

Mcgil

Cecilia Gil, Board Assistant to
KECIA HARPER-IHEM, CLERK OF THE BOARD

Gil, Cecilia

From: Moeller, Charlene <CMOELLER@palmspri.gannett.com>
Sent: Thursday, October 04, 2012 8:41 AM
To: Gil, Cecilia
Subject: RE: FOR PUBLICATION: Adoption of Ord. No. 555.19 & 348.4750

Ad received and will publish on date(s) requested.

Charlene Moeller | Media Sales Legal Notice Coordinator

The Desert Sun Media Group
750 N. Gene Autry Trail, Palm Springs, CA 92262
t 760.778.4578 | f 760.778.4731
legals@thedesertsun.com / dpwlegals@thedesertsun.com

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This email and any files transmitted with it are confidential and intended for the individual to whom they are addressed. If you have received this email in error, please notify the sender and delete the message from your system

From: Gil, Cecilia [<mailto:CCGIL@rcbos.org>]
Sent: Thursday, October 04, 2012 7:51 AM
To: tds-legals
Subject: FOR PUBLICATION: Adoption of Ord. No. 555.19 & 348.4750

Good Morning! Attached is an Adoption of 2 Ordinances, for publication on Sunday, Oct. 7, 2012. Please confirm.
THANK YOU!

Cecilia Gil

Board Assistant to the
Clerk of the Board of Supervisors
951-955-8464

**THE COUNTY ADMINISTRATIVE CENTER IS CLOSED EVERY FRIDAY UNTIL FURTHER NOTICE.
PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING.**

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

ORDINANCE NO. 555.19
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 555
IMPLEMENTING THE SURFACE MINING AND RECLAMATION ACT OF 1975

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Section 4. of Ordinance No. 555 is amended to add a subsection e. as follows:

“e. Notwithstanding the above, or any other provision herein to the contrary, the Board of Supervisors reserves exclusively to itself the duty to investigate, hear, approve, conditionally approve or disapprove all surface mining permits and reclamation plans including any modifications to said permits and plans included as part of a fast track project as defined by Section 21.34d of County Ordinance No. 348.”

Section 2. This ordinance shall take effect thirty (30) days after its adoption.

John Tavaglione, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **October 2, 2012**, the foregoing Ordinance consisting of two (2) sections was adopted by said Board by the following vote:

AYES: Tavaglione, Benoit, and Ashley
NAYS: Buster and Stone
ABSENT: None

Kecia Harper-Ihem, Clerk of the Board
By: Cecilia Gil, Board Assistant

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

ORDINANCE NO. 348.4750
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 348 RELATING TO ZONING

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Subsection a. of Section 18.26a. of Ordinance No. 348 is amended to read as follows:

“a. AUTHORITY OF BOARD OF SUPERVISORS. Notwithstanding any other provision of this ordinance, County Ordinance No. 460, or County Ordinance No. 555, the Board of Supervisors hereby deems it appropriate and necessary to reserve to itself the functions of the planning agency with respect to hearing any permit or approval included in a fast track project. The Board of Supervisors shall have exclusive authority to hear, approve, conditionally approve or disapprove any permit or approval included in a fast track project. Notwithstanding any other provision of this ordinance, County Ordinance No. 460, or County Ordinance No. 555, no hearing before the Planning Commission or the Planning Director shall be required with respect to any permit or approval included in a fast track project.”

Section 2. Section 21.34d. of Ordinance No. 348 is amended to read as follows:

“SECTION 21.34d. FAST TRACK PROJECT. A development project designated as a fast track project by majority vote of the Board of Supervisors or by the Assistant County Executive Officer/Economic Development Agency (the EDA Director) in accordance with the provisions of Board of Supervisors Policy A-32, as now adopted or hereafter amended. A fast track project may consist of one or more permits or approvals pursuant to this ordinance, County Ordinance No. 460, and Ordinance No. 555 which are necessary or convenient to facilitate development of the project. The permits or approvals which comprise the fast track project may include one or more of the following:

- a. General plan amendment pursuant to Article 2 of this ordinance.
- b. Specific plan or specific plan amendment pursuant to Article 2 of this ordinance.
- c. Determination of project conformance with an adopted specific plan pursuant to Section 2.11 of this ordinance.
- d. Zone change or other zoning ordinance amendment pursuant to Article 20 of this ordinance.
- e. Conditional use permit, including a conditional use permit for a solar power plant, pursuant to Section 18.28 of this ordinance.
- f. Public use permit pursuant to Section 18.29 of this ordinance.
- g. Variance pursuant to Section 18.27 of this ordinance.
- h. Plot plan pursuant to Section 18.30 of this ordinance.
- i. Modification to an approved permit, including a substantial conformance modification or a revised permit, pursuant to Section 18.43 of this ordinance.
- j. Tentative land division including a vesting tentative map, pursuant to County Ordinance No. 460.
- k. Development agreement pursuant to Section 18.26b of this ordinance and Board of Supervisors Resolution No. 2012-047 (Establishing Procedures and Requirements for the Consideration of Development Agreements), as now adopted or hereafter amended.
- l. Surface Mining Permit or Reclamation Plan pursuant to County Ordinance No. 555.
- m. Modification to an approved Surface Mining Permit or Reclamation Plan, including a substantial conformance modification or a revised permit or plan, pursuant to Section 13 of Ordinance No. 555.
- n. Commercial Wind Energy Conversion System Permit (Commercial WECS Permit) and Accessory Wind Energy Conversion System Permit (Accessory WECS Permit) pursuant to Sections 18.41 and 18.42 of this ordinance.
- o. Modification to an approved Commercial WECS Permit or Accessory WECS Permit, including a substantial conformance modification or a revised permit, pursuant to Section 18.42a of this ordinance.”

Section 3. This ordinance shall take effect thirty (30) days after its adoption.

John Tavaglione, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **October 2, 2012**, the foregoing Ordinance consisting of three (3) sections was adopted by said Board by the following vote:

AYES: Tavaglione, Benoit, and Ashley
NAYS: Buster and Stone
ABSENT: None

Kecia Harper-Ihem, Clerk of the Board
By: Cecilia Gil, Board Assistant

Barton, Karen

From: Harper-Ihem, Kecia
Sent: Tuesday, October 02, 2012 8:02 AM
To: Barton, Karen
Subject: Fwd: Ordinances Implementing SMARA
Attachments: image002.jpg

Please print and put with the item.

Sent from my iPhone

Begin forwarded message:

From: "Watts-Bazan, Karin" <KWATTSBA@co.riverside.ca.us>
Date: October 1, 2012 6:10:53 PM PDT
To: "Harper-Ihem, Kecia" <KHarper-Ihem@rcbos.org>
Cc: "Rector, Kimberly" <KRECTOR@rcbos.org>
Subject: **FW: Ordinances Implementing SMARA**

Kecia,

Please incorporate the attached e-mail in your file for Agenda Item No. 3.27 on tomorrow's agenda. If this issue comes up tomorrow, I will have copies available for the Board to review. If you have any questions, let me know. Thanks.

Karin Watts-Bazan

Principal Deputy County Counsel

3960 Orange St., 5th floor

Riverside, CA 92501

Phone: 951-955-6300

Fax: 951-955-6322

Please note: Our office is closed every Friday thru fiscal year 2010/2011 per order of the Board of Supervisors July 2010.

NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

From: Testa, Stephen@DOC [mailto:Stephen.Testa@conservation.ca.gov]
Sent: Monday, October 01, 2012 3:42 PM
To: Watts-Bazan, Karin
Cc: Scott, Amy@DOC
Subject: RE: Ordinances Implementing SMARA

Dear Karin:

You are correct in your assertion below. Although we frequently review drafts prior to official adoption by the lead agency (to avoid the lead agency having to go through the process again should the board identify problems), it is not a requirement pursuant to PRC Section 2774.5(a). What is required is for the lead agency to allow public input and have at least one public hearing, and upon adoption forward such amended ordinance to the board for certification. Once certified, the process is at such time deemed complete.

Let me know should you have any additional questions or require further clarification.

Below is the pertinent string of statutes pertaining to mining ordinances.

§ 2774. (a) Every lead agency shall adopt ordinances in accordance with state policy which establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

§ 2774.3. The board shall review lead agency ordinances which establish permit and reclamation procedures to determine whether each ordinance is in accordance with state policy, and shall certify the ordinance as being in accordance with state policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the board pursuant to this chapter.

§ 2774.5. (a) If, upon review of an ordinance, the board finds that it is not in accordance with state policy, the board shall communicate the ordinance's deficiencies in writing to the lead agency. Upon receipt of the written communication, the lead agency shall have 90 days to submit a revised ordinance to the board for certification as being in accordance with state policy. The board shall review the lead agency's revised ordinance for certification within 60 days of its receipt. If the lead agency does not submit a revised ordinance within 90 days, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(b) If, upon review of a lead agency's revised ordinance, the board finds the ordinance is still not in accordance with state policy, the board shall again communicate the ordinance's deficiencies in writing to the lead agency. The lead agency shall have a second 90-day period in which to revise the ordinance and submit it to the board for review. If the board again finds that the revised ordinance is not in accordance with state policy or if no revision is submitted, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(c) In any jurisdiction in which the lead agency does not have a certified ordinance, no person shall initiate a surface mining operation unless a reclamation plan has been submitted to, and approved by, the board. Any reclamation plan, approved by a lead agency under the lead agency's ordinance which was not in accordance with state policy at the time of approval, shall be subject to amendment by the board or under the ordinance certified by the board as being in accordance with state policy.

Stephen M. Testa

Executive Officer

State Mining and Geology Board

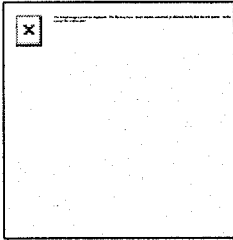
801 K Street, Suite 2015

Sacramento, CA 95814

Phone: (916) 322-1082

E-mail: stephen.testa@conservation.ca.gov

CONFIDENTIALITY NOTICE: This communication is intended only for the use of the individual or entity to which it is addressed. This message contains information from the State of California, State Mining and Geology Board, which may be privileged, confidential and exempt from disclosure under applicable law, including the Electronic Communications Privacy Act. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.



From: Watts-Bazan, Karin [<mailto:KWATTSBA@co.riverside.ca.us>]
Sent: Monday, October 01, 2012 1:06 PM
To: Testa, Stephen@DOC
Subject: Ordinances Implementing SMARA

Mr. Testa,

We have been advised that Department of Conservation requires local SMARA ordinances and amendments to those ordinances to be submitted in draft form prior to adoption by the local agency. This assertion has been made by legal counsel for the Pechanga Tribe during a recent public meeting in Riverside County. However, I do not read the statutes as making this mandatory. The statutes refer to "ordinance and ordinances" not draft ordinance or draft ordinances. Additionally, there is no mention of submittal of the ordinance for certification prior to adoption by the local agency. See Sections 2774, 2774.3 and 2774.5 of the Public Resources Code. Although this may be your practice, can you confirm that the statute and regulations do not require submittal prior to adoption of the ordinance? If you can confirm this for me by 5 today, I would really appreciate it. Thank you.

Karin Watts-Bazan

Principal Deputy County Counsel

3960 Orange St., 5th floor

Riverside, CA 92501

Phone: 951-955-6300

Fax: 951-955-6322

Please note: Our office is closed every Friday thru fiscal year 2010/2011 per order of the Board of Supervisors July 2010.

NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

Menjivar, Nelly

From: mk10166@yahoo.com
Sent: Thursday, September 27, 2012 4:24 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Michael Karcher
31316 Kahwea Rd
Temecula, CA 92591

cc: Riverside County CEO

Menjivar, Nelly

From: curtishaldeman@yahoo.com
Sent: Thursday, September 27, 2012 10:47 AM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

RE: Yes on fast tracking Liberty Quarry

Riverside County is hurting. Double digit unemployment and the slow economic recovery is taking a toll on us all.

Please support fast tracking Liberty Quarry to start creating the permanent jobs we need to put people back to work.

Moving this project forward under fast track will advance the creation of new jobs in Riverside County.

Creating jobs and boosting revenue are key to healing our county's economic problems. That is why I fully support fast tracking projects like Granite Construction's Liberty Quarry project.

Sincerely,

Curtis Haldeman
41802 Corte Montia
Temecula, Ca 92592

cc: Riverside County CEO

Menjivar, Nelly

From: daviddonner777@yahoo.com
Sent: Thursday, September 27, 2012 10:23 AM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

RE: Yes on fast tracking Liberty Quarry

Riverside County is hurting. Double digit unemployment and the slow economic recovery is taking a toll on us all.

Please support fast tracking Liberty Quarry to start creating the permanent jobs we need to put people back to work.

Moving this project forward under fast track will advance the creation of new jobs in Riverside County.

Creating jobs and boosting revenue are key to healing our county's economic problems. That is why I fully support fast tracking projects like Granite Construction's Liberty Quarry project.

Sincerely,

David Donner
42200 Deodar LN.
Temecula, CA 92592

cc: Riverside County CEO

Menjivar, Nelly

From: rickshirey@gmail.com
Sent: Thursday, September 27, 2012 10:01 AM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Rick Shirey
36491 Yamas Dr #302
Wildomar, Ca 92595

cc: Riverside County CEO

Menjivar, Nelly

From: blake.snyder@hotmail.com
Sent: Thursday, September 27, 2012 6:02 AM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Blake Snyder

1150 san marino ct 101
corona, ca 92881

cc: Riverside County CEO

Menjivar, Nelly

From: rogelioigualdo@yahoo.com
Sent: Thursday, September 27, 2012 3:21 AM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Supervisor,

We need jobs.

I urge you to support fast tracking Liberty Quarry - the jobs and new revenue that will be created are critically important to local workers.

Now more than ever we need you to vote yes on jobs and yes on fast tracking Liberty Quarry.

Thank you.

Rogelio Igueldo
39011 Agua Vista apt.2
Murrieta, Ca 92563

cc: Riverside County CEO

Menjivar, Nelly

From: jsimscyt@yahoo.com
Sent: Wednesday, September 26, 2012 10:30 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Supervisor,

We need jobs.

I urge you to support fast tracking Liberty Quarry - the jobs and new revenue that will be created are critically important to local workers.

Now more than ever we need you to vote yes on jobs and yes on fast tracking Liberty Quarry.

Thank you.

Jonathan Sims
36275 Veramonte Ave
Murrieta, Ca 92562

cc: Riverside County CEO

Menjivar, Nelly

From: bsumlyt@aol.com
Sent: Wednesday, September 26, 2012 7:41 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Larry Lepley
45911 Parsipanny CT
Temecula, CA 92592

cc: Riverside County CEO

Menjivar, Nelly

From: info@wesupportjobs.com
Sent: Wednesday, September 26, 2012 7:27 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Jim Dunn
PO box 5765
Palm Springs, CA 92263

cc: Riverside County CEO

Menjivar, Nelly

From: Ttaylor1@dc..com
Sent: Wednesday, September 26, 2012 7:25 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Tom Taylor
PO box 5531
Palm Spings, Ca 92263

cc: Riverside County CEO

Menjivar, Nelly

From: danilwags@yahoo.com
Sent: Wednesday, September 26, 2012 6:09 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Dear Supervisor:

Please support fast tracking the Liberty Quarry project.

We need the new jobs and revenue provided by this important project

Fast tracking this project will advance new jobs that are so desperately needed in our community.

I urge you to support fast track for Liberty Quarry.

Thank you for supporting jobs.

Dan Wagner
Wagner Trucking
23467 Schooner Dr
Canyon Lake, Ca 92587

cc: Riverside County CEO

Menjivar, Nelly

From: smarvin@labellemarvin.com
Sent: Wednesday, September 26, 2012 5:39 PM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

RE: Yes on fast tracking Liberty Quarry

Riverside County is hurting. Double digit unemployment and the slow economic recovery is taking a toll on us all.

Please support fast tracking Liberty Quarry to start creating the permanent jobs we need to put people back to work.

Moving this project forward under fast track will advance the creation of new jobs in Riverside County.

Creating jobs and boosting revenue are key to healing our county's economic problems. That is why I fully support fast tracking projects like Granite Construction's Liberty Quarry project.

Sincerely,

Steve Marvin
Stonetree Racing
39385 avenida bizaro
murrieta, CA 92562

cc: Riverside County CEO

Menjivar, Nelly

From: rich.biber@verizon.net
Sent: Wednesday, September 26, 2012 10:01 AM
To: Menjivar, Nelly
Subject: Support Jobs. Support Liberty Quarry.

Supervisor,

We need jobs.

Please approve the proposed amendments that will allow mining projects like Liberty Quarry to be fast tracked. The jobs and new revenue that will be created are critically important to local workers. Now more than ever we need you to vote yes on jobs and yes on amending ordinances to allow fast tracking for mining projects.

Richard Biber
n/a
5001 West Florida Avenue # 314
Hemet, CA 92545

cc: Riverside County CEO

ORDINANCE NO. 348.4750

AN ORDINANCE OF THE COUNTY OF RIVERSIDE

AMENDING ORDINANCE NO. 348 RELATING

TO ZONING

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Subsection a. of Section 18.26a. of Ordinance No. 348 is amended to read

as follows:

“a. AUTHORITY OF BOARD OF SUPERVISORS.

Notwithstanding any other provision of this ordinance, County Ordinance No. 460, *or County Ordinance No. 555*, the Board of Supervisors hereby deems it appropriate and necessary to reserve to itself the functions of the planning agency with respect to hearing any permit or approval included in a fast track project. The Board of Supervisors shall have exclusive authority to hear, approve, conditionally approve or disapprove any permit or approval included in a fast track project. Notwithstanding any other provision of this ordinance, County Ordinance No. 460, *or County Ordinance No. 555*, no hearing before the Planning Commission or the Planning Director shall be required with respect to any permit or approval included in a fast track project.”

Section 2. Section 21.34d. of Ordinance No. 348 is amended to read as follows:

“SECTION 21.34d. FAST TRACK PROJECT. A development project designated as a fast track project by majority vote of the Board of Supervisors or by the Assistant County Executive Officer/Economic Development Agency (the EDA Director) in accordance with the provisions of Board of Supervisors Policy A-32, as

REDLINE IN ITALICS SHOW THE CHANGES

1 now adopted or hereafter amended. A fast track project may consist of one or more
2 permits or approvals pursuant to this ordinance, County Ordinance No. 460, and
3 Ordinance No. 555 which are necessary or convenient to facilitate development of the
4 project. The permits or approvals which comprise the fast track project may include
5 one or more of each of the following:

- 6 a. General plan amendment pursuant to Article 2 of this ordinance.
- 7 b. Specific plan or specific plan amendment pursuant to Article 2 of this
8 ordinance.
- 9 c. Determination of project conformance with an adopted specific plan
10 pursuant to Section 2.11 of this ordinance.
- 11 d. Zone change or other zoning ordinance amendment pursuant to
12 Article 20 of this ordinance.
- 13 e. Conditional use permit pursuant to Section 18.28 of this ordinance.
- 14 f. Public use permit pursuant to Section 18.29 of this ordinance.
- 15 g. Variance pursuant to Section 18.27 of this ordinance.
- 16 h. Plot plan pursuant to Section 18.30 of this ordinance.
- 17 i. Modification to an approved permit, including a substantial
18 conformance modification or a revised permit, pursuant to Section
19 18.43 of this ordinance.
- 20 j. Tentative land division including a vesting tentative map, pursuant to
21 County Ordinance No. 460.
- 22 k. Development agreement pursuant to Section 18.26b of this ordinance
23 and Board of Supervisors Resolution No. 2012-047 (Establishing
24
25
26
27
28

REDLINE IN ITALICS SHOW THE CHANGES

Procedures and Requirements for the Consideration of Development Agreements), as now adopted or hereafter amended.

- l. *Surface Mining Permit or Reclamation Plan pursuant to County Ordinance No. 555.*
- m. *Modification to an approved Surface Mining Permit or Reclamation Plan, including a substantial conformance modification or a revised permit or plan, pursuant to Section 13 of Ordinance No. 555.*
- n. *Commercial Wind Energy Conversion System Permit (Commercial WECS Permit) and Accessory Wind Energy Conversion System Permit (Accessory WECS Permit) pursuant to Sections 18.41 and 18.42 of this ordinance.*
- o. *Modification to an approved Commercial WECS Permit or Accessory WECS Permit, including a substantial conformance modification or a revised permit, pursuant to Section 18.42a of this ordinance."*

Section 3. This ordinance shall take effect thirty (30) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman

ATTEST:

CLERK OF THE BOARD:

By: _____
Deputy
(SEAL)

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



192

FROM: Transportation Land Management Agency-
Planning Department and County Counsel

SUBMITTAL DATE:
September 18, 2012

SUBJECT: Amendments to Ordinance Nos. 348 and 555 Allowing Fast Track Authorization for Surface Mining Permits, Reclamation Plans and Wind Energy Conversion System (WECS) Permits

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce and adopt at successive meetings Ordinance No. 348.4750, an Ordinance of the County of Riverside Relating to Zoning, and Ordinance No. 555.19, Implementing the Surface Mining and Reclamation Act of 1975;
2. Find the adoption of Ordinance No. 348.4750 and the adoption of Ordinance No. 555.19 exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility these actions may have a significant effect on the environment;
3. Direct the Planning Department to submit a Notice of Exemption to the County Clerk for filing and posting.

Departmental Concurrence

Continued on Page 2

Carolyn Syms Luna
Carolyn Syms Luna, Planning Director

Karin Watts-Bazan
Karin Watts-Bazan, Principal Deputy County Counsel
for Pamela J. Walls, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
BY: Tina Grande
Tina Grande
County Executive Office Signature

Consent Policy
 Consent Policy

Dep't Recomm.:
 Per Exec. Ofc.:

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended with the amendment to include solar projects which otherwise would be eligible under Riverside County existing policy.

Ayes: Tavaglione, Benoit and Ashley
 Nays: Buster and Stone
 Absent: None
 Date: September 25, 2012
 xc: Planning, Co.Co., COB

Kecia Harper-Ihem
 Clerk of the Board
 By: Kecia Harper-Ihem
 Deputy

3.56

The Honorable Board of Supervisors
Form 11- Re: Amendments to Ordinance Nos. 348 and 555 Allowing Fast Track
Authorization for Surface Mining Permits, Reclamation Plans and Wind Energy
Conversion System (WECS) Permits
Date: September 18, 2012
Page 2

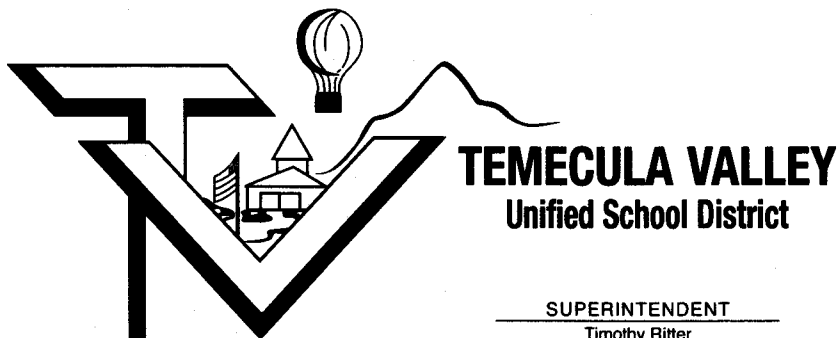
BACKGROUND: On July 31st, the Board of Supervisors directed staff to prepare amendments to Ordinance No. 348 and Ordinance No. 555 to allow fast track authorization for surface mining permits and reclamation plans. Staff was also directed to conduct a review to determine if fast track authorization for other types of permits or approvals would be warranted.

We have reviewed Ordinance No. 348 and other County ordinances related to the development process and have determined that commercial wind energy conversion system (WECS) permits, accessory WECS permits, and modifications to these permits may also potentially warrant fast track authorization. We have therefore attached for your consideration appropriate amendments to Ordinance Nos. 348 and 555 allowing for surface mining permits, reclamation plans, commercial WECS permits, accessory WECS permits, and modifications to these permits to receive fast track authorization.

You may recall at the last Board meeting when the Board initiated this amendment process, the issue of fast track authorization for pre-application review (PAR) was raised. PAR procedures are established pursuant to Ordinance No. 752. The purpose of the PAR process is to advise applicants of County requirements, assess a development proposal's consistency with County requirements, potentially shorten the time frame for processing and to develop a written record of staff's assessment of a development proposal resulting in a PAR letter. The PAR letter is not a permit or approval. It is merely a written document outlining staff's assessment of a development proposal. For this reason, we have not included a PAR as an approval that can be fast tracked pursuant to Board Policy A-32.

Additionally, fast track authorization for large family day care home permits was also raised. Large family day care home permits are ministerial actions as set forth in Ordinance No. 348 and state law. Ordinance No. 348 and state law allow for day care for between 7 and 14 children to be permitted in homes by the Planning Director provided certain standards are met. If the standards are met, the Planning Director is required to issue the permit. Thus, fast track authorization for such permits would in essence slow down the process for approving such permits. For this reason, we did not include in the amendment to Ordinance No. 348, a provision allowing fast track authorization for large family day care home permits.

Therefore, it is recommended that the Board introduce and adopt Ordinance No. 348.4750 and Ordinance No. 555.19 at successive meetings, find the adoption of these ordinances exempt from CEQA, and direct the Planning Department to file the appropriate Notice of Exemption with the County Clerk for posting.



BOARD OF EDUCATION

Robert Brown
Vincent O'Neal
Dr. Allen Pulsipher
Dr. Kristi Rutz-Robbins
Rick Shafer

September 24, 2012

Riverside County Board of Supervisors
County Executive Office
4080 Lemon Street – 4th Floor
Riverside, California 92501

Re: Application number SMP 00216

Dear Chairman Tavaglione and Supervisors Ashley, Benoit, Buster and Stone:

The Temecula Valley Unified School District Board of Trustees is committed to providing a safe learning environment that promotes the health and well-being of children under our care.

We are concerned the significant and unavoidable impacts on air quality outlined in the Environmental Impact Report (EIR) for the proposed Liberty Quarry (application number SMP 00216) have the potential to negatively impact the health of our students.

As a public school system, we are funded on average daily attendance and potential increases in absences would result in a loss of instructional time and district funding.

The EIR states even with mitigation measures, air quality issues remain considerable and unavoidable.

We are also concerned that ground level dust studies were not conducted on the fields or playgrounds of our schools downwind from the proposed quarry.

We therefore ask the County Board of Supervisors to seriously consider the potential air quality impacts found in the EIR that may put in jeopardy the health of thousands of children who attend school in close proximity to the proposed mining site.

Sincerely,

Robert Brown
President of the Governing Board

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687 E-MAIL: COURTCOYLE@AOL.COM FACSIMILE: 858-454-8493

John F. Tavaglione, Chairman
County of Riverside, Board of Supervisors
4080 Lemon Street, 5th Floor
Riverside, CA 92501

October 1, 2012

Re: Board of Supervisors Hearing, October 2, 2012, Item 3.27, Second Reading, Amendments to Ordinance Nos. 348 and 555 Allowing Fast Track Authorization for Surface Mining Permits, Reclamation Plans and Wind Energy Conversion System (WECS) Permits, OPPOSE IN PART

Dear Chairman Tavaglione and Honorable Members of the Board,

As you know, the Pechanga Band of Luiseño Indians (Tribe) opposes the proposed revisions to County ordinances to allow surface mines to be fast tracked.

We remain concerned about the amendments' potential to increase cumulative impacts and environmental harms throughout the County, and also relative to the proposed Liberty Quarry mine, and carry forward each of our previous objections and concerns, including that mining projects already in the development pipeline, such as the reapplication for Liberty Quarry, should not be allowed fast track benefits.

We also wanted to provide you a copy of the Tribe's September 26, 2012, letter to the County Land Development Committee (LDC) which offers additional support that the mine would not even qualify for fast tracking, among other concerns with the reapplication. We are also concerned that the ordinance revisions before you today do not reflect the motion as it was passed 3-2 at the September 25, 2012, hearing.

10/2/12
3.27

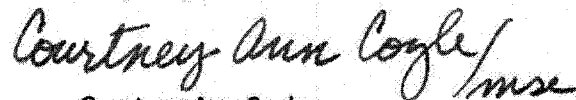
October 1, 2012

Page 2

Finally, we reiterate our request from the last Board meeting that the Board publicly commits to assuming sole jurisdiction for any fast track authorization that might occur for the proposed Liberty Quarry, to better ensure process transparency and accountability of elected officials.

Thank you for your courtesy and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Courtney Ann Coyle" followed by a stylized flourish.

Courtney Ann Coyle
Attorney at Law

Attachment

CC: Clerk of the Board
Karin Watts-Bazan, Office of County Counsel
John Macarro, Pechanga, Office of General Counsel
Louise Burke, Pechanga, Tribal Council Secretary

ATTACHMENT 1

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
LA JOLLA, CA USA 92037-3817

TELEPHONE: 858-454-8687

E-MAIL: COURTCOYLE@AOL.COM

FACSIMILE: 858-454-8493

County of Riverside
Attn: Matt Straite & Dave Jones
Land Development Committee
4080 Lemon Street
Riverside, CA 92502-1409

September 26, 2012

Transmitted via Email to: mstraite@rctlma.org; dljones@rctlma.org

RE: LDC Meeting (September 27, 2012), Item 1, Regarding Granite Construction Application (Revised) for Surface Mining Permit No. 00216 and Change of Zone No. 07787

Dear Messrs. Straite and Jones:

This comment letter is submitted on behalf of the Pechanga Band of Luiseño Indians ("Tribe"), a federally recognized Indian tribe and sovereign government, concerning Granite Construction's Revised Application to the County for a Surface Mining Permit, Reclamation Plan, and Change of Zone.

I. LDC Notice to Tribe

Even though the Tribe did not receive official notice of the LDC meeting, in the interest of coming forth at the earliest possible time in the review process for the proposed revised quarry application, the Tribe submits the following initial comments on Granite's Revised Application.

It is important to point out that the Tribe was not provided notice of this LDC meeting by the County even though the Tribe frequently receives LDC notices on various other project applications in Riverside County and has requested to be on the list for all notices related to this Liberty Quarry project as well as the property upon which this project is located.

The Tribe reiterates its formal request to be notified and involved, pursuant to Public Resources Code 21092.2, and other authority, with respect to the entire review process for the duration of the Revised Liberty Quarry Project. Please send such notices to:

John Macarro, Pechanga General Counsel – jmacarro@pechanga-nsn.gov,
Marcy Hernandez, Pechanga Legal Depart. – mhernandez@pechanga-nsn.gov, and
Courtney Ann Coyle, Outside Counsel – courtcoyle@aol.com.

Also, please provide me with any meeting notes or minutes from this or future LDC meetings.

II. Renewal of Previous Concerns, Evidence and Testimony

The Tribe reserves the right to submit additional comments as more information is communicated to it concerning the required permits, approval processes and procedures with which the Revised Application will be required to comply, and as additional detail emerges on the asserted reduced environmental impacts of the Revised Application.

Granite represents that the revised Liberty Quarry Project submitted to the County is very similar to the denied quarry studied in EIR No. 475 except for proposed changes that add a new source of general fund revenue and allegedly reduce environmental impacts of the proposed project to Riverside County. As such, the Tribe would like to enter into the record for this Revised Application all previous comment letters submitted by the Tribe and its agents concerning the denied Liberty Quarry Project and EIR No. 475 and all previous oral testimony submitted by the Tribe and its agents at Planning Commission and Board of Supervisors' hearings. This includes testimony related to the impacts a mining project would have on tribal cultural resources, sacred places and the Pechanga Indian Reservation Community, which is located only about 500 yards from the Revised Project area; fast tracking; and other related subjects as listed in the attached Table. Should the County not have any particular record, please inform us and we will provide it to you.

In addition, the Pechanga Tribe now owns property that is almost directly adjacent to the Revised Project footprint. As such, the Tribe must be considered an interested party in terms of its status as an adjacent landowner to the proposed operation.

III. Tribal Consultation Required – Sacred Places

Consultation between the County and the Tribe is required under several authorities.

As it appears, the Project may require a General Plan Amendment. Therefore, the Lead Agency is required consult with the Pechanga Tribe pursuant to

a State law entitled Traditional Tribal Cultural Places (also known as SB 18; Cal. Govt. C 65352.3). Such consultation shall be for the purposes of identifying any Native American sacred places, identifying proper means of treatment and management of such places, and to ensure the protection and preservation of such places through agreed upon mitigation (Cal. Govt C. 65352.3). All consultations shall be government-to-government, meaning they shall be directly between the Tribe and the Lead Agency, seeking agreement where feasible (Cal Govt C. 65352.4). Lastly, any information conveyed to the Lead Agency concerning Native American sacred places shall be confidential in terms of the specific identity, location, character and use of those places and associated features and objects. Such information shall not be subject to public disclosure pursuant to California Public Records Act (Cal. Govt. C. 6254(r)).

Moreover, in enacting SB 18, it was the intent of the Legislature that tribal consultation should occur at the earliest possible time in the process. The local agency is to:

“Establish meaningful consultations between California Native American tribal governments and California local governments at the earliest possible point in the local government land use planning process so that these places can be identified and considered” (SB 18 Chap. 905, Section 1(b)(2)).

However, even if a General Plan Amendment is ultimately not required for the Revised Application, consultation between the County and the Tribe is still required because the Project area is listed as a sacred place with the State Native American Heritage Commission.

Also, Governor Brown's Executive Order B-10-11 (dated September 19, 2011) directs state government to implement effective government-to-government consultation between California state government and tribes. This directive may be achieved through recognition and understanding of the inherent sovereign authority of tribes over their members and territory; developing consultation policies; and cooperating and engaging in meaningful consultation that may result in the adoption and implementation of mutually-beneficial policies.

Finally, given the potential that the applicant may try and use the certified EIR to support the revised project, for consultation to be timely, it must be initiated as soon as possible. Please contact me to make these arrangements.

IV. Impacts to Tribal Cultural Resources and the Pechanga Indian Reservation Community Remain

The Revised Application still encompasses, and irrevocably impacts, the area known to all Luiseño people, including the Pechanga Tribe, as the Luiseno Ancestral

Origin Landscape, the Tribe's one and only creation area. This area is not only considered by the Tribe to be eligible for the National Register of Historic Places (NRHP)(and thereby automatically eligible to the California Register of Historic Resources (CRHR)), but also by the cultural resource consultants that prepared the archaeological and cultural resources studies for the previous Liberty Quarry environmental assessment (Jones & Stokes and Dr. Stephen O'Neil). In fact, portions of the Origin Area are already listed on the NRHP and the National Register form may be updated to include the entire Origin/Creation area which includes the area proposed for the quarry.

Although the Revised Application claims the maximum quarry depth for the Revised Project would be 300 feet less than the previous AMSL, the depth is still of a magnitude that will result in essentially the same impacts to tribal cultural resources and the Luiseño Ancestral Origin Landscape. Blasting a hole in Pu'éska Mountain of the size and magnitude that the applicant is now proposing would still desecrate and irreparably destroy this most critically important sacred area to the Pechanga and Luiseño People, including such effects as hydrological impacts of dewatering and "killing" the mountain, visual impacts, significant impacts to cultural resources and significant impacts to the Pechanga Indian Reservation Tribal Community in terms of air quality and impacting a protected habitat/wildlife corridor that crosses the reservation.

It is important to note that all Luiseño tribes in Riverside County have taken an opposition position on the Liberty Quarry Project and many testified before the Planning Commission and Board of Supervisors on this issue.

We see nothing thus far in this Revised Application that alleviates any of the concerns the Tribe has previously communicated to the County.

V. Process for this Revised Application

We are requesting that the County provide us information concerning the processing of this Revised Application and we express the following concerns:

First, please provide us the anticipated review and hearing schedule for the Project. As you know, the Tribe opposes this Revised Project being eligible for any fast track process. The Tribe is concerned about the legality of the adoption process to date for necessary amendments to local ordinances to allow for fast tracking of surface mining, the nature and complexity of the Project and the competing review and timelines provided by other authority.

Second, the LDC Notice contains the statement that: "NOTE: An EIR was certified for this site. All review and any comments should take the Certified EIR

into account." It is the Tribe's position that an entirely new EIR and environmental review process must be initiated and instituted for this Revised Project: a) given the passage of time since the preparation of the technical studies and analysis for the EIR, b) not all feasible mitigation measures were adopted by the Board (as the project was denied and thereby the CEQA process ended) including those related to air quality, off-site hydrology, tribal cultural resources, reclamation, and wildlife bridges, c) the previous Liberty Quarry Project was denied by the County, and d) the certified EIR is presently in litigation including regarding its substantive defects.

Should the County reject the above position regarding the required new CEQA documentation, no less than a Subsequent EIR must be prepared, with full public review and comment, including hearings before the Planning Commission. This is because the County cannot rely on the certified EIR to process the Revised Application due to changed circumstances, most notably, tribal cultural resources, as there is significant new information resulting in new and even more severe significant environmental impacts, not evaluated in the original EIR, that will require major revisions to the EIR and a new round of public and responsible and trustee agency review. The Tribe can share this sensitive new information with the County during the requested consultation. In any case, the Tribe would strongly object to the preparation of merely an Addendum to the EIR.

Third, it should be noted that Revised Application, Exhibit C, "Revised Project Description for Liberty Quarry" dated July 2012, is deficient in many respects, including that it does not reference well-known significant tribal cultural resources and sacred significance in and around the Project area, and thereby does not accurately or fully describe the site and area characteristics. Also, the Environmental Resources key for the Revised Application, Change of Zone, Sheet 1 of 1, (July 2012), and The Mine and Reclamation Plan, (July 2012), Sheet 1 of 6, both incorrectly state that the area is "Not designated as a sensitive historical region." Both appear deliberately intended to mislead reviewers of the Revised Application into thinking that the area is not a registered sacred place or otherwise has historical resources. This is not the case. This error must be promptly corrected and alone warrants the Revised Application to be recirculated to all transmitted entities and a new LDC meeting to be held.

Fourth, the Tribe requests to have input into the consultants, research and studies that will be conducted to assess impacts to Tribal Cultural Resources and the Tribe should be consulted with, in person, concerning impacts to the Pechanga Indian Reservation Community, something that was noticeably absent from the denied Project process and greatly contributed to the EIR's inadequacy for the Liberty Quarry Project.

As a related matter, we understand that the County no longer has on staff a professional subject matter expert in archaeology or a Tribal Liaison with

appropriate background and training, including according to the Secretary of Interior's Standards. The Tribe is concerned that those evaluating the potential impacts of the Revised Application on tribal cultural resources and the Pechanga Indian Reservation Community for the County will not be able to fully or meaningfully assess such impacts or their context. How does the County intend to rectify this serious void in a timeframe that would have bearing on the County's assessment of the Revised Application?

Sixth, we understand that the California Department of Conservation is currently performing its Lead Agency Review Team (LART) audit of Riverside County's implementation of the Surface Mine and Reclamation Act (SMARA). For the reasons set out in detail in our letter to the County dated September 24, 2012, with regards to the County's proposal to amend ordinances to allow for fast tracking of surface mines, we request that the County pause processing of the Revised Application until the audit and the LART report are complete to better ensure that the Revised Application's permitting, reclamation, environmental and financial assurances are being fully considered and conditioned and are in compliance with state law.

Finally, it is the Tribe's position that this Revised Application does not contain adequate information at this time to allow it to be scheduled for a public hearing.

VI. Conclusion

In sum, the Tribe remains steadfastly opposed to the proposed quarry, including the so-called modified version, in this highly sensitive area. The Tribe, once again, strongly urges Granite and the County to find a more suitable off-site alternative location for a quarry.

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LDC Meeting, September 27, 2012

September 26, 2012

Page 7

The Tribe also requests, and expects to be, a full participant in the review and processing of the new proposal and requests that this item be continued, not cleared, by the LDC. Please provide this letter and its attachment to all staff participants in the LDC tomorrow and any other County department or any other agency reviewing the reapplication.

You may contact me directly with any questions on this letter.

Very truly yours,



Courtney Ann Coyle
Attorney at Law

Attachment

Carolyn Syms Luna, County, Planning Director
Karin Watts-Bazan, Office of County Counsel
John Macarro, Pechanga, Office of General Counsel
Louise Burke, Pechanga, Tribal Council Secretary
Interested Parties

ATTACHMENT 1

**PECHANGA TRIBE CORRESPONDENCE AND TESTIMONY LIST
LIBERTY QUARRY I AND OTHER RELEVANT MATTERS (2005 - 2012)**

Correspondence	Testimony	Subject
08/2005		Tribe submitted letter to Riverside County (County) on first Notice of Preparation (NOP) of the LibQ DEIR.
05/2007		Tribe submitted letter to City of Temecula (City) re NOP for the Santa Margarita Annexation.
07/2007		Tribe submitted letter to County re Amended NOP for LibQ.
10/18/2007		Tribe submitted letter to County Archaeologist and Tribal Liaison formally requesting SB 18 consultation for the LibQ Project.
04/2008		Tribe submitted comment letter on DEIR to City for the Santa Margarita Annexation.
10/9/2008		Tribe submitted ethnography letter to County regarding the Luiseño Ancestral Origin Landscape.
11/2008		Tribe submitted 2 nd comment letter concerning the DEIR for the Santa Margarita Annexation.
05/2009		Tribe submitted letter of support for the City's Santa Margarita Annexation.
	06/04/2009	Pechanga Tribal Chairman testified at the LAFCO hearing on City's Santa Margarita Annexation.
11/2009		Tribe submitted extensive written comments on LibQ DEIR deficiencies: including cumulative impacts, project description, reclamation plan, alternatives analysis, biological impacts, omission of analysis of Pechanga Community, water impacts analysis, geological/seismic analysis, fire analysis, air quality, omission of federal permit analysis and incorrect mapping of reservation boundaries and providing testimony of subject matter expert in tribal historical resources (including Traditional Cultural Properties).
	07/2010	MEETING - Tribe meets with County staff regarding project adversely affecting tribal historic resources.
12/2010		EMAIL – Tribe sends email to County reiterating need for additional consultation prior to release of FEIR and requests draft of revised cultural resource section and draft responses to comments.
03/2011		Tribe sends letter to County, again requesting consultation prior to release of FEIR.
04/2011		EMAIL - Tribe sends email to County expressing concern that the County Planning Commission hearing for LibQ is scheduled and the County has not responded to the Tribe's requests for consultation.
	04/26/2011	Tribe attends first Planning Commission hearing on project. Tribal Chairman provides testimony expressing opposition. [Transcript available.]
	05/2011	Tribe attends second Planning Commission hearing on project. Tribe submits speaker slips for subject matter experts but defers testimony as two of the five Commissioners are not present.
	06/22/2011	Tribe presents organized presentation at third Planning Commission hearing regarding CEQA inadequacies, new information in FEIR and related cultural and environmental impacts. [Transcript available.]

PECHANGA TRIBE CORRESPONDENCE AND TESTIMONY LIST
LIBERTY QUARRY I AND OTHER RELEVANT MATTERS (2005 - 2012)

Correspondence	Testimony	Subject
	06/2011	MEETING – Tribe meets with County Planning Department to present materials Tribe was unable to present at July 2010 meeting due to Applicant's presence.
07/15/2011		Tribe submits written comments at fourth Planning Commission hearing on FEIR. Also submits additional subject matter expert reports. Geology, air and biology experts respond to questions from Commissioners during Granite's "rebuttal" testimony.
	07/18/2011	Fourth Planning Commission hearing on LibQ FEIR.
08/12/2011		Tribe submits written comments at fifth Planning Commission hearing on LibQ Project. Including, additional subject matter expert reports for air quality, biological impacts, tribal cultural impacts and geological and seismic impacts in response to Commissioners' questions at July 18 hearing.
	8/15/2011	Fifth Planning Commission hearing on LibQ FEIR. [Transcript available.]
08/30/2011		Tribe submits letter to Planning Commission regarding new information in Granite's August 15, 2011, submission.
	08/31/2011	Sixth Planning Commission hearing on LibQ FEIR. [Transcript available.]
12/06/2011		Tribe submits comment letter regarding Planning Commission's Adoption of Project Denial of Findings.
	12/07/2012	Planning Commission's hearing to Adopt Denial of Project.
02/02/2012		Tribe submits letter to Board of Supervisors opposing Granite's Appeal of Planning Commission's Denial LibQ.
	02/06/2012	Board of Supervisors first hearing regarding Granite's Appeal of Planning Commission's Denial of LibQ.
02/13/2012		Tribe submits supplemental written testimony to Board of Supervisors opposing Granite's Appeal of Planning Commission's Denial of LibQ.
	02/14/2012	Board of Supervisors second hearing on Granite's appeal of Planning Commission's Denial of Liberty Quarry.
	02/16/2012	Board of Supervisors deliberative hearing on Granite's Appeal of Planning Commission's Denial of LibQ. [Transcript available.]
05/14/2012		Tribe submits letter to Board of Supervisors regarding concerns in the proposed Board LibQ Denial Findings.
	05/15/2012	Board of Supervisors hearing regarding Board's LibQ Denial Findings
	07/31/2012	Board of Supervisors hearing regarding Surface Mining Fast Track, Amendment to Ordinance No. 555 relating to Surface Mining. [Transcript available.]
09/10/2012		Tribe submits letter for September 11, 2012, hearing on Fast Tracking of nonmining projects in Riverside County.
	09/11/2012	Board of Supervisors hearing on Fast Tracking of nonmining projects in Riverside County. [Transcript available.]
09/24/2012		Tribe submits letter to Board of Supervisors regarding opposition of Fast Tracking of surface mining permits.

PECHANGA TRIBE CORRESPONDENCE AND TESTIMONY LIST
LIBERTY QUARRY I AND OTHER RELEVANT MATTERS (2005 - 2012)

Correspondence	Testimony	Subject
	9/25/2012	Board of Supervisors hearing on Fast Tracking of surface mining. [Transcript in preparation]

NOTE: This list may not contain ALL relevant tribal and other evidence and is only through Sept. 25, 2012, the date of submission for the LDC.

Johnson Sedlack

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October 22, 2012

Clerk of the Board of Supervisors
County of Riverside
County Administrative Center
4080 Lemon Street, 1st Floor
PO Box 12004
Riverside, CA 92502-2204

VIA US MAIL

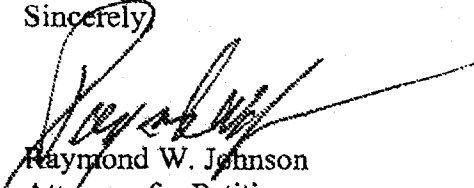
Re: Notice of Intent to File CEQA Petition in Matter of the Approval of Ordinance No. 348.4750 and Ordinance No. 555.19

To the County of Riverside:

This letter serves as written notice of Petitioner DE LUZ 2000 doing business as SAVE OUR SOUTHWEST HILLS' intent to file a petition for writ of mandate pursuant to the California Environmental Quality Act (Public Resources Code § 21000 et seq.) ("CEQA") regarding the COUNTY OF RIVERSIDE's adoption of Ordinance Nos. 348.4750 and 555.19, and finding that such ordinances were exempt from CEQA, and all related actions, approvals, findings, and/or adoptions made on or about September 25, 2012 and October 2, 2012.

Thank you.

Sincerely,


Raymond W. Johnson
Attorney for Petitioner

10/21/2012
3.27

2012-10-115319

Johnson Sedlack

ATTORNEYS at LAW

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FAX COVER SHEET

DATE: October 23, 2012
TO: **CLERK OF THE BOARD**
COMPANY: **COUNTY OF RIVERSIDE**
DEPARTMENT:
FAX: 951- 955-1071
FROM: RAYMOND W. JOHNSON, ESQ. AICP
PHONE: 951-506-9925
FAX: 951-506-9725

RE:

CASE NUMBER:

Number of pages including cover sheet:

Urgent For Review Please Comment Please Reply Please Recycle

COMMENTS:

Notice of Intent to file CEQA petition in matter of the approval of Ordinance No. 348.4750 and Ordinance No. 555.19

Hard copy follows in the US Mail.

Cc: County Counsel - (951) 955-6363

This facsimile communication is for intended recipient only and is confidential and protected by attorney/client privilege. If you are not the intended recipient, please advise the sender immediately. Unauthorized use or distribution is prohibited and may be unlawful.



RICHARDS | WATSON | GERSHON

ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101
Telephone 213.626.8484 Facsimile 213.626.0078

FACSIMILE TRANSMISSION

October 2, 2012

TO:

Kecia Harper-Ihem
Clerk of the Board, County of
Riverside

FAX:

(951) 955-1071

PHONE:

FROM:

Ginetta L. Giovinco

FILE NO.:

11086-0634

USER NO.:

239

DOCUMENT DESCRIPTION:

Notice of Intent to Commence Lawsuit

REFERENCE:

Adoption of Riverside County Ordinance Nos.
348,4750 and 555.19

NUMBER OF PAGES (INCLUDING COVER):

2

REMARKS:

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CLERK / BOARD OF SUPERVISORS
2012 OCT - 3 AM 7:15

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10/2/2012

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2012-10-115114

RW RICHARDS | WATSON | GERSHON
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Ginetta L. Giovinco
ggiovinco@rwglaw.com

October 2, 2012

VIA FACSIMILE (951.955.1071) & U.S. MAIL

Kecia Harper-Ihem
Clerk of the Board
County of Riverside
4080 Lemon Street, 1st Floor
Riverside, CA 92501

Re: Notice of Intent to Commence Lawsuit re: Adoption of Riverside County Ordinance Nos. 348.4750 and 555.19

To the County of Riverside and the Board of Supervisors of the County of Riverside:

PLEASE TAKE NOTICE, under Public Resources Code Section 21167.5, that petitioner, City of Temecula (the "City"), intends to file a petition for writ of mandate against respondents, County of Riverside and the Board of Supervisors of the County of Riverside, challenging their failure to comply with the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000, *et seq.*, in connection with the adoption of Riverside County Ordinance No. 348.4750 (an Ordinance of the County of Riverside Amending Ordinance No. 348 Relating to Zoning) and adoption of Riverside County Ordinance No. 555.19 (an Ordinance of the County of Riverside Amending Ordinance No. 555 Implementing the Surface Mining and Reclamation Act of 1975) allowing fast track authorization for surface mining permits, reclamation plans, and wind energy conversion system permits.

Richards, Watson & Gershon
A Professional Corporation



By: Ginetta L. Giovinco
Attorneys for Petitioner,
City of Temecula

cc: Peter M. Thorson, City Attorney

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Ginetta L. Giovinco
ggiovinco@rwglaw.com

October 2, 2012

VIA FACSIMILE (951.955.1071) & U.S. MAIL

Kecia Harper-Ihem
Clerk of the Board
County of Riverside
4080 Lemon Street, 1st Floor
Riverside, CA 92501

Re: *Notice of Intent to Commence Lawsuit re: Adoption of Riverside County Ordinance Nos. 348.4750 and 555.19*

To the County of Riverside and the Board of Supervisors of the County of Riverside:

PLEASE TAKE NOTICE, under Public Resources Code Section 21167.5, that petitioner, City of Temecula (the "City"), intends to file a petition for writ of mandate against respondents, County of Riverside and the Board of Supervisors of the County of Riverside, challenging their failure to comply with the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000, *et seq.*, in connection with the adoption of Riverside County Ordinance No. 348.4750 (an Ordinance of the County of Riverside Amending Ordinance No. 348 Relating to Zoning) and adoption of Riverside County Ordinance No. 555.19 (an Ordinance of the County of Riverside Amending Ordinance No. 555 Implementing the Surface Mining and Reclamation Act of 1975) allowing fast track authorization for surface mining permits, reclamation plans, and wind energy conversion system permits.

Richards, Watson & Gershon
A Professional Corporation



By: Ginetta L. Giovinco
Attorneys for Petitioner,
City of Temecula

cc: Peter M. Thorson, City Attorney

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10/2/2012

2012-10-115138

October 1, 2012

VIA ELECTRONIC MAIL & USPS

John F. Tavaglione, Chairman
County of Riverside Board of Supervisors
County of Riverside Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501

Re: Response to Comments Regarding Amendments to Ordinance Nos. 348 and 555

Honorable Chairman Tavaglione and Members of the Board:

On behalf of Granite Construction Company ("Granite"), we submit this letter to specifically respond to legal issues in comment letters submitted by three entities—Johnson & Sedlack ("JS"), the Pechanga Band of Luiseño Indians ("Tribe"), and the City of Temecula ("City")—in which each entity expressed opposition to the Board of Supervisors' ("Board") proposed action to amend Ordinance No. 348, the County Zoning Ordinance, and Ordinance 555, the County Surface Mining Ordinance.

Introduction

The opposition letters submitted by JS, the Tribe, and the City contain similar legal arguments. To avoid repetition and in the interest of clarity, this letter provides a collective response to the legal claims contained in the letters, and, when appropriate, responds to specific claims made in individual letters.

After reviewing and analyzing the commenters' legal claims, this letter concludes that the Board's proposed action to amend Ordinance Nos. 348 and 555 is consistent with the law for the following reasons:

1. The Board's action is in compliance with the California Government Code because the Board has express authority to fulfill the role of the Planning Commission when adopting textual, as opposed to site specific zoning amendments;
2. The Board's action is in compliance with the Surface Mining and Reclamation Act ("SMARA") because the Department of Conservation ("DOC") will have adequate time to review proposed reclamation plans within the 90-day fast track timeframe;

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2012-10-115141

3. The Board's action is in compliance with SMARA because the Surface Mining and Geology Board ("SMGB") will have the opportunity to review the amendment to Ordinance No. 555, as is required by law; and
4. The Board's action is in compliance with the California Environmental Quality Act ("CEQA") because, as a matter of common sense, there is no possibility that the amendments—which are procedural in nature—will have a significant effect on the environment.

Before addressing each legal claim, we provide a brief background of the Board's actions to date.

Background

On July 31, 2012, the Board directed County staff to prepare amendments to Ordinance Nos. 348 and 555 to allow "fast track" authorization for surface mining permits and reclamation plans. The Board also directed staff to determine whether fast track authorization for other types of permits or approvals would be warranted.¹

On September 25, 2012, the Board held a duly noticed public hearing to consider Agenda Item 3.56, which introduced Ordinance No. 348.4750 and Ordinance No. 555.19 to allow fast track authorization for surface mining permits and reclamation plans. During the hearing, the Board heard testimony from County staff and members of the public.

After hearing and considering the testimony before it, the Board approved Agenda Item 3.56 by a vote of 3-2. The Board's action introduced the amendments for the Board's final consideration. The Board is scheduled to take final action on the amendments on October 2, 2012.

We now proceed to a discussion regarding the legal claims contained in the opposition letters.

Discussion

This section will respond to the common legal claims contained in the opposition letters, which are as follows: (1) the Board is legally precluded from approving the amendments because the amendments have not first been reviewed by the Planning Commission; (2) the Department of Conservation would not have sufficient time to complete its review of a proposed reclamation plan that is subject to fast track procedures; (3) the Board may not approve the amendments without prior review by the Surface Mining and Geology Board; and (4) the amendments are not

¹ On September 18, 2012, County Staff determined that, in addition to surface mining permits and reclamation plans, Wind Energy Conversion System ("WECS") permits, accessory WECS permits, and modifications to WECS permits would also warrant fast track authorization. County Staff therefore provided the Board with amendments to Ordinance Nos. 348 and 555 allowing for surface mining permits, reclamation plans, commercial WECS permits, accessory WECS permits, and modifications to these permits to receive fast track authorization.

subject to the “common sense” exemption under CEQA. Within the context of these general legal claims, we will also address specific legal claims made in individual letters, when applicable.

As discussed below, all of the legal claims expressed by the parties are legally unupportable.

I. The Board Has Express Authority To Approve the Amendments Without Prior Review By The Planning Commission

The commenters first argue that the amendments to Ordinance Nos. 348 and 555 require a noticed public hearing before the Planning Commission. This claim is based on a fundamental misstatement of the law.

The California Government Code (“Government Code”) expressly authorizes the Board to fulfill the role of the Planning Commission. Specifically, Government Code section 65100 states, in relevant part:

The legislative body of each city and county shall by ordinance assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary.

(Gov. Code § 65100 [emphasis added].)

Consistent with this express authority, the County’s Fast Track Ordinance, Ordinance No. 348.4680, as incorporated under Section 18.26a of the County’s Zoning Ordinance, states that “[n]otwithstanding any other provision of this ordinance or of County Ordinance No. 460 [related to subdivisions], *the Board of Supervisors hereby deems it appropriate and necessary to reserve to itself the functions of the planning agency with respect to hearing any permit or approval included in a fast track project . . .*” (Ordinance No. 348.4680 [emphasis added].)

Understanding this legal framework, we now address the specific arguments contained in individual letters. In their letters, the Tribe and the City argue that Government Code sections 65853-65856 require planning commissions to hold a public hearing prior to the hearing on a zoning code amendment. Next, the City asserts that Public Resources section 15378(a)(1) requires that the County “hold public hearings before the Planning Commission, and hold public hearings before the Board of Supervisors before these ordinances can be introduced.”

These arguments, as we now discuss, are easily dismissed.

a. Government Code Sections 65853-65856 Apply Only to Site Specific Zoning Ordinance Amendments

The Tribe and the City argue that Government Code requires planning commissions to hold a public hearing before a zoning code amendment can be considered by a board. Specifically, to support their argument, the Tribe and the City cite to Government Code section 65854, which states, in relevant part, “[t]he planning commission shall hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance.”

It is well established that statutes must be read in context, considering the nature and purpose of the statutory scheme. (*Hunt v. Superior Court* (1999) 21 Cal.4th 984, 1000.) When reading section 65854 in context, it is clear that section 65854 is inapplicable to the matter before the Board. Specifically, the statute immediate preceding section 65854 states, in relevant part:

A zoning ordinance or an amendment to a zoning ordinance, which changes any property from one zone to another or imposes any regulation listed in Section 65850² not theretofore imposed or removes or modifies and such regulation theretofore imposed shall be adopted in the manner set forth in Section 65854 to 65857. Any other amendment to a zoning ordinance may be adopted as other ordinances are adopted.

(Gov. Code § 65853 [emphasis added].)

Based on the above, the requirement that a planning commission review a zoning amendment only applies to site specific zoning amendments or those otherwise described in Section 65850, none of which apply here. The amendments before the Board are not site specific, but are textual amendments that relate to procedural requirements, and may be adopted without Planning Commission review. Accordingly, the amendments do not, as the Tribe and the City suggest, fall within the statutory scheme of Government Code sections 65853-65857.³

The City also argues that the County has no authority to choose which projects will be subject to fast track procedures. Specifically, the City, citing to Government Code section 65100, argues that the Government Code “requires public hearings before the Board of Supervisors and a ‘planning agency’.”⁴

² This section refers to a government agency’s ability to regulate the following: the use of buildings, structures, and land; signs and billboards; the location, height, bulk, number of stories, and size of buildings and structures; the size of lots, yards, courts and other open spaces; the percentage of a lot which may be occupied by a building or structure; the intensity of a land use; requirements for offstreet parking and loading; building setback lines; civic districts around civic centers, public parks, public buildings, public grounds, and civic districts. None of these apply here.

³ To support its claim, the City also relies on *Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877. This case is inapposite here, however, because it involves a site specific zoning ordinance amendment and thus falls within Government Code sections 65853-65857.

⁴ To support its claim, the City cites to *Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877 and *Scrutton v. Sacramento County* (1969) 275 Cal.App.2d 412. These cases, however, are inapposite here because they involve site specific zoning amendments and thus fall within the statutory scheme of Government Code sections 65853-65857.

As discussed above, however, the City fails to fully cite the applicable provisions of section 65100. Section 65100 states, in relevant part, “[t]he legislative body of each city and county shall by ordinance assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, *the legislative body itself, or any combinations thereof, as it deems appropriate and necessary.*” (*Id.* [emphasis added].)

Accordingly, the Board has express authority to fulfill the role of the planning commission and may thus determine which projects may qualify for fast track procedures.

b. Public Resources Code section 15378(a)(1) Does Not Require The County To Hold Public Hearings Before the Planning Commission

The City argues that Public Resources Code section 15378, subsection (a)(1), which is a provision in CEQA, requires the County to hold public hearing before the Planning Commission. Section 15378 requires no such thing. Section 15378, subsection (a)(1) states, in its entirety:

- (a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and is any of the following:
- 1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

Nowhere does Section 15378, subsection (a)(1), require the County to hold a public hearing before the Planning Commission. In fact, CEQA expressly states that “CEQA does not require formal hearings at any stage of the environmental review process.” (CEQA Guidelines § 15202(a).)

We should note that the Public Resources Code goes on to state that the term “project” refers to the activity which is being approved and which may be subject to discretionary approvals by government agencies. (Pub. Res. Code § 15378(c).)

Here, County staff has asserted that the amendments before the Board constitute a “project” and are thus subject to CEQA. (See Pub. Res. Code §§ 15378(a)(1), (c).) As discussed in Section IV below, however, the amendments are exempt from CEQA under the “common sense” exemption because there is no possibility that the proposed amendments may have a significant effect on the environment.

We now proceed with a discussion regarding the SMARA claims.

II. The Department of Conservation May Complete Its Review of a Proposed Reclamation Plan Well Within the 90-Day Timeframe Prescribed By Policy A-32

The commenters next argue that SMARA's review requirements would preclude the ability for reclamation plans to be approved within the 90-day timeframe required by Policy A-32. Policy A-32 describes the County's procedures for fast track processing. A brief summary regarding the relevant provisions of Policy A-32, as well as a timeline of the review requirements prescribed by SMARA, will show why this claim is both factually and legally unsound.

Policy A-32 states, in relevant part, that "[t]he Board of Supervisors shall hear land use applications submitted to the Planning Department no more than ninety (90) days after the date of their submittal. The Board of Supervisors shall concurrently hear all land use applications related to a single project within the ninety (90)-day time period." (Policy A-32, p.4.)⁵

Understanding the 90-day review timeline contained in Policy A-32, we now turn to a summary of SMARA's review requirements as respects reclamation plans. Under SMARA, the Department of Conservation ("DOC") is required to review all proposed reclamation plans. The following is a timeline of this review process:

- Upon receipt from the lead agency, the DOC must review and provide comments, if any, on a proposed reclamation plan within **30 days**. (Pub. Res. Code § 2774(d)(1).)
- The lead agency must prepare and submit to the DOC a preliminary written response to the DOC's comments describing the disposition of the major issues raised by the DOC at least **30 days** prior to approval. (Pub. Res. Code § 2774(d)(2).)

SMARA also requires the lead agency to take an additional action which, importantly, may be fulfilled at the same time the County submits its preliminary response to the DOC. Specifically, SMARA requires the lead agency to provide the DOC at least 30 days prior notice of the public hearing (time, place, date) at which the proposed reclamation plan is scheduled to be approved. (Pub. Res. Code § 2774(d)(2).) Once the reclamation plan is approved, the lead agency must submit a final response to the DOC's comments within 30 days. (Pub. Res. Code § 2774(d)(2).)

When applying the above SMARA timelines to the 90-day timeline requirement under Policy A-32, it is clear that the timelines are, at the very minimum, in lockstep. Here is why. Even assuming (1) the DOC took the maximum 30-days to provide comments on a proposed reclamation plan; (2) the County took the maximum 30-days to provide a preliminary response to the DOC; and (3) the County coupled its preliminary response with a notice of hearing, the DOC review process would be completed in a maximum of 90 days—the exact timeline prescribed by Policy A-32.

⁵ Policy A-32 contains an express exception to the 90-day timeframe during which the Board must hear land use applications submitted to the Planning Department. Specifically, Policy A-32 states that notwithstanding the 90-day timeframe, if a land use application requires the preparation of an environmental document under CEQA, the Board shall hear the application "as soon as feasible." (Policy A-32, p.4.)

We submit, however, that the time in which the County chooses to provide a preliminary response to the DOC's comments is completely within its control. With that said, should the County choose to provide a preliminary response in less than 30 days (and for that matter, should the DOC choose to provide comments on a proposed reclamation plan in less than 30 days), a proposed reclamation plan under the fast track ordinance would receive the appropriate statutory review well within the 90-day timeframe.⁶

We now address the commenters' additional SMARA claims.

III. The State Mining and Geology Board ("SMGB") Need Not Review Amendment 555.19 Before it is Approved by the Board.

The commenters next argue that the Board may not approve amendments to Ordinance No. 555 without prior review by the SMGB. This statement is legally incorrect.

SMARA's provision regarding SMGB oversight over surface mining ordinances states, in relevant part:

The Board shall review lead agency ordinances which establish permit and reclamation procedures to determine whether each ordinance is in accordance with state policy, and shall certify the ordinance as being in accordance with state policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the board pursuant to this chapter.

(Pub. Res. Code § 2774.3.)

The above provision contains no requirement that the SMGB review the ordinance before the Board takes final action. Thus, the commenters' claims that there is any procedural requirement with respect to submitting a proposed surface mining ordinance to the SMGB prior to approval, are without merit.

Although not raised by the commenters, it is important to understand the scope of the SMGB's review. To wit, according to SMARA, the only substantive issue before the SMGB is whether the proposed surface mining ordinance "is in accordance with state policy." (*Id.*) To be in accordance with state policy, the surface mining ordinance must establish procedures requiring at least one public hearing. (*Id.* § 2774(a).)

When applied to the present circumstances, Ordinance No. 555, as amended, is in accordance with state policy. Specifically, the amendment qualifies surface mining permits and reclamation plans for fast track procedures, but otherwise makes no changes to the existing

⁶ In its letter, JS also states that the procedures for fast track processing in Policy A-32 permit only 10 working days for Grading Plan Check Review. (JS Letter, September 25, 2012, at p.2.) A surface mining permit under Ordinance No. 555, however, does not require a grading plan. (Ordinance No. 555, Section 2(a) ["The provisions of this ordinance do not apply to . . . grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster."].)

Ordinance.⁷ In this regard, Ordinance No. 555, as amended, would still contain procedures requiring at least one public hearing consistent with Public Resources Code, section 2774(a.)

Accordingly, the Board may take final action on the amendment to Ordinance No. 555 prior to submitting the Ordinance to the SMGB for review. Not only may the Board take final action on the amendment, it can do so with the expectation that the amendment is in full compliance with state policy.

We now address the letters' common CEQA claim, specifically, that the proposed amendments do not qualify under CEQA's "common sense" exemption.

IV. The Amendments Are Subject to the "Common Sense" Exemption Under CEQA

The commenters next argue that the amendments do not fall under the "common sense" exemption under CEQA. As we discuss below, however, the proposed amendments are procedural in nature, and the projects that would become subject to fast track procedures would still be required to undergo full and thorough environmental review under CEQA. In this vein, the Board also maintains full discretion to reject projects that are subject to review under fast track procedures. Accordingly, there is no possibility that the proposed amendments may have a significant effect on the environment.

Lead agencies are entitled to forego CEQA review if, as a matter of common sense, "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (CEQA Guidelines § 15061(b)(3).)

The commenters rely on *Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106 to support their claim that the amendments do not fall under the "common sense" exemption. Their citation to *Davidon* is appropriate in that *Davidon* stands for the proposition that a lead agency's "common sense" exemption determination must be supported by substantial evidence in the record. (*Id.* at 117.) The commenters, however, fail to acknowledge the subsequent judicial decision of *Muzzy Ranch Co. v. Solano Airport Land Use Comm'n* (2007) 41 Cal.4th 372. *Muzzy Ranch* clarified what the *Davidon* court meant by "substantial evidence" in the context of the "common sense" exemption. Specifically, *Muzzy Ranch* held that a lead agency need only justify its conclusion with a brief written statement of reasons to support the finding. (*Muzzy Ranch, supra*, at 388 [a "common sense" exemption determination presents an issue of fact and "need not necessarily be preceded by detailed or extensive factfinding."]); see also Kostka & Zischke, *Practice Under the California Environmental Quality Act*, 2d. ed., at § 5.111.) Additionally, it is important to note that the future effects that may result from the action that is subject to the "common sense" exemption will themselves require analysis under CEQA. (*Muzzy Ranch, supra*, at 388.)⁸

⁷ We note that Ordinance No. 555 was reviewed and certified by the SMGB on May 13, 1994.

⁸ JS cites to *Muzzy Ranch*, but only for the proposition that the lead agency invoking the "common sense" exemption bears the burden of demonstrating that it applies based on facts and evidence in the record. (JS Letter, September 25, 2012, at p.3.) JS fails to note, however, that *Muzzy Ranch* also stated that in order to meet this standard, the lead agency need not engage in extensive factfinding.

Applying the above legal standard to the present facts, the Board's proposed amendments—which would merely affect the County's procedures for approving surface mining permits and reclamation plans—clearly fall within the “common sense” exemption, as there is no possibility that that textual alterations to existing ordinances would have a significant effect on the environment. We emphasize that, consistent with the *Muzzy Ranch* standard above, subsequent projects that may qualify for fast track procedures as a result of the Board's action would be required to undergo full environmental review under CEQA. Specifically, all environmental issues associated with future projects under the amended ordinances must be analyzed in site-specific environmental impact reports or other appropriate environmental documents as required by CEQA.

Understanding the “common sense” exemption and how it applies to the proposed amendments before the Board, we now address the specific arguments made in each letter regarding the applicability of the “common sense” exemption.

a. Hypothetical References to Environmental Impacts Associated With Mining Projects do not Bear on the Procedural Actions Before the Board

In asserting that the “common sense” exemption is inapplicable to the amendments before the Board, the Tribe relies on specific arguments relative to the Liberty Quarry Project and its associated Final EIR that was certified by the Board in May 2012. The Liberty Quarry Project and the determinations made in its associated Final EIR, however, have no bearing on the procedural actions before the Board and thus have no relevance in making a determination under the “common sense” exemption.

In asserting that the “common sense” exemption is inapplicable to the amendments before the Board, JS claims that qualifying surface mining permits and reclamation plans for fast track procedures “may result in increases in biological, air quality, geological, traffic, and other effects.” We reiterate that the amendments before the Board are procedural in nature, and future surface mining permits and reclamation plans will be required undergo full environmental review under CEQA, at which time issues related to biology, air quality, geology, traffic and other effects will be analyzed in accordance with the law.

b. The County is not Required to Prepare an Initial Study Before Making a Determination Under the “Common Sense” Exemption

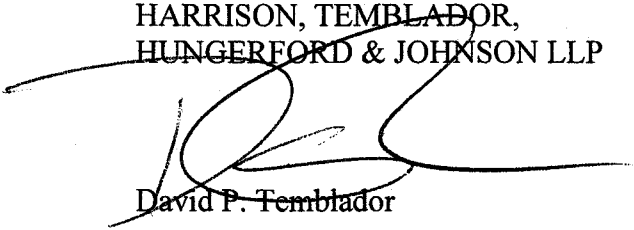
In asserting that the “common sense” exemption is inapplicable to the amendments before the Board, the City states that, at a minimum, the Board “needs to demand that Staff prepare an initial study in accordance with CEQA in order to evaluate the potential impacts of these critical amendments to the County zoning ordinances.” The County is not, contrary to the City's claim, required to prepare an initial study under CEQA. CEQA permits the County to make a determination under the “common sense” exemption so long as that determination is supported by a brief written statement. (*Muzzy Ranch, supra*, at 388.) The City's suggestion that the County must engage in extensive fact-finding before making a determination is legally unsupportable. (*Id.*)

Conclusion

In sum, the claims raised by the opponents do not have legal merit. Accordingly, we request that the Board approve Ordinance Nos. 348.4750 and 555.19 at the October 2, 2012 hearing.

Very truly yours,

HARRISON, TEMBLADOR,
HUNGERFORD & JOHNSON LLP



David P. Temblador

DPT/III

cc: Clerk of the Board
Karin Watts-Bazan, County Counsel
Gary Johnson, Granite Construction Company

Clerk's Copy

Harper-Ihem, Kecia

From: Betsy Lowrey <Betsy.Lowrey@cityoftemecula.org>
Sent: Monday, September 24, 2012 4:02 PM
To: District1; District2; District3; District4 Supervisor John J Benoit; District5; Executive CEO; Walls, Pamela J.; Watts-Bazan, Karin; COB; Barton, Karen; Harper-Ihem, Kecia; raysmith@rcceo.org
Cc: Bob Johnson; Peter Thorson; GGiovinco@rwglaw.com; 'David Snow'
Subject: Item 3.56 Opposition to Fast Tracking Surface Mine Permits
Attachments: Smith Letter 9.21.12.pdf; Gary Smith Ph.D. Resume.pdf; High Costs of a Significant Negative Externality.pdf

Good afternoon Honorable Riverside County Supervisors,

Attached please find a letter and report from Gary Smith Ph.D. in opposition to Fast Tracking of Surface Mines and Liberty Quarry. His Curriculum Vitae is also attached. Please include these documents into the record for Agenda Item 3.56 (as noted below) for the September 25, 2012 Board of Supervisors Meeting:

TRANSPORTATION & LAND MANAGEMENT AGENCY/PLANNING DEPARTMENT/COUNTY COUNSEL: INTRODUCTION OF ORDINANCE NO. 348.4750 an Ordinance of the County of Riverside Amending Ordinance No. 348 Relating to Zoning; and INTRODUCTION OF ORDINANCE NO. 555.19 an Ordinance of the County of Riverside Amending Ordinance No. 555 Implementing the Surface Mining and Reclamation Act of 1975. Allowing Fast Track Authorization for Surface Mining Permits, Reclamation Plans and WECS Permits.

Thank you,
Betsy

Betsy Lowrey
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Connect with the City of Temecula



Smith Financial Place

Gary Smith, Ph.D.
127 W. 8th Street
Claremont, CA 91711

September 21, 2012

Hon. John Tavaglione, Chairman
And Honorable Members of the
Riverside County Board of Supervisors
County Administrative Center
4080 Lemon Street
Riverside, California 92502-1646

RE: OPPOSE Liberty Quarry Surface Mining Permit 216 and any County Policy or Ordinance Modifications that would enable Fast Tracking of Surface Mines

Dear Honorable Supervisor Tavaglione and Members of the Board of Supervisors:

I am writing regarding the proposal to fast-track surface mining projects and Granite Construction's revised Liberty Quarry application.

I have been the Fletcher Jones Professor of Economics at Pomona College in Claremont, California, since 1981. My education includes a BS with Distinction in Mathematics and a Masters and Ph.D. in Economics from Yale University. I've attached my Curriculum Vitae for reference.

I presented written analyses and oral testimony proposal to the Riverside County Planning Commission and the Board of Supervisors regarding the original Liberty Quarry including a report that I coauthored that analyzed the economic costs and benefits of Liberty Quarry, *The Estimated Costs and Benefits of the Proposed Liberty Quarry*, dated June 2011, together with the Rose Institute of State and Local Government at Claremont McKenna College (Rose Institute Report). I also authored "*Liberty Quarry: Rhetoric Versus Reality*," dated February 2012. I hereby submit this letter and an additional report entitled *Fast Tracking Liberty Quarry Expedites the High Costs of a Significant "Negative Externality" Imposed on Southwest Riverside County* dated September 22, 2012 and resubmit all of my prior written reports, analyses and testimony that was provided to the Planning Commission and Board of Supervisors for the previously denied Liberty Quarry Surface Surface Mining Permit 213 into the record again for the modified Liberty Quarry application SMP 216 and into the record for the Fast Track Agenda Item 3.56 for the September 25, 2012 Board of Supervisors Meeting that proposes Ordinance modifications to allow Fast Tracking of Surface Mines.

I have reviewed the modified Liberty Quarry application and assessed the economic impacts. The conclusions that were previously provided, including those within the aforementioned reports, analyses and testimonies, are not materially affected by the revised Liberty Quarry application as follows:

- The new tonnage fee of 20 cents/ton (4 million tons max per year equates to \$800K), as proposed by Granite, attempts to offset the lost sales tax revenue that would occur with Liberty Quarry because, unlike existing quarries in Riverside County, the aggregate Granite Construction (owner/operator of Liberty Quarry) would use in its own construction projects would not be taxed and would not generate sales tax revenue to the County. Furthermore, this small fee pales in comparison to the \$50 million - \$150 million in annual economic losses to the region projected in the Rose Institute report.
- The Rose Institute Report that I coauthored assumed a 50-year horizon, as does the revised application.
- The proposed 20 percent reduction in annual production, should it actually occur, would not significantly affect the negative effects of the mining operation on homes values, tourism, and so on.
- It is still the case that Granite's profits do not benefit the Riverside County Region and that jobs and sales tax revenue would be reduced, not increased.
- It is still the case that the projected benefits would be approximately the same and the costs would be substantially lower if the quarry were somewhere else.
- It is still the case that environmental justice calls for the quarry to be sited elsewhere.

I have attached a new analysis that I prepared, "*Fast Tracking Liberty Quarry Expedites the High Costs of a Significant "Negative Externality" Imposed on Southwest Riverside County.*"

Some of the key points are:

- The predictions of future aggregate demand and supply prepared by Granite's consultants are based on assumptions that are grossly inconsistent with the actual 21-year historical production data received from the State Department of Conservation that reports annual production records. There is no critical shortage of aggregate in Riverside County.
- The economic analysis prepared by John Husing, who was hired by Granite Construction ("Granite"), makes the preposterous claim that the Liberty Quarry would have \$171.5 million in annual benefits for Riverside County region but neglects to analyze any costs which purposefully provides a lop-sided economic perspective

- The main purported regional economic benefit presented by John Husing on behalf of Granite Construction is \$149.6 million in annual corporate profits for Granite Construction. At the Planning Commission hearings August 15, 2011, Mr. Husing admitted that it was a "mistake" to count this as a benefit for the Riverside County region. By that time; however, the marketing material had been out for years with these and other exaggerated claims of economic benefits to the region.
- At the Planning Commission hearings, John Husing also admitted that the Liberty Quarry would not increase production or jobs: "All it will change is where the material comes from." The Liberty Quarry would just shift production and jobs from Corona, Elsinore, and other quarries to Temecula.
- If the shift of production would reduce shipping distances, as Granite claims, there would be a net job *loss* for truckers and others involved in the transportation industry. Furthermore, Riverside County sales tax revenue would *decline* if the aggregate produced at Liberty Quarry is used in Granite's own construction projects and is consequently not subject to sales or use tax.
- Mr. Husing's incredible argument that the quarry would have no costs was contradicted by his own testimony before the Planning Commission on August 15, 2011, that, "Environmental justice calls upon growing communities to bear some of the burden of their own expansions." The proposed location of the Liberty Quarry will have many substantial costs and economically harm the region including its growing real estate and tourism industries. The Temecula Valley Convention & Visitors Bureau and the Temecula Valley Chamber of Commerce both oppose the Liberty project.
- Mr. Husing's environmental justice argument further implies that this quarry should be in San Diego County, closer to where most of the product will be used.
- Overall, it would be more truthful to say that, rather than being all benefits and no costs, as Mr. Husing claimed, the proposed Liberty Quarry would be all costs and no benefits.
- The inconsistencies and contradictions in Mr. Husing's testimony before the Planning Commission vividly demonstrated the value of those hearings. Quarry proposals are important decisions that deserve to be fully vetted. The public hearings generated valuable testimony from dueling experts and several Aha Moments for the Planning Commission and Board of Supervisors to consider in their deliberations. The hearings demonstrated that the Commission and Board were seriously weighing the arguments pro and con of a project of this magnitude. All of this would be lost if mining proposals were fast-tracked.

In closing, I would like to remind the Board of Supervisors that, by Granite's own assumptions (and John Husing's testimony), the quarry is NOT going to increase total production, jobs, or sales tax revenue ---just shift production, jobs and sales tax revenue from local quarries to Temecula.

The reason Granite chose the Temecula site is it is as close to San Diego County as they could get without being in San Diego County since it is much tougher to get permitted in San Diego County than Riverside County. By Fast Tracking Mines in Riverside County, your Board will make it even easier for Riverside County residents to be the dumping ground for its neighbors and at a substantial economic cost to your County.

I encourage you to deny any proposed revisions to your existing Ordinances that would facilitate fast tracking any surface mining applications within the County, including Liberty Quarry.

Sincerely,

Gary Smith

Gary Smith, Ph.D.
Smith Financial Place

Curriculum Vitae

- Name:** Gary Smith
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- Education:** B.S. with Distinction in Mathematics, Harvey Mudd College, 1967
M.Phil. in Economics, Yale University, 1969
Ph.D. in Economics, Yale University, 1971
- Employment:** Assistant Professor, Cowles Foundation and Yale University, 1971-1978
Associate Professor, University of Houston, and Visiting Associate
Professor, Rice University, 1978-1981
Fletcher Jones Professor, Pomona College, 1981-
- Honors and Grants:** Woodrow Wilson Fellowship, 1967-68
Yale University Fellowships, 1968-1971
Social Science Research Council Grant, 1973
Yale Junior Faculty Fellowship, 1978
Stanford Research Institute Grant, 1978-79
Pew Foundation Grant, 1991
Pomona College Wig Teaching Awards, 1992, 1998
Ford Foundation grants, 1994, 1995
NSF grant for an economics computer lab, 1995-97.
Mellon Foundation Grant, 1996
Irvine Foundation Grants, 1996, 1997
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A Banking Game: students manage a bank in competition with three computer-managed banks.

Financial Decision Simulation: the simulation model used in Economics 158, Financial Decisionmaking; student teams manage competing financial intermediaries in real historical scenarios.

Macro Policy Simulation: the simulation model used in Economics 101, Intermediate Macroeconomics; student teams manage a nation's monetary and fiscal policies.

Smith's Financial Package: extremely user-friendly computational software for Economics 156, Security Valuation and Portfolio Theory; also includes programs that can be used for personal financial planning.

Smith's Statistical Package: extremely user-friendly computational software for Economics 57, Economics Statistics.

StatGames: computer games that help students develop their statistical reasoning.

StatQuiz: interactive multiple-choice questions to help students test and refine their statistical reasoning.

**Fast Tracking Liberty Quarry
Expedites
The High Costs of a Significant "Negative Externality"
Imposed on Southwest Riverside County**

Board of Supervisors, Riverside County

**Fast-Track Hearings
September 22, 2012**

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A negative externality exists when producers don't take responsibility for their costs which are passed on to society. A company that pollutes loses no money in doing so, but society must pay heavily to take care of the problem pollution caused.

The problem is that companies do not fully measure the economic costs of their actions.¹ Because neither the market nor private individuals can be counted on to prevent this inefficiency in the economy, the government must intervene to weigh the environmental impacts and the economic burden it imposes on society.

The public trusts that the governmental assessment for projects of enormous magnitude that impose significant negative externalities would be given, at a minimum, a standard level of planning review. In the case of "New" Liberty Quarry Project², the County of Riverside proposes to eliminate steps in its planning review and expedite an approval of a massive quarry operation. The expedited process would remove the Planning Commission review altogether and reduce the amount of valuable testimony and information that experts can provide to help the Government adequately assess the impacts to make the best decision.

There are two separate issues: a) whether quarry proposals, in general, should be fast-tracked (which speed up the process and eliminate Planning Commission review and public hearings); and (b) whether the Liberty Quarry proposal should be approved. Let's look at the general question first.

Fast-Tracking Quarries

Whether to permit a quarry that would produce millions of tons of aggregate over many decades is not a trivial decision. It is a huge decision with serious implications for current and future generations. And it is not reversible. Unlike a store or warehouse that can be used for other purposes or torn down, we cannot put a mountain back together after it has been destroyed. It is critical that the right decision is made. The way to do that is for the Riverside County Planning Commission (Planning Commission) and the Riverside County Board of Supervisors (Board of Supervisors) to listen to experts and decide which arguments make the most sense. You can't do that with fast-tracking.

I listened to the expert economic testimony at the public hearings and there were several "**Aha Moments**" that never would have occurred if this proposal had been fast-tracked, and won't occur in the future if quarry proposals are fast-tracked. That is because experts, especially those independent of the project applicant, are currently able to provide testimony to two approval bodies during the standard practice of planning review which includes (1) the Planning Commission and (2) the Board of Supervisors. Fast Tracking; however, cuts the expert participation in half by eliminating the Planning Commission.

¹ <http://library.thinkquest.org/26026/Economics/externality.html>, accessed 9/21/12.

² The "New" Liberty Quarry project application submitted to the County of Riverside by Granite Construction on July 25, 2012 is a substantially similar mining project proposal as the "Original" Liberty Quarry project that was previously denied by the County of Riverside Planning Commission on August 31, 2011 and again denied at the County of Riverside Board of Supervisors on February 16, 2012.

Predicting the Demand for Aggregate in Southern California

John Husing, economist hired by Granite Construction (Granite), the owner/operator of the proposed Liberty Quarry, wrote a report entitled, *Liberty Quarry: Economic Impact on Riverside County and Its Southwest Area*, dated February 2007 (Husing Report), that predicted the future demand for aggregate based on an **assumed** per capita consumption of 7.0 tons per year; an assumption the Report called "conservative."³ The EnviroMINE report commissioned by Granite uses low, medium, and high values of 4.0, 5.4, and 6.7 tons per capita per year.⁴

In reality, the very same data sources used by EnviroMINE for the exact same geographic area⁵ show that over the 21-year period, 1990 through 2010, Southern California aggregate per capita averaged only 3.9. Granite's 7.0 and 5.4 numbers are higher than Southern California consumption has ever been during the past 21 years, and much higher than both the historical average and the level in 2007 when these reports were written.

The response by Gary Johnson, Liberty Quarry's Project Manager, was that their numbers come from the California Department of Conservation (DOC). This is not true. Granite's 5.4 and 7.0 numbers are *assumptions*, not data. The actual DOC data are in Figure 1 and contradict Granite's assumptions.

The Aha Moment was the realization that Granite's written reports were misleading because they were not based on historical data.

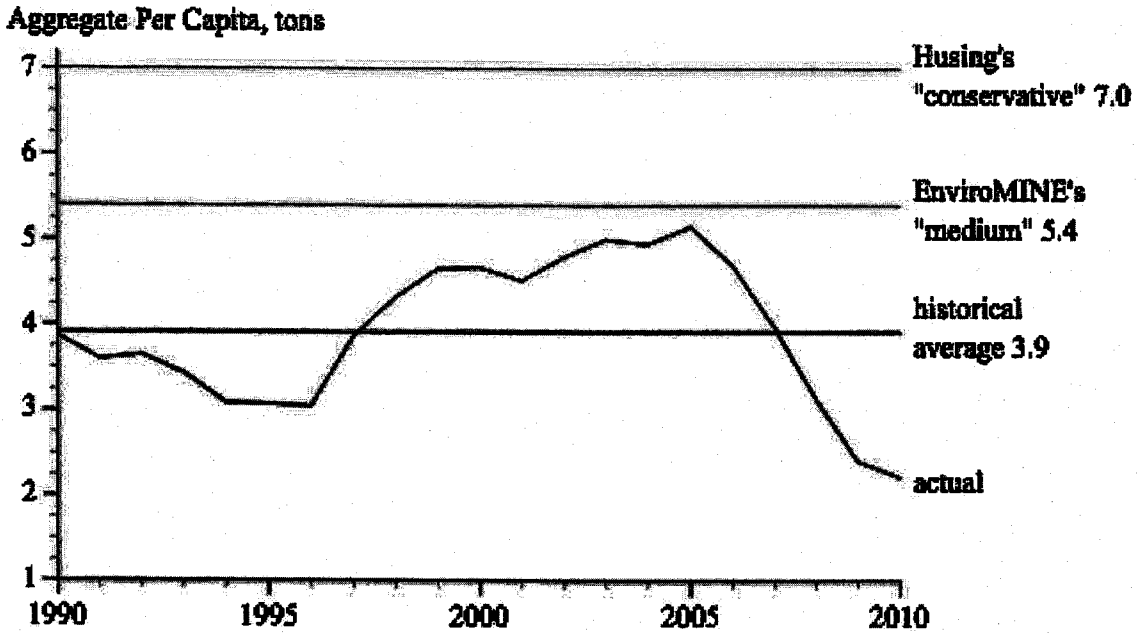


Figure 1 Southern California Annual Aggregate Per Capita, 1990-2010

³ Husing, J. (2007). "Liberty Quarry: Economic Impact on Riverside County & Its Southwestern Area," February 13, p. 11.

⁴ EnviroMINE, *Southern California Construction Aggregates Market Study*, Liberty Quarry EIR Appendix N, pp. 10 - 11.

⁵ EnviroMINE, *Southern California Construction Aggregates Market Study*, Liberty Quarry EIR Appendix N, p. 12.

Predicting the Supply of Aggregate

The EnviroMINE report commissioned by Granite argued that 19 Riverside mines will soon be depleted, based on an assumed production of 34.7 million tons annually at these 19 mines.⁶ Again, EnviroMINE ignored the actual data and instead used an inflated assumption.

The DOC data in Figure 2 show that total production at *all* Riverside County mines has never been 34.7 million tons and, in fact, averaged only 19.2 millions tons from 1990 through 2010. Total production in 2007 (the year the EnviroMINE report was done) from *all* 53 mines operating in Riverside County was only 22.1 million tons.

Mr. Johnson's response was again that their numbers come from the DOC. Again, this is not true. Granite's 34.7 number is an *assumption*, not data. The actual DOC data are in Figure 2 and contradict Granite's assumption.

The **Aha Moment** is again that Granite's report was misleading because it was not based on historical data.

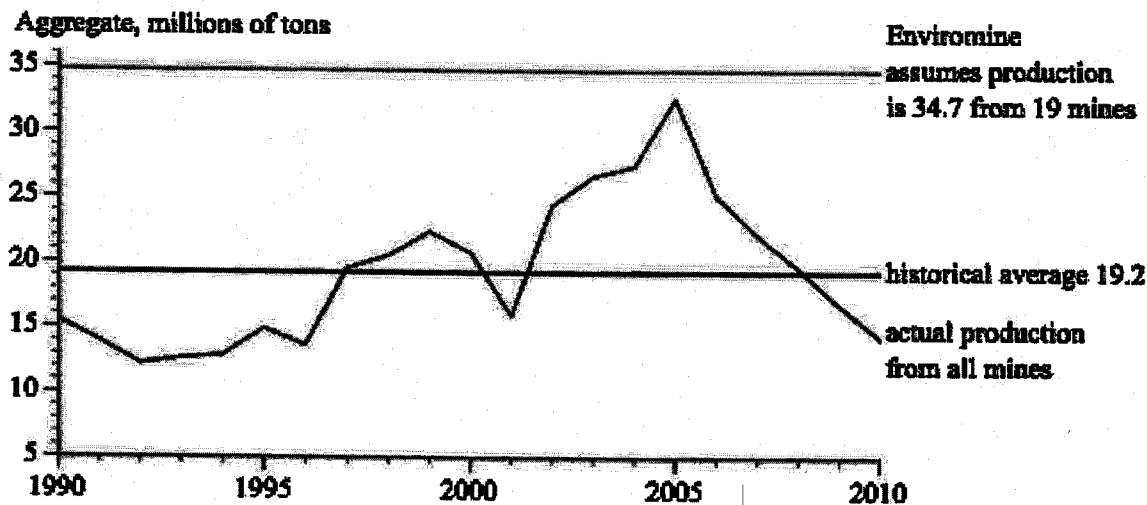


Figure 2 Riverside County Aggregate Production, 1990-2010

Another problem with the EnvironMINE report was exposed at the public hearings. The data on permitted reserves in the California Department of Conservation's decennial 1991 and 2002 reports include *all* aggregate.⁷ This is the same definition of aggregate used by the California Department of Conservation in its annual production reports, used by EnviroMINE in its analysis, and used here in Figure 1 to calculate annual per capita production and in Figure 2 to calculate annual Riverside County production.

However, in its depletion projections, EnviroMINE cites reserve data from a 2006 report by the California Department of Conservation, despite the fact that page 1 of this report states in bold

⁶ EnviroMINE, *Southern California Construction Aggregates Market Study*, Liberty Quarry EIR Appendix N, p. 37.

⁷ Davis, J. (1991). "Mineral Classification of the Temescal Valley Area, Riverside County, California, Department of Conservation, Division of Mines and Geology; Kohler, S. (2002). "Aggregate Availability in California," Department of Conservation, California Geological Survey.

letters that aggregate is “defined for this report as alluvial sand and gravel or crushed stone that meets standard specification for use in portland cement concrete (PCC) or asphalt concrete (AC).”⁸ This is a narrower definition of aggregate than is used in the 1991 and 2002 DOC reports and in the DOC’s annual production data.

For example, the 1991 DOC report estimates that the Temescal Valley has 924 million tons of permitted aggregate and the 2002 DOC report estimates that the Temescal Valley has 810 million tons. The 2006 DOC report estimates that the Temescal Valley has 355 million tons of PCC and AC aggregate. Reserves did not fall by 455 million tons in four years! All that happened is that the 2006 DOC report used a narrower definition.

In the Temescal Valley example, permitted reserves of *all* aggregate declined by 10.4 million tons a year between 1991 and 2002, from 924 million tons to 810 million tons. At this rate, the Temescal Valley has enough permitted reserves to last $810/10.4 = 78$ years past 2002—which is 68 years past today.

Again, this inconsistency in the EnviroMINE report was exposed at the public hearings. This **Aha Moment** was the revelation that EnviroMINE’s prediction of an impending critical shortage of aggregate was seriously flawed.

The Economic Benefits

The economic report that John Husing prepared for Granite made the preposterous claim that the proposed Liberty Quarry would have \$171.5 million in annual benefits and *no* costs!

The main purported benefit was \$149.6 million in annual profits that Granite would make each year. This astonishing profit explains why Granite is so eager to get this project permitted, but Granite’s profits are NOT a benefit for the residents of Riverside County.

When John Husing spoke before the Planning Commission on August 15, 2011, he admitted that Granite’s \$149.6 million annual profit is not a benefit and he should not have counted it as such:

“I estimate that it brings into this region \$149.6 million in *energy*. And that energy would be quite real. Now there is a separate question, and that is *benefit*. How much of that energy benefits the people who live within this region? Different question. There the answer coming out of my work is \$21.9 million, and the rest of the energy really accrues to other places, mostly in the State of California. There was a mistake in my work which I grant, that the two numbers should not have been added together because they are different concepts.”

This admission was an **Aha Moment** that never would have happened with fast-tracking. In his public testimony, John Husing admitted that the \$149.6 million number that figured so prominently in his report was not a benefit for Riverside County and should not have been counted as a benefit. This never would have happened if John Husing had not testified before the Planning Commission.

⁸ Kohler, S. (2006). “Aggregate Availability in California,” Department of Conservation, California Geological Survey, p. 5.

What about the remaining \$21.9 million? The \$21.9 million in projected benefits that John Husing refers to is mostly premised on an assumption that “up to” 99 jobs would be created. However, another **Aha Moment** occurred at the Planning Commission hearings on August 15, 2011, when John Husing argued that,

“It is not demand that is increased by a quarry, it is the supply. Whether or not you have this facility, the demand is the demand. All it will change is where the material comes from.”

John Husing was discussing truck traffic and evidently did not realize that his argument implies that Liberty Quarry would have *no* effect on the total demand for aggregate and, therefore *no* effect on the total production of aggregate. Every ton produced at Liberty would mean one less ton produced at another quarry.

This needs to be repeated because Granite’s argument that the Liberty Quarry will create jobs and increase tax revenue is directly contradicted by its own expert testimony! “All it will change is where the material comes from.” There would be NO increase in production or in jobs, just a transfer of production and jobs from other quarries to Liberty. There will be NO increase in sales tax revenue, just a transfer from other quarries to Liberty.

In fact, if the shift of production did reduce shipping distances, as Granite claims, there would be a net job *loss* for truckers and others involved in the transportation industry.

Furthermore, Riverside County sales tax revenue would actually *decline* if the aggregate produced at Liberty Quarry is used in Granite’s own construction projects and is consequently not subject to sales or use tax.

Another **Aha Moment** occurred when John Husing presented a PowerPoint slide showing that of the \$153.2 million in aggregate that would be produced annually at the Liberty Quarry, only 65% would be subject to sales tax, presumably because the other 35% would be used in Granite’s own construction projects. Using a 1% sales tax and 0.5% RCTC sales tax, Mr., Husing calculated that the annual sales tax revenue from the quarry would be $0.015(0.65)(\$153.2 \text{ million}) = \1.5 million . What John Husing neglected to mention is that the County would simultaneously be losing tax revenue from the reduced production at *other* Riverside County mines. Since these other mine operators do not use the aggregate they produce in their own construction projects, the lost revenue would be the 1.5% sales tax on 100% of production: $0.015(\$153.2 \text{ million}) = \2.3 million . On balance, the County would lose $\$2.3 \text{ million} - \$1.5 \text{ million} = \$800,000$ in sales tax revenue each year.

The proposed Liberty Quarry would take sales away from existing quarries in Western Riverside County and, overall, it would reduce jobs and sales tax revenue. None of this would have been revealed if the proposal had been fast-tracked without Planning Commission hearings.

Costs

The Husing Report claims that the proposed Liberty Quarry would have no economic costs. If the proposal had been fast-tracked, this astonishing claim would not have been debated by experts. The Report unconvincingly ignores increased driving costs, reduced property values, reduced tourist activity, damaged agricultural crops, increased health costs, public emergency services, and a diminished quality of life. Calculating all the benefits and costs associated with the proposed Liberty Quarry, the Rose Institute report estimates that the total *cumulative* costs over the projected life span of the quarry would be \$4.6 billion.⁹

Housing

Most of the expert testimony about the costs concerned housing. The Wheeler's Report commissioned by Granite argued that:

“there is a direct, positive correlation between the growth and magnitude of the regions' property values and the level of activity among the quarry operations in the regions.”¹⁰

The implication that quarry operations increase property values is laughable and an **Aha Moment** came at the Planning Commission hearings when John Husing and Mr. Johnson both disassociated themselves from this argument.

Instead, in his Planning Commission testimony on August 15, 2011, John Husing argued that quarries have *no* effect on property values, as evidenced by data showing that home prices in Corona (which has several quarries) and Temecula have generally moved up and down together in recent years.¹¹

The counterargument is that a comparison of *changes* in homes prices in Corona and Temecula is irrelevant. The fact that property values in Corona and Temecula have both increased over time tells us nothing about whether the price *levels* are lower for homes located near quarries.

The Aha Moment was the presentation of the results of Diane Hite's 2006 study of 2,812 home prices in Delaware County, Ohio.¹² By controlling for a variety of factors including square footage, lot size, number of rooms, number of bathrooms, age of home, and sale date, she was able to estimate how home prices were affected by proximity to a gravel mine. Table 1 shows her results.¹³

⁹ Manfred Keil and Gary Smith, “The Estimated Costs and Benefits of the Proposed Liberty Quarry, Rose Institute of State and Local Government, June 2011.

¹⁰ Wheeler's Market Intelligence, Analysis of Potential Impacts of Liberty Quarry on the Tourism Industry and Property Values in Temecula, California, January 2011, page 4.

¹¹ However, in a newspaper interview, Husing admitted that, “Maintaining the land as open space would limit the amount of new development, driving up property values. (Aaron Claverie, “City-Financed Study Contradicts Quarry's Alleged Benefits,” *The North County Times*, July 10, 2011.)

¹² Diane Hite, 2006. “Summary Analysis: Impact of Operational Gravel Pit on House Values, Delaware County, Ohio,” Auburn University.

¹³ Ready, Richard C, “Do Landfills Always Depress Nearby Property Values?,” *Journal of Real Estate Research*, 2010, 32, 321-340.

Table 1 Yes, Quarries Reduce Property Values

Distance from Quarry	Drop in Property Values
0.5 miles	20%
1.0 miles	15%
2.0 miles	9%
3.0 miles	5%
4.0 miles	2%
5.0 miles	0%

The Hite study was used to predict how property values would be affected by the proposed Stoneco Gravel Mine in Richland, Michigan (115-120 truckloads of gravel per day)¹⁴ and the proposed Rockfort Quarry in Ontario, Canada (an average of 1.5 million tons per year over a 30-year period).¹⁵ The Stoneco Application was withdrawn in 2007 and the Rockfort Quarry application was denied in 2010.

Environmental Justice

At the Planning Commission hearings on August 15, 2011, John Husing brought up an issue that was not mentioned anywhere in his written report: environmental justice. In his oral presentation, he argued forcefully that,

“What is the issue truly all about? Why are we all here? Why is it so intense? And I would suggest that the answer to that is really differing views of what is termed (as a term of art) environmental justice.”

He continued:

“If you look at the document coming from Rose, they make the following observation: ‘Many of the projected benefits from the quarry would be approximately the same in other locations, but the costs would be substantially lower if the quarry were located not so close to a thriving community.’ And that is, I suspect, the point of view of great number of people that are in this room.”

John Husing argued that the quarry should be located in Temecula because,

“Environmental justice calls upon growing communities to bear some of the burden of their own expansions.”

Many people in the audience were dumbstruck. Most of the aggregate that would be produced at the Liberty Quarry would go to San Diego County. By Husing’s own argument, shouldn’t the quarry be located in San Diego County, so that they would bear the burden of their expansion? Why should a less wealthy county, Riverside County, save San Diego County, a wealthier county, from the impacts of a megamine?

¹⁴ George A. Erickcek, 2006. “An Assessment of the Economic Impact of the Proposed Stoneco Gravel Mine Operation on Richland Township,” W.E. Upjohn Institute for Employment Research.

¹⁵ The Centre for Spatial Economics, 2009, “The Potential Financial Impacts of the Proposed Rockfort Quarry.”

John Husing's testimony provided yet another **Aha Moment** because a quarry's "burden," as he described it, is an explicit admission that, contrary to his written report, quarries *do* have costs!

At the conclusion of John Husing's testimony on August 15, 2011, Commissioner Petty asked John Husing about the obvious implication of his environmental-justice argument:

"What is fascinating to me is your argument about environmental justice.... Why is this project then in Temecula?... Isn't San Diego County using Temecula for the exact same reason that you have environmental justice lawsuits?... So what you're saying is that, so that the streets of La Jolla can be repaved, we need to have Temecula suffer so that Corona suffers less?"

John Husing replied:

"I am not disagreeing with what you just said. If we were sitting having a hearing in San Diego about not opening facilities in San Diego, the logic I'm using is identical. I agree with you."

This was another **Aha Moment** that never would have happened if the project had been fast-tracked without Planning Commission hearings.

The first environmental-justice **Aha Moment** occurred when John Husing admitted that quarries are a burden on the neighboring community. The second **Aha Moment** occurred when John Husing said that environmental justice called for quarries to be located near where the aggregate is used [in the case of Liberty Quarry, it should be San Diego County!] The Third **Aha Moment** occurred when John Husing acknowledged that if the proposed Liberty Quarry were in San Diego County, he would have argued that environmental justice called for the quarry to be located there.

The Bottom Line

Quarry proposals are important decisions that deserve to be fully vetted. The Planning Commission hearings generated valuable testimony from experts and several **Aha Moments**.

Some members of the Planning Commission and Board of Supervisors found Granite's (economic and noneconomic) arguments persuasive; most did not. No matter which way they voted, I hope that everyone agrees that the testimony of the experts gave the Planning Commission and Board of Supervisors useful information to consider in their deliberations. Perhaps more importantly, the hearings demonstrated to the public that the Commission and Board were seriously weighing the arguments pro and con. All of this would be lost if mining proposals were fast-tracked.

Table 2 Would These Claims and Counter Arguments Have Been Fully Vetted With Fast-Tracking?

Granite Construction	Counter-Argument
Southern California's annual demand for aggregate is 5.4 - 7.0 tons per capita.	Actual Southern California demand has averaged 3.9 tons per capita.
19 Riverside County mines will soon be depleted because they produce 34.7 million tons per year.	Total annual production from <i>all</i> Riverside County mines has averaged 19.2 million tons.
Permitted aggregate reserves of aggregate in the Temescal Valley fell from 810 million tons in 2002 to 355 million tons in 2006.	The 2006 interim report used a narrower definition of reserves. Using the more comprehensive 1992 and 2002 DOC reports, the Temescal Valley has enough permitted reserves to last another 68 years.
Riverside County benefits from the Liberty Quarry would include \$149.6 million in Granite profits.	Granite's profits do not benefit Riverside County.
Riverside County benefits from the Liberty Quarry would include up to 99 jobs at the Quarry.	Total production and employment will not increase, just shift from other mines to Liberty.
Riverside County benefits from the Liberty Quarry would include more sales tax revenue.	Tax revenue will decline because aggregate used by Granite Construction will not be subject to sales or use tax.
Quarries have either no effect or a positive effect on property values.	Quarries have a negative effect on property values.
Quarries have no economic costs.	Quarries affect tourism, agriculture, commuting times, etc.
"Environmental justice calls upon growing communities to bear some of the burden of their own expansions."	Then the quarry should be in San Diego County.

Liberty Quarry Should Be Denied

The proposed new Liberty Quarry project is substantially similar as the originally denied Liberty Quarry, as are the negative impacts and economic costs. The role of the government is to compel companies to internalize externality costs. This means that if a company's pollution creates economic costs, then the government should require the company to pay that cost.¹⁶ Sometimes costs cannot be repaid for permanent impacts such as the obliteration of the Luiseño Indian Creation area. Other costs are also irreversible such as the impacts to the watershed or the certain premature death of people due to increased air pollution. A way to solve the negative externality problem is to tax the producer the amount of the negative externality; however, sometimes projects are too detrimental and its externality costs too high that the best alternative is to deny the project altogether. The Planning Commission held extensive hearings and voted 4-1 to deny the proposal. The Board of Supervisors held additional hearings and voted 3-2 to deny the proposal. I suspect that everyone, even Gary Johnson, knows in his or her heart that a wind tunnel leading to the Temecula Valley, among many other problems with that particular location, is the wrong place to dig a quarry.

The only reason Granite chose this site is that two-thirds of the aggregate will go to San Diego County and it is very difficult to get permitted in San Diego County. Temecula is as close to San Diego County as they could get without being in San Diego County.

Earlier this year, the pro-business *Press-Enterprise* came out against the Liberty Quarry proposal. Their complete editorial is in the Appendix and summarizes the main arguments of the experts. I urge you to read it again.

Their conclusion is succinct and on target:

The proposed Liberty Quarry near Temecula is a case of a promising project in the wrong location.... [T]he arguments for the quarry are insufficient to justify a hilltop site surrounded by a tribal reservation, an ecological preserve and a city of more than 101,000 people. Nor should anyone be comfortable with the prospect of a sensitive swath of Riverside County shouldering the burdens of a mine that mainly would serve San Diego County needs....

Riverside County should not chase business away, certainly. But the need for jobs and commerce should not mean abandoning careful planning. Quarries are necessary operations for a growing region — but only if the site makes sense.¹⁷

The new Liberty Quarry proposal is only a slightly modified version of the original proposal and still does not address the fundamental problem. It is in the wrong place!

¹⁶ <http://corporationsandhealth.org/2012/09/19/the-public-health-consequences-of-externalities>, accessed 9/21/12

¹⁷ Editorial, *The Press-Enterprise*, "RIVERSIDE COUNTY: Re-site quarry," February 5, 2012.

Appendix 1

“Riverside County: Re-site Quarry,” *The Press-Enterprise* editorial, February 5, 2012

The proposed Liberty Quarry near Temecula is a case of a promising project in the wrong location. The quarry proponents have not made a convincing case that the potential benefits of the mine in this spot outweigh the drawbacks to the nearby region. So Riverside County supervisors should uphold the Planning Commission’s rejection of the quarry plans.

Granite Construction Company proposes to put a 135-acre mine on a 414-acre site south of Temecula and west of Interstate 15, just north of the San Diego County line. The Liberty Quarry would produce aggregate, a type of rock used in construction materials such as cement and asphalt. But neighbors of the proposed mine site, including the city of Temecula and the Pechanga Band of Luiseño Indians, adamantly oppose the project.

The county Planning Commission rejected the quarry proposal last year after five public hearings and nearly 52 hours of testimony. The company appealed that decision to the Board of Supervisors, which could make a decision on the issue on Monday.

Opposing the quarry location is not an easy call. The Press-Enterprise editorial board generally supports business growth and grasps the need for a sufficient source of building materials. The editorial board met with a range of stakeholders in the issue, and understands the concerns on all sides. And much of the discussion is a debate between dueling expert testimony that offers contradictory analyses of the need for and effects of the quarry.

On balance, however, the arguments for the quarry are insufficient to justify a hilltop site surrounded by a tribal reservation, an ecological preserve and a city of more than 101,000 people. Nor should anyone be comfortable with the prospect of a sensitive swath of Riverside County shouldering the burdens of a mine that mainly would serve San Diego County needs: Granite says two-thirds of the materials from the quarry would go to construction south of the county line.

The demand for necessary building materials does not offer a convincing justification for the proposed site. The region will need more sources of aggregate in the future, but just how much and how soon is a subject of dispute. Granite and Temecula officials, for example, offer competing analyses of the immediacy and need. But even a pressing shortage does not mean that the proposed quarry site is the right solution. The long-term projections assume no other new sources open up, which seems unlikely. And the Temecula location is hardly the only spot in the region where such rock exists.

Nor are the potential economic benefits of the quarry persuasive. The quarry’s study points to a more than \$200 million boost to the economy from the project by 2021, and hundreds of millions in new government revenue over the 75-year life of the mine. Yet a competing study says the quarry will result in a cumulative \$3.6 billion cost to the region over the next 50 years — leaving residents to guess at which figure is right.

Jobs also are not a reason to push ahead with the current plan. Granite says the quarry will create 99 jobs on site and another 178 related jobs elsewhere. Jobs are welcome, given the region’s high unemployment levels. But there is no guarantee those would be new jobs, and not workers shifted from elsewhere. Nor is there any certainty those would go to local residents.

Riverside County should not chase business away, certainly. But the need for jobs and commerce should not mean abandoning careful planning. Quarries are necessary operations for a growing region — but only if the site makes sense.

Appendix 2

“No need for fast track on quarry,” *The Californian* editorial, August 7, 2012

That Granite Construction has reintroduced its proposed Liberty Quarry in a slightly modified form is no great surprise. The company, after all, invested a small fortune in developing site and business plans for the proposed quarry, and stands to simply lose those investments if it never opens.

But the fact that the Riverside County Board of Supervisors has voted to consider fast-tracking the new quarry application is not only a surprise, but is a disappointment.

It's not even been six months since the county denied Granite's previous application, in the face of vociferous opposition from area residents and the Pechanga community. Considering the testimony before last week's fast-track vote and a recent lawsuit filed by Temecula, it's clear that the opposition remains as strong as ever.

To be honest, Granite's revised application does not strike us as significantly different from what the Board of Supervisors denied earlier this year. It has revised downward the amount of materials to be mined from the quarry, and shortened its projected lifespan ---- but either of these parameters could be easily altered in future years, bringing the quarry back to the same conditions so recently rejected.

Given the continuing opposition and the lack of appreciable reworking on the application, there was no apparent reason for the Board of Supervisors to consider fast-tracking this second application ---- leading to the appearance that it is being done simply to reduce opportunities for residents to be heard. If the application is fast-tracked, Granite's proposal will completely skip the county Planning Commission on an expedited approval schedule.

The logic behind the fast-track process here is difficult to discern. If the new proposal is significantly modified from what was rejected, as Granite claims, then certainly this new proposal is in need of a full application process ---- including hearings before the Planning Commission. And such a radically new proposal, one that justifies overruling the earlier rejection, will surely need a new environmental impact report.

On the other hand, if the proposal is so similar to the one already considered by the county that new hearings are unnecessary ---- the inherent argument for fast-tracking ---- then it seems to us that a new vote should also be unnecessary.

Clerk's Copy

Temecula Valley
SOUTHERN CALIFORNIA WINE COUNTRY
Convention and
Visitors Bureau

September 20, 2012

3rd District Supervisor, Jeff Stone
Riverside County Board of Supervisors
4080 Lemon Street, Fifth Floor
Riverside, California 92501

Dear Supervisor Jeff Stone,

This letter refers to the revised Liberty Quarry project currently being reviewed by Riverside County.

In the Temecula Valley area, our industry is comprised of nearly 6,600 business owners and their employees who provide hospitality services such as lodging, tours, specialty shops, boutiques, leisure activities, entertainment, and our ever-growing Wine Country. Temecula has become a "destination" for those outside of Southern California. In the last reporting year, this industry contributed nearly \$600 million dollars in economic impact, in addition to \$1.9 million dollars in Transient Occupancy Tax. In 2011, an estimated 1,028,465 visitors stayed in Temecula hotels with an average of 85,705 visitors each month. Some factors in our industry's success are: our image, reputation and the quality of air that visitors find in the Temecula Valley.

The Temecula Valley Convention and Visitors Bureau has evaluated both the proposed benefits and negative impacts of the Liberty Quarry south of the City of Temecula. We are concerned about the negative impacts it will have on tourism and our local tourism businesses.

Therefore, the Temecula Valley Convention and Visitors Bureau opposes the location of the proposed Liberty Quarry project, and request that the Riverside Board of Supervisors not approve the Liberty Quarry project.

Sincerely,



John Kelliher
Chairman of the Board for the
Temecula Valley Convention & Visitors Bureau

cc Ron Goldman, County Planning Department
David Jones, County Planning Department
Olivia Barnes, County of Riverside

Submitted by _____

9/25/12 Item 3-56
(date)

FOR IMMEDIATE RELEASE

**CONTACT: Kimberly Adams, President and CEO
Temecula Valley Convention & Visitors Bureau
951/491-6085; Kimberly@TemeculaCVB.com**

Temecula Valley Tourism's Economic Impact Reaches New Heights with More Than 450% Growth During Past Decade

TEMECULA VALLEY Southern California Wine Country; September 18, 2012; "Attaining new and greater economic impact, exceeding 450% overall growth in ten years, and approaching a \$100 million rebound in just 2 years, Temecula Valley travel spending was up 7.6% in 2011. Local travel spending by non-residents generated nearly \$600 million directly into the local economy and supported approximately 6,200 local jobs with earnings of \$180 million," reported Kimberly Adams, Temecula Valley Convention & Visitors Bureau (TVCVB) president and CEO. "Further, more than \$24 million in tax revenue was generated in 2011; \$5.5 million in local tax revenue and \$18.9 million to the state." The findings are among those documenting the economic significance of the local travel industry in a report titled, "Temecula Valley Travel Impacts, 2000-2011" prepared for the TVCVB by Dean Runyan Associates, and released today.

"Local, direct Temecula Valley travel spending saw an all-time high of \$603.4 million prior to the recession. While a low of \$509 million was reached in 2009 with the economic downturn, travel spending is rallying back toward that all-time high. The \$88.7 million rebound in just 2 years, to \$597.8 million in 2011 non-resident spending here in Temecula, is significant," Adams emphasized.

Of the nearly \$600 million in total, direct Temecula Valley travel spending in 2011, \$223 million was spent on arts, entertainment, and recreation; \$99 million on restaurant food and beverage; \$68 million in retail sales; and \$58 million on accommodations.

"Leisure and hospitality spending creates and sustains local jobs and family-owned and operated businesses across a broad variety of economic sectors: retail shops and stores, restaurants, hotels, resorts, banquet and conference services, golf courses, wineries and winery tasting rooms, hot air balloon companies, horseback riding, bicycle rentals, tour and transportation companies, wedding planners, photographers, and others," Adams explained.

"The three, primary visitor attractions in casual, picturesque Temecula Valley are hip, historic, Downtown, Old Town Temecula; relaxed, friendly, Temecula Valley Southern California Wine Country; and upscale, exciting, Pechanga Resort & Casino. Hotels, motels, and resorts span from Uptown Temecula, to Downtown, Old Town Temecula, and Temecula's canyons and valleys," she added.

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Temecula Valley Travel Impacts

2000-2011

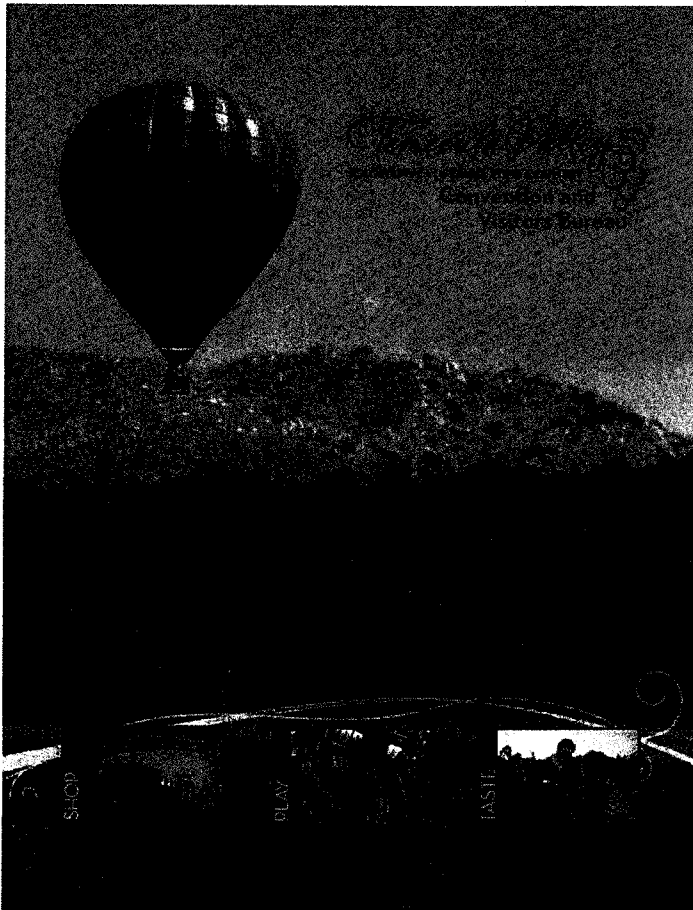


photo courtesy of Temecula Valley Convention & Visitors Bureau

September 2012

Prepared for the

Temecula Valley Convention & Visitors
Bureau
Temecula, California

**TEMECULA VALLEY
TRAVEL IMPACTS, 2000-2011**

Prepared for the

Temecula Valley Convention & Visitors Bureau
Temecula, California

Prepared by

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503.226.2973
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September 2012

TEMECULA VALLEY TRAVEL IMPACTS, 2000-2011

TRAVEL ECONOMIC IMPACTS

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INTERPRETATION OF IMPACT ESTIMATES

The three primary visitor attractions in the Temecula Valley are the Pechanga Resort and Casino, Old Town Temecula, and Temecula Valley Wine Country. It is important to emphasize that the economic impact estimates presented in this report are credible in terms of the larger Temecula economy, and consider specific information. Room sales and employment data for the Pechanga Resort and Casino was provided by Pechanga. A survey of the members of Temecula Valley Winegrowers Association was used to provide important information with respect to the on-site sales made to visitors.

In interpreting the findings, it should also be noted that:

- The impacts associated with both overnight and day travel are included if the travelers remain at the destination overnight or the destination is over 50 miles, one-way, from the traveler's home.
- The monetary estimates in this report are expressed in *current* dollars. There is no adjustment for inflation.
- The economic impact measurements represent only direct economic impacts. Direct economic impacts include only the spending by travelers and the earnings and employment generated by that spending.
- The employment estimates in this report are estimates of the total number of full and part-time number of jobs directly generated by travel spending, rather than the number of individuals employed. Both payroll and self-employment are included in these estimates.

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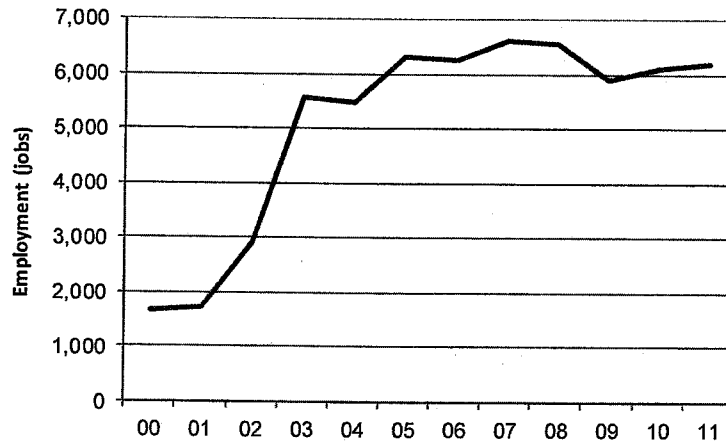
TRAVEL TRENDS IN TEMECULA VALLEY

Travel spending in Temecula Valley in 2011 was nearly \$600 million. This represents a 7.6 percent increase over 2010. During 2011, travel spending in Temecula Valley directly supported approximately 6,200 jobs with earnings of \$180 million.

Temecula Valley Travel Trends, 2000-2011

	Travel Spending (\$Million)	Earnings (\$Million)	Employment (jobs)	Tax Receipts		
				Local (\$Million)	State (\$Million)	Total (\$Million)
2000	131.2	36.2	1,660	2.7	5.3	8.0
2001	144.3	40.1	1,740	3.0	5.7	8.7
2002	231.1	69.5	2,930	3.5	8.2	11.8
2003	432.5	135.8	5,560	4.6	13.3	17.8
2004	436.1	136.9	5,490	4.4	13.3	17.7
2005	508.6	159.5	6,320	5.0	15.3	20.2
2006	520.6	165.1	6,250	4.8	15.5	20.3
2007	603.4	180.2	6,630	5.8	17.6	23.4
2008	588.4	181.1	6,570	5.6	17.6	23.2
2009	509.1	161.5	5,910	4.6	16.9	21.5
2010	555.5	171.8	6,125	5.1	18.7	23.7
2011	597.8	179.9	6,190	5.5	18.9	24.4
Annual Percentage Change						
00-11	14.8	15.7	12.7	6.5	12.2	10.6
10-11	7.6	4.7	1.1	7.9	1.3	2.7

Travel-Generated Employment in Temecula Valley 2000-2011



Note: Employment includes all full-time and part-time positions. Payroll employees and self-employed are included.

VISITOR VOLUME

Visitor volume and average visitor spending estimates for Temecula Valley are shown in the table below. These estimates are derived, in part, from the total travel spending estimates. Because measures of travel party size and length of stay specific to Temecula Valley visitors are not available, both the average spending and volume estimates should be viewed as approximations.

Temecula Valley Visitor Volume, 2011

	Travel Parties		Persons		
	Days (Millions)	Size (persons)	Days (Millions)	Avg. Stay (days)	Trips (Millions)
Accommodation					
Overnight	1.1	2.6	2.9	2.8	1.1
Hotel/Motel	0.7	2.0	1.3	2.0	0.7
Other Overnight	0.4	3.5	1.5	3.5	0.4
Day	0.6	2.0	1.2	1.0	1.2
Total	1.7	2.4	4.0	1.8	2.3

Temecula Valley Average Spending, 2011

Accommodation	Total (Millions)	Travel Party		Person	
		Per Day	Per Trip	Per Day	Per Trip
Overnight	\$366.7	\$334	\$937	\$128	\$360
Hotel/Motel	\$321.4	\$488	\$976	\$244	\$488
Other Overnight	\$45.2	\$103	\$360	\$29	\$103
Day	\$153.2	\$259	\$259	\$129	\$129
Day & Overnight	\$519.9	\$307	\$544	\$129	\$228
Transportation	\$77.9				
Total	\$597.8	\$354	\$626	\$148	\$262

Note: Spending on transportation is not included in accommodation categories. (See Visitor Spending at Destination in detailed table, page 4.)

DETAILED TRAVEL IMPACTS

Detailed travel impacts for the Temecula Valley are shown below.

Temecula Valley Travel Impacts, 2000-2011

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Visitor Spending by Type of Traveler Accommodation (\$Million)									
Hotel, Motel	258	258	307	314	367	356	302	332	359
Other Overnight*	44	47	51	53	61	61	55	58	62
Day Travel	130	131	150	153	175	171	152	165	177
Spending at Destination	432	436	509	521	603	588	509	556	598
Visitor Spending by Commodity Purchased (\$Million)									
Accommodations	47	48	57	58	71	63	51	54	58 4
Food & Beverage Services	67	68	79	81	94	92	85	93	99 6
Off Premise Food & Beverage**	47	48	57	58	69	68	61	65	72 7
Ground Tran. & Motor Fuel	43	44	50	55	66	78	56	66	78 12
Arts, Entertainment & Recreation	172	173	203	207	235	221	196	212	223 11
Other Retail	57	56	63	62	69	65	60	65	68 3
Spending at Destination	432	436	509	521	603	588	509	556	598
Industry Earnings Generated by Travel Spending (\$Million)									
Leisure & Hospitality	111	112	131	136	149	150	134	142	148
All Other***	25	25	28	29	32	31	28	30	32
Total Direct Earnings	136	137	159	165	180	181	162	172	180
Industry Employment Generated by Travel Spending (Thousand Jobs)									
Leisure & Hospitality	4,660	4,610	5,300	5,220	5,520	5,460	4,940	5,090	5,110
All Other***	900	880	1,020	1,030	1,110	1,110	980	1,030	1,080
Total Direct Employment	5,560	5,490	6,320	6,250	6,630	6,570	5,910	6,120	6,190
Tax Receipts Generated by Travel Spending (\$Million)									
Local Tax Receipts	4.6	4.4	5.0	4.8	5.8	5.6	4.6	5.1	5.5
State Tax Receipts	13.3	13.3	15.3	15.5	17.6	17.6	16.9	18.7	18.9
Total Direct Tax Receipts	17.8	17.7	20.2	20.3	23.4	23.2	21.5	23.7	24.4

Notes:

Other Overnight* accommodations includes campsites, vacation homes, and unpaid overnight stays in the private homes of friends or relatives.

Spending on *Off Premise Food & Beverage*** includes wine sales.

The *Leisure and Hospitality* industry includes accommodations, food services, and all arts, entertainment and recreation establishments.

*All Other**** industries includes retail, transportation, tour and winery establishments.

APPENDICES

APPENDIX A. REGIONAL TRAVEL IMPACT MODEL (RTIM) METHODOLOGY

Appendix B: Travel Impact Industries Matched to 2002 NAICS

**REGIONAL TRAVEL IMPACT MODEL (RTIM)
TRAVEL IMPACT ESTIMATION PROCEDURES**

TRAVEL SPENDING

Hotel, Motel, B&B. Spending on commercial accommodations by hotel and motel guests is estimated from transient lodging tax collections, room inventory data and other available survey data, including Smith Lodging reports. Spending by hotel and motel guests in other business categories, such as food and transportation, is estimated using spending distributions reported in visitor survey data. The spending distribution shows how travelers divide their spending between lodging and other purchases.

Campgrounds. Spending by campers using commercial campgrounds is estimated from the number of commercial campsites, the average occupancy of these campsites and the average daily expenditures of visitor camp parties reported in survey data. Spending in other business categories is estimated in the same way as for hotel guests.

Private Home. Spending by private home guests is determined from visitor survey data estimating the number of visitors staying as guests of friends and relatives and applying these rates to the household population base in the Temecula Valley.

Vacation Home. Estimated spending by vacation home renters and owners is based on housing data from the U.S. Bureau of the Census and visitor survey data for visitors that stay in their own vacation home or the vacation home of a friend or relative.

Day Travel. The share of day visits as a percentage of total travel is estimated from visitor survey data and applied to average daily spending estimates to produce day visitor spending.

RELATED TRAVEL IMPACTS

Spending by travelers generates jobs, payroll, and state and local tax revenue.

Earnings generated directly from traveler expenditures are estimated from the payroll-to-receipts ratio obtained from data published in the 2007 Economic Census and state and county estimates of earnings and employment produced annually by the Bureau of Economic Analysis' Regional Economic Information System (REIS). Earnings include payroll and other earned benefits of employees, and proprietor income.

Employment in each business category is calculated from average earnings data derived from Bureau of Labor Statistics Covered Employment and Wages (CEW) data and the earnings and employment produced annually by the Bureau of Economic Analysis' Regional Economic Information System (REIS).

Local Taxes consist of all local (municipality, county, special districts) point-of-sale taxes, including room taxes and sales taxes. Property taxes are not included.

State Taxes consist of all statewide point-of-sale taxes (including sales taxes and gasoline excise taxes) and personal and corporate income taxes attributable to travel-generated payroll.

<u>TRAVEL IMPACT INDUSTRY</u>	<u>NAICS INDUSTRIES* (code)</u>
Accommodation & Food Services	Accommodation (721) Food Services and Drinking Places (722) Residential Property Managers (531311)
Arts, Entertainment & Recreation	Performing Arts, Spectator Sports (711) Museums (712) Amusement, Gambling (713) Scenic and Sightseeing Transportation (487) Miscellaneous Industries (see note**)
Retail	Food & Beverage Stores (445) Gasoline Stations (447) Clothing and Clothing Accessories Stores (448) Sporting Goods, Hobby, Book, and Music Stores (451) General Merchandise Stores (452) Miscellaneous Store Retailers (453)
Ground Transportation	Interurban and rural bus transportation (4852) Taxi and Limousine Service (4853) Charter Bus Industry (4855) Passenger Car Rental (532111) Parking Lots and Garages (812930)

Notes: * Government enterprises (e.g., park systems) are included in this classification.

** Includes parts of industries in other sectors (e.g., accommodation, charter bus).

A more detailed description of these industries can be found at <http://www.ntis.gov/naics>

Temecula Valley 
SOUTHERN CALIFORNIA WINE COUNTRY
**Convention and
Visitors Bureau**

September 20, 2012

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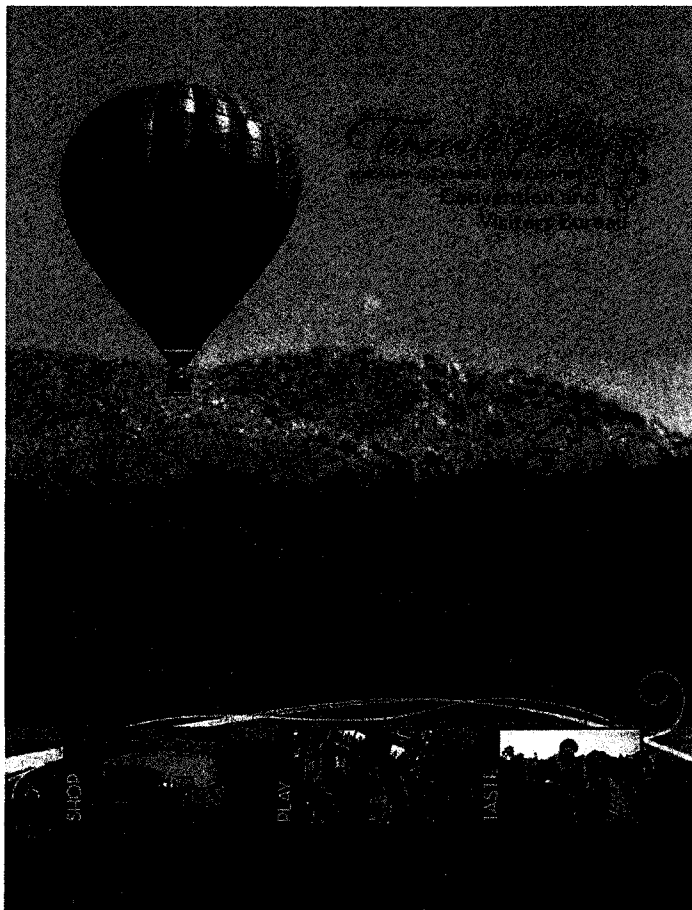


photo courtesy of Temecula Valley Convention & Visitors Bureau

September 2012

Prepared for the

Temecula Valley Convention & Visitors
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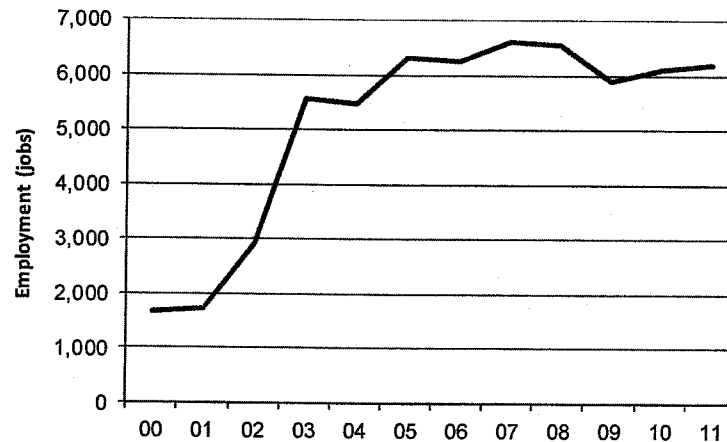
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	Days (Millions)	Size (persons)	Days (Millions)	Avg. Stay (days)	Trips (Millions)
Overnight	1.1	2.6	2.9	2.8	1.1
Hotel/Motel	0.7	2.0	1.3	2.0	0.7
Other Overnight	0.4	3.5	1.5	3.5	0.4
Day	0.6	2.0	1.2	1.0	1.2
Total	1.7	2.4	4.0	1.8	2.3

Temecula Valley Average Spending, 2011

Accommodation	Total (Millions)	Travel Party		Person	
		Per Day	Per Trip	Per Day	Per Trip
Overnight	\$366.7	\$334	\$937	\$128	\$360
Hotel/Motel	\$321.4	\$488	\$976	\$244	\$488
Other Overnight	\$45.2	\$103	\$360	\$29	\$103
Day	\$153.2	\$259	\$259	\$129	\$129
Day & Overnight	\$519.9	\$307	\$544	\$129	\$228
Transportation	\$77.9				
Total	\$597.8	\$354	\$626	\$148	\$262

Note: Spending on transportation is not included in accommodation categories. (See Visitor Spending at Destination in detailed table, page 4.)

DETAILED TRAVEL IMPACTS

Detailed travel impacts for the Temecula Valley are shown below.

Temecula Valley Travel Impacts, 2000-2011

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Visitor Spending by Type of Traveler Accommodation (\$Million)									
Hotel, Motel	258	258	307	314	367	356	302	332	359
Other Overnight*	44	47	51	53	61	61	55	58	62
Day Travel	130	131	150	153	175	171	152	165	177
Spending at Destination	432	436	509	521	603	588	509	556	598
Visitor Spending by Commodity Purchased (\$Million)									
Accommodations	47	48	57	58	71	63	51	54	58 4
Food & Beverage Services	67	68	79	81	94	92	85	93	99 6
Off Premise Food & Beverage**	47	48	57	58	69	68	61	65	72 7
Ground Tran. & Motor Fuel	43	44	50	55	66	78	56	66	78 12
Arts, Entertainment & Recreation	172	173	203	207	235	221	196	212	223 11
Other Retail	57	56	63	62	69	65	60	65	68 3
Spending at Destination	432	436	509	521	603	588	509	556	598
Industry Earnings Generated by Travel Spending (\$Million)									
Leisure & Hospitality	111	112	131	136	149	150	134	142	148
All Other***	25	25	28	29	32	31	28	30	32
Total Direct Earnings	136	137	159	165	180	181	162	172	180
Industry Employment Generated by Travel Spending (Thousand Jobs)									
Leisure & Hospitality	4,660	4,610	5,300	5,220	5,520	5,460	4,940	5,090	5,110
All Other***	900	880	1,020	1,030	1,110	1,110	980	1,030	1,080
Total Direct Employment	5,560	5,490	6,320	6,250	6,630	6,570	5,910	6,120	6,190
Tax Receipts Generated by Travel Spending (\$Million)									
Local Tax Receipts	4.6	4.4	5.0	4.8	5.8	5.6	4.6	5.1	5.5
State Tax Receipts	13.3	13.3	15.3	15.5	17.6	17.6	16.9	18.7	18.9
Total Direct Tax Receipts	17.8	17.7	20.2	20.3	23.4	23.2	21.5	23.7	24.4

Notes:

Other Overnight* accommodations includes campsites, vacation homes, and unpaid overnight stays in the private homes of friends or relatives.

Spending on Off Premise Food & Beverage** includes wine sales.

The Leisure and Hospitality industry includes accommodations, food services, and all arts, entertainment and recreation establishments.

All Other*** industries includes retail, transportation, tour and winery establishments.

APPENDICES

APPENDIX A. REGIONAL TRAVEL IMPACT MODEL (RTIM) METHODOLOGY

Appendix B: Travel Impact Industries Matched to 2002 NAICS

**REGIONAL TRAVEL IMPACT MODEL (RTIM)
TRAVEL IMPACT ESTIMATION PROCEDURES**

TRAVEL SPENDING

Hotel, Motel, B&B. Spending on commercial accommodations by hotel and motel guests is estimated from transient lodging tax collections, room inventory data and other available survey data, including Smith Lodging reports. Spending by hotel and motel guests in other business categories, such as food and transportation, is estimated using spending distributions reported in visitor survey data. The spending distribution shows how travelers divide their spending between lodging and other purchases.

Campgrounds. Spending by campers using commercial campgrounds is estimated from the number of commercial campsites, the average occupancy of these campsites and the average daily expenditures of visitor camp parties reported in survey data. Spending in other business categories is estimated in the same way as for hotel guests.

Private Home. Spending by private home guests is determined from visitor survey data estimating the number of visitors staying as guests of friends and relatives and applying these rates to the household population base in the Temecula Valley.

Vacation Home. Estimated spending by vacation home renters and owners is based on housing data from the U.S. Bureau of the Census and visitor survey data for visitors that stay in their own vacation home or the vacation home of a friend or relative.

Day Travel. The share of day visits as a percentage of total travel is estimated from visitor survey data and applied to average daily spending estimates to produce day visitor spending.

RELATED TRAVEL IMPACTS

Spending by travelers generates jobs, payroll, and state and local tax revenue.

Earnings generated directly from traveler expenditures are estimated from the payroll-to-receipts ratio obtained from data published in the 2007 Economic Census and state and county estimates of earnings and employment produced annually by the Bureau of Economic Analysis' Regional Economic Information System (REIS). Earnings include payroll and other earned benefits of employees, and proprietor income.

Employment in each business category is calculated from average earnings data derived from Bureau of Labor Statistics Covered Employment and Wages (CEW) data and the earnings and employment produced annually by the Bureau of Economic Analysis' Regional Economic Information System (REIS).

Local Taxes consist of all local (municipality, county, special districts) point-of-sale taxes, including room taxes and sales taxes. Property taxes are not included.

State Taxes consist of all statewide point-of-sale taxes (including sales taxes and gasoline excise taxes) and personal and corporate income taxes attributable to travel-generated payroll.

TRAVEL IMPACT INDUSTRY	NAICS INDUSTRIES* (code)
Accommodation & Food Services	Accommodation (721) Food Services and Drinking Places (722) Residential Property Managers (531311)
Arts, Entertainment & Recreation	Performing Arts, Spectator Sports (711) Museums (712) Amusement, Gambling (713) Scenic and Sightseeing Transportation (487) Miscellaneous Industries (see note**)
Retail	Food & Beverage Stores (445) Gasoline Stations (447) Clothing and Clothing Accessories Stores (448) Sporting Goods, Hobby, Book, and Music Stores (451) General Merchandise Stores (452) Miscellaneous Store Retailers (453)
Ground Transportation	Interurban and rural bus transportation (4852) Taxi and Limousine Service (4853) Charter Bus Industry (4855) Passenger Car Rental (532111) Parking Lots and Garages (812930)

Notes: * Government enterprises (e.g., park systems) are included in this classification.

** Includes parts of industries in other sectors (e.g., accommodation, charter bus).

A more detailed description of these industries can be found at <http://www.ntis.gov/naics>.

Alertis Cozy

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September 24, 2012

RICHARD RICHARDS
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(1917-2010)

HARRY L. GERSHON
(1922-2007)

Board of Supervisors
County of Riverside
4080 Lemon Street - 1st Floor
Riverside, California 92501

Re: Proposed Action to Place Surface Mines into the County's Fast Track Program
(Item 3.56 September 25, 2012 Agenda)

Honorable Chairman and Members of the Board:

The City of Temecula urges you to vote **NO** on the proposed motion included in Item 3.56 on your September 25, 2012 Agenda, which would introduce ordinances to amend the Zoning Ordinance to add surface mines to the County's Fast Track program.

Apart from the important public policy considerations supporting continued public participation in the County's consideration of surface mines, approval of the proposed amendments to Ordinance No. 348 and Ordinance No. 555 is simply illegal for three primary reasons:

1. Amendments to Ordinance No. 348, the Zoning Ordinance, and Ordinance No. 555, the Surface Mining Ordinance, require noticed public hearings before both the Riverside County Planning Commission and the Board of Supervisors.
2. The County of Riverside does not have authority under State law to pick and choose which projects will be exempt from Planning Commission review in the Fast Track program.
3. The Board has failed to comply with CEQA in exempting the proposed amendments because it has not prepared and reviewed an initial study establishing the exemption to CEQA proposed by Staff.

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Board of Supervisors
September 24, 2012
Page 2

I. Amendments to Ordinance No. 348, the Zoning Ordinance, and Ordinance No. 555, the Surface Mining Ordinance, require noticed public hearings before both the Riverside County Planning Commission and the Board of Supervisors.

The proposed action would introduce an ordinance amending Ordinance No. 348, the County's Zoning Ordinance, and introduce an ordinance amending Ordinance No. 555, the Surface Mining Ordinance. As amendments to Riverside County's Zoning Ordinance and the ordinances governing regulation of the use of land for surface mines and natural resources, Government Code §§ 65854-65858 and CEQA Guidelines § 15378(a)(1) require that the County analyze the amendments' environmental impacts, prepare the necessary CEQA documents, hold public hearings before the Planning Commission, and hold public hearings before the Board of Supervisors before these ordinances can be introduced.

The County has scheduled the introduction of these ordinances for the Board of Supervisors meeting September 25, 2012, however, no public hearing has been held before the Riverside County Planning Commission on these ordinances and no public hearing is scheduled for the Board of Supervisors on these ordinances.

Government Code Section 65033 clearly and unequivocally establishes the vital role of public participation in the planning process:

"65033. The Legislature recognizes the importance of public participation at every level of the planning process. It is therefore the policy of the state and the intent of the Legislature that each state, regional, and local agency concerned in the planning process involve the public through public hearings, informative meetings, publicity and other means available to them, and that at such hearings and other public forums, the public be afforded the opportunity to respond to clearly defined alternative objectives, policies, and actions."
[Emphasis added.]

Government Code §§ 65853-65856 further implement this policy by requiring planning commissions to hold a public hearing prior to the hearing on zone code amendments before a Board of Supervisors approves the amendment.

Board of Supervisors
September 24, 2012
Page 3

The planning commission hearing is so critically important that Government Code § 65856 specifically requires "receipt of the recommendation of the Planning Commission" prior to the Board of Supervisors' public hearing regarding the zoning amendment. Not only must the Planning Commission hold a public hearing prior to the September 25th Board of Supervisors' meeting, but "[s]tatutory 10-day notice of the legislative body's hearing must be given after the planning commission's recommendation has been received and must include the planning commission's recommendation as part of the general explanation of the matter to be considered" as well. *Environmental Defense Project of Sierra County v. County of Sierra*, 158 Cal. App. 4th 877, 893 (2008).

Approval of the amendment to Ordinance No. 348 and Ordinance No. 555 without a public hearing before the Riverside County Planning Commission, and another public hearing before the Board of Supervisors following the Planning Commission hearing, will invalidate the proposed amendments.

II. The County of Riverside does not have authority under State law to pick and choose which projects will be exempt from Planning Commission review in the Fast Track program.

Further, we question the County's legal authority to use the fast track process for any project, let alone surface mining. The Government Code requires public hearings before the Board of Supervisors and a "planning agency" as discussed above. Government Code § 65100 provides that the Planning Agency can be the Board or the Planning Commission or a hearing officer.

This Government Code section does not, however, authorize the Board to pick and choose on a case by case basis those specific projects that it wants to send to the Planning Commission and which ones it does not. This is especially true where the Board has delegated the decision of what projects may or may not go on fast track to a non-elected County official, the Executive Director of the County Economic Development Agency. There may have been some limited authority for this process under redevelopment, but redevelopment is dead and whatever limited authority may have existed under redevelopment is now gone as well.

The courts view the Planning Commission's review of land use projects and zone code amendments as an extremely important public right and a vital part of the land use review process established by the Legislature.

Board of Supervisors
September 24, 2012
Page 4

The Planning Commission highlights the role and significance of public comment. Ignoring the obligation to present the amendments to Ordinance No. 348 and Ordinance No. 555 to the Planning Commission as well as the Fast Track process itself will strip the public of this substantive right to review and comment on the proposed ordinance amendments. *See California Native Plant Society v. City of Santa Cruz*, 177 Cal. App. 4th 957, 987 (2009) (“the omission of required information constitutes a failure to proceed in the manner required by law where it precludes informed decisionmaking by the agency or informed participation by the public.”).

Additionally, the courts hold that a county or a city cannot bypass the Planning Commission through use of a “streamlined zoning process” without first receiving the Planning Commission’s recommendation. *Environmental Defense Project of Sierra County v. County of Sierra*, 158 Cal. App. 4th 877, 881 (2008); *see also Scrutton v. Sacramento County*, 275 Cal. App. 2d 412, 420 (1969) (where proposed contract exacted by county declares that landowner’s breach of covenant will be met by automatic reversion through action of board of supervisors, such automatic reversion violates procedural directions of §§ 65853-65857 which demands that rezoning be accomplished through notice, hearings, and planning commission inquiry).

III. The Board has failed to comply with CEQA in exempting the proposed amendments because it has not prepared and reviewed an initial study establishing the exemption to CEQA proposed by Staff.

CEQA Guidelines Section 15061(b)(3) exempts from CEQA projects in which the government agency can establish by substantial evidence that “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”

In this matter, however, there is no analysis and no evidence in the record before this Board to back up the Staff’s conclusion that the significant amendments to the zoning ordinances will have no significant effect on the environment.

The courts require that there be a sufficient analysis and substantial evidence to establish the exemptions authorized by CEQA. In the case of *Davidon Homes v. City of San Jose*, 54 Cal. App. 4th 106 (1997), the Court held that there must be an administrative record showing that the facts required to support the conclusion actually exist:

Board of Supervisors
September 24, 2012
Page 5

“In this case the city's action was supported only by a conclusory recital in the preamble of the ordinance that the project was exempt under Guidelines section 15061, subdivision (b)(3). There is no indication that any preliminary environmental review was conducted before the exemption decision was made. The agency produced no evidence to support its decision and we find no mention of CEQA in the various staff reports. A determination which has the effect of dispensing with further environmental review at the earliest possible stage requires something more. We conclude the agency's exemption determination must be supported by evidence in the record demonstrating that the agency considered possible environmental impacts in reaching its decision.” [Emphasis added.]

At a minimum, the Board needs to demand that Staff prepare an initial study in accordance with CEQA in order to evaluate the potential impacts of these critical amendments to the County zoning ordinances.

IV. The Board is Rightly Concerned About the Impact of Fast Track Policies on Existing Litigation.

On September 11, 2012, the Board considered amendments to the County's Fast Track Policy. Following approval of this policy the Board took the rare step of reconsidering the approval of the Amendments to the Fast Track Policy in order to adjust to pending litigation. The reconsideration was made at the request of County Counsel Pamela Walls who stated to the Board:

“The request to exclude Solar from Renewable Energy projects from the [fast track] policy emanated from our office and the feeling was, because of pending litigation, there is really a need to bring that before the Planning Commission and vet these on an individual basis there before bringing them to the Board.” [Emphasis added.]

Supervisors Tavaglione and Benoit also expressed concerns with adding projects to Fast Track which involved pending litigation.

We respectfully remind the Board that the County's pending surface mining project, the Liberty Quarry mine, is the subject of two lawsuits directly challenging the

Board of Supervisors
September 24, 2012
Page 6

Environmental Impact Report for the Project and the Board's certification of it: (1) *City of Temecula v. County of Riverside et al., Granite Construction Co., real party in interest* (Riverside Superior Court Case Number RIC 1211312); and (2) *De Luz 2000 dba Save Our Southwest Hills and Elsinore Murrieta Anza Resource Conservation District v. County of Riverside et al., Granite Construction Co., real party in interest* (Riverside Superior Court Case Number RIC 1211812).

The considerations applied by the Board with respect to the solar issues apply with even greater urgency to the existing litigation involving the deficient and illegal EIR for Liberty Quarry.

V. Good Government Demands Planning Commission Consideration of Surface Mines.

Surface mines are among the most complex and controversial land use projects in any city or county and Liberty Quarry is at the top of the list. This Board and the Riverside County Planning Commission quite appropriately provided significant opportunities for the public to comment on the Liberty Quarry Project. The Board should be grateful for the opportunity to have all of the issues relating to such complex projects discussed and evaluated by many different people in the course of public hearings before the Planning Commission as well as the Board. It is only from these discussions and evaluations that the people can be confident that the Board is basing its decision on all available facts and opinions. Public participation and debate is not meant to be efficient—it is meant to result in the best possible decisions for the community.

If the Board is serious about improving its ability to approve important projects providing jobs for the County, it should provide greater resources to the Staff to expedite the detailed and comprehensive review of these projects as required by CEQA and principles of sound and transparent government.

Board of Supervisors
September 24, 2012
Page 7

In conclusion, both the law and good public policy demand that the County study and debate surface mining permits before the Planning Commission as well as the Board. It is illegal to approve the amendments to Ordinance No. 348 and Ordinance No. 555 without noticed public hearings before the Riverside County Planning Commission and the Board of Supervisors. It is illegal to eliminate the Planning Commission's review of projects in the manner proposed by the proposed amendments.

We urge you to reject the proposed amendments.

Very truly yours,



Peter M. Thorson

cc: Temecula City Council
Robert C. Johnson
Patrick Richardson
Betsy Lowrey
David Snow
Ginetta Giovinco

Clerk's Copy

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September 25, 2012

Board of Supervisors
County of Riverside
4080 Lemon Street
Riverside, CA

VIA US MAIL AND EMAIL

RE: *Opposition to Ordinance No. 348.4750 and Ordinance 555.19 Amending Ordinance No. 348 and No. 555 to allow for Surface Mining Permits and Accompanying Reclamation Plans to be Processed Pursuant to the Fast Track Procedures of Ordinance No. 348*

Dear Members of the Board of Supervisors:

I am writing you to oppose amending Ordinance Nos. 348 and 555 through the adoption of Ordinance No. 348.4750 and Ordinance No. 555.19 in order to allow surface mining permits and reclamation plans to be "fast-tracked." Allowing such projects to be approved under the fast-track procedures of Ordinance No. 348 is wholly inappropriate and is not in accord with the State policy set forth in the Surface Mining and Reclamation Act of 1975 ("SMARA"). The timelines set forth in SMARA and need for California Environmental Quality Act ("CEQA") compliance will likewise preclude the approval of a surface mining permit and reclamation plan with any increased speed. Instead, the *only* results of allowing surface mining permits and reclamation plans to be fast-tracked will be substantially reduced review, analysis, and public scrutiny of proposed projects. For this reason and as discussed below, the amendments to Ordinance Nos. 348 and 555 to allow fast-tracking of surface mining permits should be denied.

The timelines in SMARA will preclude *any* increased momentum for project approval so that the only result of permitting fast-track approval will be a diminished amount of project review and amendments. For all projects, prior to the approval of any reclamation plan or financial assurances, the County will still have to submit to plans to the Director of Conservation for review of 30 days for a reclamation plan and 45 days for financial assurances. (Pub. Res. C. § 2774) The County will then have to respond to comments at least 30 days prior to any approval of the reclamation plan or financial assurance and give the Director 30 days notice of hearing. (Pub. Res. C. § 2774)

Submitted by Fred Bartz
9/25/12 (date) Item 356

This timeline will conflict with that of Policy Number A-32. Supposing that an application is submitted and the LDC considers the project within 21 days, determines it must be revised within 30 days, and holds a second meeting 15 days later, the project is already 66 days in. The project will then have to be sent to the Director of Conservation for 30 days' review. Already, the project has been submitted for 96 days. The County must then review the comments and respond at least 30 days before any hearing, so the absolute minimum amount of time from application submittal to a hearing before the Board of Supervisors, assuming response to comments takes one day (which is *highly unlikely*), is 127 days after application submittal. This conflicts with the review timeline at Policy A-32 which states that the Board of Supervisors shall hear land use application no more than 90-days after the date of their submittal. The entire purpose of fast-track is thereby subverted.

Moreover, this timeline represents the *absolute minimum* amount of time needed for consideration of a surface mining application. If a project area is classified by the State Geologist as an area containing mineral deposits of regional or statewide significance, the lead agency is required to have an additional 60 day public review period and public hearing. (Pub. Res. C. § 2762) If a surface mining operation is proposed within a 100-year flood plain upstream or downstream of any state highway bridge, the Department of Transportation must be given 45 days to review any permit. (Pub. Res. C. § 2770.5)

Moreover, pursuant to CEQA any proposed surface mining permit will take additional time. If a project is determined to require a negative declaration a review period of not less than 20 days applies. If an Environmental Impact Report (EIR) is required for a proposed project, the preparation and circulation of that document will take additional time including at least 30 days for circulation of the draft EIR, time for response to comments and preparation of the final EIR. Additionally, if the project is within the MSHCP, the review timelines established by the MSHCP will apply. It is therefore *extremely unlikely* that an application for a surface mining permit may be processed by the deadlines and procedures established for fast-track processing.

Instead, the *only* results of amending Ordinance Nos. 348 and 555 to permit fast-track processing will be inadequate, hurried, and insufficient project review; and decreased public participation and scrutiny. The Procedures for Fast-Track Processing, Policy Number A-32, permit only 21 calendar days for LDC review; and *only 10 working days* for Grading plan Check Reviews, Building Plan Check reviews, Fire Department reviews, and review of all other development submittals such as geo-technical reports. This is simply not sufficient time to adequately ensure that an activity as fraught with controversy and the potential for health issues and environmental damage as surface mining to be evaluated and reviewed.

Fast-tracking of surface mining permits and reclamation plans is also not in accord with the State policy of SMARA which requires the regulation of surface mining operations so as to assure that:

- (1) adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses;
- (2) the production and conservation of minerals are encouraged while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment;

(3) residual hazards to public health and safety are eliminated. (Pub. Res. C § 2712)

By severely limiting the amount of time *allowed* for review of surface mining permits and reclamation plans, the County will be preventing potential problems from being discovered and/or remedied. The result will be that adverse effects to the environment, health, and enjoyment will not be adequately reviewed, evaluated, and mitigated, and that the basic policy of SMARA will be undermined. As fast-tracking surface mining permits is contrary to the policy and purposes of SMARA, any amendments to Ordinance Nos. 348 and 555 to that effect must be denied.

Likewise, fast-tracking surface mining permits and reclamation plans through the planning process is in discord with the policies of CEQA. Included in these policies is: the maintenance of a quality environment; ensuring that all agencies regulate activities so that major consideration is given to preventing environmental damage; ensuring that all feasible mitigation measures or alternatives which would substantially lessen environmental effects be implemented; informing governmental decisionmakers and the public about the potential significant environmental effects of a project and identifying ways in which such damage may be avoided; etc. (Pub. Res. C. §§ 21001, 21002, Guidelines §§ 15002.) By cutting the amount of review undertaken by the County's Planning Department and its experts, and by omitting any review by the expert and experienced Planning Commission, the County fails to promote these CEQA policies. Moreover, by reducing the opportunities for public participation in the planning process via public hearing before the Planning Commission, the policies inherent in CEQA and the Government Code of open government and public scrutiny are hindered.

Overall, surface mining is an activity for which fact-track review is *wholly* inappropriate. Quarries and mines have an immense impact on the environment and quality of life of area residents. Intrinsic to surface mining are community controversy, complex health issues, environmental damage, peaceful enjoyment, and the need for careful consideration of values which will be impacted by mining.

Surface mining projects have a broadly felt and lengthy impact on the community and environment as such permits often exist for decades after which reclamation must be insured. As such, applications for surface mining projects must be reviewed with *exaggerated care and precision*, not a cursory and superficial assessment driven by deadlines rather than quality examination. Detailed review by the Planning Commission and Planning Department is absolutely essential for surface mining permits in order to protect the public interest.

In addition, any finding that the adoption of Ordinance No. 348.4750 and Ordinance 555.19 are exempt from CEQA pursuant to the "common sense" exemption of Guidelines Section 15061(b)(3) is entirely unsupported by narrative reasoning and record evidence. An agency's exemption determination must be supported by evidence in the record demonstrating that the agency actually considered possible environmental impacts in reaching its decision and that the exemption applies. (*Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 117.) An agency abuses its discretion if there is no basis in the record for its determination that the project was exempt from CEQA. (*Id.* at 114) The agency invoking the common sense exemption bears the burden of demonstrating that it applies based on facts and evidence in the record. (*Muzzy*

Ranch Co. v. Solano County Airport Land Use Commission (2007) 41 Cal.4th 372, 386-387.)

There is clear evidence that the proposed changes not only could, but will almost certainly have a significant impact on the environment.

Here, it is readily apparent that no consideration of possible environmental impacts has occurred concerning the fast-tracking of surface mining permits, reclamation plans, and wind energy conversion system permits. There is no evidence that the County considered possible impacts based on facts and evidence and only thereon determined that CEQA's common sense exemption applied. To the contrary, there is a possibility that approval of these Ordinances may cause significant environmental effects such that the common sense exemption of CEQA does not apply. (*California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 195) Reduced environmental review of surface mining permits and reclamation plans may result in increases in biological, air quality, geological, traffic, and other effects. Likewise, reduced environmental review of wind energy conservation system permits may result in increased aesthetic, land use, biological, and other effects. Given the Mandatory time frames associated with Fast-Track projects, 90 days from acceptance to hearing before the Board of Supervisors, it is impossible to comply with the requirements of CEQA. For instance, with a Mitigated Negative Declaration for a quarry and reclamation plan, the Staff must read thousands of pages of technical documents and after doing so prepare an Initial Study, which for many project must be submitted for a thirty day public review period. Staff then must review potentially hundreds or thousands of pages of comments and evaluate whether the comments raise issues which must be addressed by correction and re-circulation. At the very least, the comments must be evaluated and mitigation measures must be evaluated and findings made relative to their effectiveness. It is impossible to complete all these functions within the mandatory time frame. The result will be that the environmental review will be inadequate and potential impacts will be overlooked or comments not adequately considered.

As the County has failed to consider the multitude of additional and increased environmental impacts that are likely to result from fast-tracking projects that should be reviewed by the Planning Department and Planning Commission in order to benefit from those individual's experience and expertise, the County cannot find that the common-sense exemption of CEQA applies.

Ordinance No. 555.19 is also vaguely written and appears to reserve to the Board the exclusive authority to hear and approve all surface mining permits and reclamation plans, not only those approved for fast track processing. **The Board of Supervisors is making a much greater change than that disclosed to the public in always reserving to itself "exclusively" the authority to "investigate, hear, approve, conditionally approve or disapprove all surface mining permits and reclamation plans..."[emphasis added] including but not limited to those include as part of a fast track project.** This enormous change is being considered at a non- public hearing and without CEQA environmental review. This is entirely counter to State goals of open government and public participation.

In this case, I believe that long term County practice is being wrongly driven by a particular project (Liberty Quarry) rather than by the fundamental policy considerations and concern for future planning. I therefore, and for the reasons detailed herein, respectfully ask that you deny Ordinance No. 348.4750 and Ordinance No. 555.19.

Thank you for your consideration of these comments.

Sincerely,

Johnson & Sedlack

A handwritten signature in black ink, appearing to read "Raymond W. Johnson", is written over a rectangular area with a light gray dot grid background.

By:
Raymond W. Johnson, Esq. AICP LEED GA

Johnson Sedlack

ATTORNEYS AT LAW

Raymond W. Johnson, Esq. AICP
Carl T. Sedlack, Esq. Retired
Abigail A. Broedling, Esq.
Kimberly Foy, Esq.

26785 Camino Seco, Temecula, CA 92590

E-mail: EsqAICP@WildBlue.net

Abby.JSLaw@gmail.com
Kim.JSLaw@gmail.com
Telephone: 951-506-9925
Facsimile: 951-506-9725

FAX COVER SHEET

DATE: September 25, 2012
TO: CLERK OF THE BOARD OF SUPERVISORS
COMPANY: COUNTY OF RIVERSIDE
DEPARTMENT:
FAX: 951-955-1071
FROM: RAYMOND W. JOHNSON, ESQ. AICP
PHONE: 951-506-9925
FAX: 951-506-9725
RE: AGENDA ITEM 3.56 – FAST-TRACK

CASE NUMBER:

Number of pages including cover sheet: 10

Urgent For Review Please Comment Please Reply Please Recycle

COMMENTS:

For today's Board of Supervisor's meeting, Item 3.56.

We appreciate your facilitating the distribution of this comment letter

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9-25-12
3.56

202-9-114991

Johnson Sedlack

ATTORNEYS at LAW

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Abigail A. Broedling, Esq.
Kimberly Foy, Esq.

26785 Camino Seco, Temecula, CA 92590

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Telephone: 951-506-9925
Facsimile: 951-506-9725

September 25, 2012

Board of Supervisors
County of Riverside
4080 Lemon Street
Riverside, CA

VIA US MAIL AND EMAIL

RE: *Opposition to Ordinance No. 348.4750 and Ordinance 555.19 Amending Ordinance No. 348 and No. 555 to allow for Surface Mining Permits and Accompanying Reclamation Plans to be Processed Pursuant to the Fast Track Procedures of Ordinance No. 348*

Dear Members of the Board of Supervisors:

I am writing you to oppose amending Ordinance Nos. 348 and 555 through the adoption of Ordinance No. 348.4750 and Ordinance No. 555.19 in order to allow surface mining permits and reclamation plans to be "fast-tracked." Allowing such projects to be approved under the fast-track procedures of Ordinance No. 348 is wholly inappropriate and is not in accord with the State policy set forth in the Surface Mining and Reclamation Act of 1975 ("SMARA"). The timelines set forth in SMARA and need for California Environmental Quality Act ("CEQA") compliance will likewise preclude the approval of a surface mining permit and reclamation plan with any increased speed. Instead, the *only* results of allowing surface mining permits and reclamation plans to be fast-tracked will be substantially reduced review, analysis, and public scrutiny of proposed projects. For this reason and as discussed below, the amendments to Ordinance Nos. 348 and 555 to allow fast-tracking of surface mining permits should be denied.

The timelines in SMARA will preclude *any* increased momentum for project approval so that the only result of permitting fast-track approval will be a diminished amount of project review and amendments. For all projects, prior to the approval of any reclamation plan or financial assurances, the County will still have to submit to plans to the Director of Conservation for review of 30 days for a reclamation plan and 45 days for financial assurances. (Pub. Res. C. § 2774) The County will then have to respond to comments at least 30 days prior to any approval of the reclamation plan or financial assurance and give the Director 30 days notice of hearing. (Pub. Res. C. § 2774)

September 25, 2012
Page 2

This timeline will conflict with that of Policy Number A-32. Supposing that an application is submitted and the LDC considers the project within 21 days, determines it must be revised within 30 days, and holds a second meeting 15 days later, the project is already 66 days in. The project will then have to be sent to the Director of Conservation for 30 days' review. Already, the project has been submitted for 96 days. The County must then review the comments and respond at least 30 days before any hearing, so the absolute minimum amount of time from application submittal to a hearing before the Board of Supervisors, assuming response to comments takes one day (which is *highly unlikely*), is 127 days after application submittal. This conflicts with the review timeline at Policy A-32 which states that the Board of Supervisors shall hear land use application no more than 90-days after the date of their submittal. The entire purpose of fast-track is thereby subverted.

Moreover, this timeline represents the *absolute minimum* amount of time needed for consideration of a surface mining application. If a project area is classified by the State Geologist as an area containing mineral deposits of regional or statewide significance, the lead agency is required to have an additional 60 day public review period and public hearing. (Pub. Res. C. § 2762) If a surface mining operation is proposed within a 100-year flood plain upstream or downstream of any state highway bridge, the Department of Transportation must be given 45 days to review any permit. (Pub. Res. C. § 2770.5)

Moreover, pursuant to CEQA any proposed surface mining permit will take additional time. If a project is determined to require a negative declaration a review period of not less than 20 days applies. If an Environmental Impact Report (EIR) is required for a proposed project, the preparation and circulation of that document will take additional time including at least 30 days for circulation of the draft EIR, time for response to comments and preparation of the final EIR. Additionally, if the project is within the MSHCP, the review timelines established by the MSHCP will apply. It is therefore *extremely unlikely* that an application for a surface mining permit may be processed by the deadlines and procedures established for fast-track processing.

Instead, the *only* results of amending Ordinance Nos. 348 and 555 to permit fast-track processing will be inadequate, hurried, and insufficient project review; and decreased public participation and scrutiny. The Procedures for Fast-Track Processing, Policy Number A-32, permit only 21 calendar days for LDC review; and *only 10 working days* for Grading plan Check Reviews, Building Plan Check reviews, Fire Department reviews, and review of all other development submittals such as geo-technical reports. This is simply not sufficient time to adequately ensure that an activity as fraught with controversy and the potential for health issues and environmental damage as surface mining to be evaluated and reviewed.

Fast-tracking of surface mining permits and reclamation plans is also not in accord with the State policy of SMARA which requires the regulation of surface mining operations so as to assure that:

- (1) adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses;
- (2) the production and conservation of minerals are encouraged while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment;

September 25, 2012
Page 3

(3) residual hazards to public health and safety are eliminated. (Pub. Res. C § 2712)

By severely limiting the amount of time *allowed* for review of surface mining permits and reclamation plans, the County will be preventing potential problems from being discovered and/or remedied. The result will be that adverse effects to the environment, health, and enjoyment will not be adequately reviewed, evaluated, and mitigated, and that the basic policy of SMARA will be undermined. As fast-tracking surface mining permits is contrary to the policy and purposes of SMARA, any amendments to Ordinance Nos. 348 and 555 to that effect must be denied.

Likewise, fast-tracking surface mining permits and reclamation plans through the planning process is in discord with the policies of CEQA. Included in these policies is: the maintenance of a quality environment; ensuring that all agencies regulate activities so that major consideration is given to preventing environmental damage; ensuring that all feasible mitigation measures or alternatives which would substantially lessen environmental effects be implemented; informing governmental decisionmakers and the public about the potential significant environmental effects of a project and identifying ways in which such damage may be avoided; etc. (Pub. Res. C. §§ 21001, 21002, Guidelines §§ 15002.) By cutting the amount of review undertaken by the County's Planning Department and its experts, and by omitting any review by the expert and experienced Planning Commission, the County fails to promote these CEQA policies. Moreover, by reducing the opportunities for public participation in the planning process via public hearing before the Planning Commission, the policies inherent in CEQA and the Government Code of open government and public scrutiny are hindered.

Overall, surface mining is an activity for which fact-track review is *wholly* inappropriate. Quarries and mines have an immense impact on the environment and quality of life of area residents. Intrinsic to surface mining are community controversy, complex health issues, environmental damage, peaceful enjoyment, and the need for careful consideration of values which will be impacted by mining.

Surface mining projects have a broadly felt and lengthy impact on the community and environment as such permits often exist for decades after which reclamation must be insured. As such, applications for surface mining projects must be reviewed with *exaggerated care and precision*, not a cursory and superficial assessment driven by deadlines rather than quality examination. Detailed review by the Planning Commission and Planning Department is absolutely essential for surface mining permits in order to protect the public interest.

In addition, any finding that the adoption of Ordinance No. 348.4750 and Ordinance 555.19 are exempt from CEQA pursuant to the "common sense" exemption of Guidelines Section 15061(b)(3) is entirely unsupported by narrative reasoning and record evidence. An agency's exemption determination must be supported by evidence in the record demonstrating that the agency actually considered possible environmental impacts in reaching its decision and that the exemption applies. (*Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 117.) An agency abuses its discretion if there is no basis in the record for its determination that the project was exempt from CEQA. (*Id.* at 114) The agency invoking the common sense exemption bears the burden of demonstrating that it applies based on facts and evidence in the record. (*Muzzy*

September 25, 2012
Page 4

Ranch Co. v. Solano County Airport Land Use Commission (2007) 41 Cal.4th 372, 386-387.)

There is clear evidence that the proposed changes not only could, but will almost certainly have a significant impact on the environment.

Here, it is readily apparent that no consideration of possible environmental impacts has occurred concerning the fast-tracking of surface mining permits, reclamation plans, and wind energy conversion system permits. There is no evidence that the County considered possible impacts based on facts and evidence and only thereon determined that CEQA's common sense exemption applied. To the contrary, there is a possibility that approval of these Ordinances may cause significant environmental effects such that the common sense exemption of CEQA does not apply. (*California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 195) Reduced environmental review of surface mining permits and reclamation plans may result in increases in biological, air quality, geological, traffic, and other effects. Likewise, reduced environmental review of wind energy conservation system permits may result in increased aesthetic, land use, biological, and other effects. Given the Mandatory time frames associated with Fast-Track projects, 90 days from acceptance to hearing before the Board of Supervisors, it is impossible to comply with the requirements of CEQA. For instance, with a Mitigated Negative Declaration for a quarry and reclamation plan, the Staff must read thousands of pages of technical documents and after doing so prepare an Initial Study, which for many project must be submitted for a thirty day public review period. Staff then must review potentially hundreds or thousands of pages of comments and evaluate whether the comments raise issues which must be addressed by correction and re-circulation. At the very least, the comments must be evaluated and mitigation measures must be evaluated and findings made relative to their effectiveness. It is impossible to complete all these functions within the mandatory time frame. The result will be that the environmental review will be inadequate and potential impacts will be overlooked or comments not adequately considered.

As the County has failed to consider the multitude of additional and increased environmental impacts that are likely to result from fast-tracking projects that should be reviewed by the Planning Department and Planning Commission in order to benefit from those individual's experience and expertise, the County cannot find that the common-sense exemption of CEQA applies.

Ordinance No. 555.19 is also vaguely written and appears to reserve to the Board the exclusive authority to hear and approve all surface mining permits and reclamation plans, not only those approved for fast track processing. **The Board of Supervisors is making a much greater change than that disclosed to the public in *always* reserving to itself "exclusively" the authority to "investigate, hear, approve, conditionally approve or disapprove all surface mining permits and reclamation plans..."[emphasis added] including but not limited to those include as part of a fast track project.** This enormous change is being considered at a non- public hearing and without CEQA environmental review. This is entirely counter to State goals of open government and public participation.

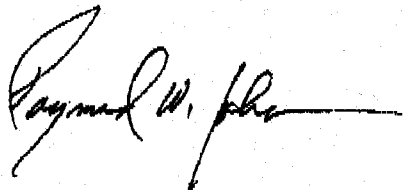
In this case, I believe that long term County practice is being wrongly driven by a particular project (Liberty Quarry) rather than by the fundamental policy considerations and concern for future planning. I therefore, and for the reasons detailed herein, respectfully ask that you deny Ordinance No. 348.4750 and Ordinance No. 555.19.

September 25, 2012
Page 5

Thank you for your consideration of these comments.

Sincerely,

Johnson & Sedlack

A handwritten signature in black ink, appearing to read "Raymond W. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

By:
Raymond W. Johnson, Esq. AICP LEED GA

RAYMOND W. JOHNSON, Esq. AICP LEED GA
Principal Planner/Of Counsel

Management:

- Consulting City Planner, Lenexa, Kansas
- Community Development Director, Lee's Summit, Missouri
- Owned and operated consulting, development and commercial real estate companies for over twenty years
- Project Management, Gatewood Hills
- Project Management, Summit Tec Industrial Park
- Project Management, Parkway Plaza
- Project Management, Rancho Lucerne

City Planning:

- Current Planning
 - Two years principal planner, Lenexa, Kansas (consulting)
 - Two and one half years principal planner, Lee's Summit, Missouri
 - One year North Desert Regional Team, San Bernardino County
 - Twenty years subdivision design: residential, commercial and industrial
 - Thirty years as applicants representative in various jurisdictions in: Missouri, Texas, Florida, Georgia, Illinois, Wisconsin, Kansas and California
 - Five years as applicants representative in the telecommunications field
- General Plan
 - Developed a policy oriented Comprehensive Plan for the City of Lenexa, Kansas.
 - Updated Comprehensive Plan for the City of Lee's Summit, Missouri.
 - Created innovative zoning ordinance for Lenexa, Kansas.
 - Developed Draft Hillside Development Standards, San Bernardino County, CA.
 - Developed Draft Grading Standards, San Bernardino County.
 - Developed Draft Fiscal Impact Analysis, San Bernardino County

Raymond W. Johnson, AICP LEED GA

- Environmental Analysis
 - Two years, Environmental Team, San Bernardino County
 - Review and supervision of preparation of EIR's and joint EIR/EIS's
 - Preparation of Negative Declarations
 - Environmental review of proposed projects
 - Twenty years as an environmental consultant reviewing environmental documentation for plaintiffs in CEQA and NEPA litigation

Design:

- John Knox Village of the High Plains, Residential care facility
- John Knox Village of Lubbock, Project expansion and Landscaping plans
- John Knox Village of the Rio Grande, Residential project expansion
- John Knox Village of Tampa Bay (care facility)
- John Knox Village of Lee's Summit, Residential expansion
- John Knox Village of Omaha, project redesign
- Friendship Village, Residential expansion
- Baptist Homes of Fort Lauderdale, High rise residential project
- Rancho Lucerne Planned Development, 4257 unit PUD
- Parkway Plaza, Office Park
- Summit Tec Industrial Park
- The Orchards at Lakewood, PUD
- Gatewood Hills, PUD

Education:

- B. A. Economics and Political Science, Kansas State University 1970
- Masters of Community and Regional Planning, Kansas State University, 1974
- Additional graduate studies in Economics at the University of Missouri at Kansas City
- J.D. University of LaVerne. 1997 Member, Law Review, Deans List, class valedictorian. Published, Journal of Juvenile Law

Professional Associations:

- Member, American Planning Association
- Member, American Institute of Certified Planners
- Member, Association of Environmental Professionals
- Member, U.S. Green Building Council, LEED GA

Raymond W. Johnson, AICP LEED GA

Solutions Financing Inc.

4/03 – Present

Serve as broker for real estate brokerage firm.

Planning-Environmental Solutions

8/94- Present

Serve as applicant's representative for planning issues to the telecommunications industry. Secure government entitlements for projects throughout inland empire and eastern Los Angeles County. Provide guidance to agencies relative to telecommunications ordinances. Provide applicant's representative services and construction management to private developers of residential projects. Provide design services for private residential development projects. Provide project management of all technical consultants on private developments including traffic, geotechnical, survey, engineering, environmental, hydro geological, hydrologic, landscape architectural, golf course design and fire consultants.

Johnson & Sedlack

1/98- Present

Partner in law practice representing clients on environmental and land use issues. Clients include Endangered Habitat League, AT&T Wireless Services, Sierra Club, Audubon Society, Center for Community Action and Environmental Justice, Union for a River Greenbelt Environment, Citizens First of Temecula Valley, Temecula Open Space Preservation Organization, Elsinore Murietta Anza Resource Conservation District

San Bernardino County Planning Department

Environmental Team

6/91-8/94

Responsible for coordination of production of EIR's and joint EIR/EIS's for numerous projects in the county. Prepared environmental documents for numerous projects within the county. Prepared environmental determinations and environmental review for projects within the county. Responsible for reviewing cellular applications.

San Bernardino County Planning Department

General Plan Team

6/91-6/92

Created draft grading ordinance, hillside development standards, water efficient landscaping ordinance, multi-family development standards, revised planned development section and fiscal impact analysis. Completed land use plans and general plan amendment for approximately 250 square miles. Prepared proposal for specific plan for the Oak Hills community. Responsible for reviewing cellular applications.

San Bernardino County Planning Department

North Desert Regional Planning Team

Worked on regional team. Reviewed general plan amendments, tentative tracts, parcel maps and conditional use permits. Prepared CEQA documents for projects. Responsible for reviewing cellular applications.

Raymond W. Johnson, AICP LEED GA

Broadmoor Associates/Johnson Consulting

2/86-6/90

Commercial Real Estate Broker, Sold and leased commercial and industrial properties. Designed and developed an executive office park and an industrial park in Lee's Summit, Mo. Designed two additional industrial parks and residential subdivisions. Prepared study to determine target industries for the industrial parks. Prepared applications for tax increment financing district and grants under Economic Development Action Grant program. Prepared input/output analysis of proposed race track. Provided conceptual design of 800 acre mixed use development.

Shepherd Realty Co.

6/84-2-86

Sold and leased commercial and industrial properties. Performed investment analysis on properties. Provided planning consulting in subdivision design and rezoning.

Contemporary Concepts Inc.

9/78-5/84

Designed and developed residential subdivision in Lee's Summit, Mo. Supervised all construction trades involved in the development process and the building of homes.

Environmental Design Association

6/77-9/78

Was responsible for site design and preliminary building design for retirement villages in Missouri, Texas and Florida. Was responsible for preparing feasibility studies of possible conversion projects. Was in charge of working with local governments on zoning issues and any problems that might arise with projects. Coordinated work of local architects on projects. Worked with marketing staff regarding design changes needed or contemplated.

City of Lee's Summit, MO

4/75-6/77

Supervised Community Development Dept. staff. Responsible for preparation of departmental budget and C.D.B.G. budget. Administered Community Development Block Grant program. Developed initial Downtown redevelopment plan with funding from block grant funds. Served as a member of the Lee's Summit Economic Development Committee and provided staff support to them. Prepared study of available industrial sites within the City of Lee's Summit. In charge of all planning and zoning matters for the city including comprehensive plan.

Howard Needles Tammen & Bergendoff

Economist/Planner

5/73-4/75

Responsible for conducting economic and planning studies for Public and private sector clients. Consulting City Planner for Lenexa, KS.

Conducted environmental impact study on maintaining varying channel depth of the Columbia River including an input/output analysis. Environmental impact studies of dredging the Mississippi River. Worked on the Johnson County Industrial Airport industrial park master plan including a study on the demand for industrial land and the development of target industries based upon location analysis. Worked on various airport master plans. Developed policy oriented comprehensive plan for the City of Lenexa, KS. Developed innovative zoning ordinance heavily dependent upon performance standards for the City of Lenexa, KS.

Clerk's Copy

9/25/12

Board of Supervisors Meeting phone 951 506-8728

Good morning(afternoon) Chairman and Supervisors. My name is Marelle Dorsey. I live at 32832 Northshire Circle, in Temecula. I am asking you to vote against changing both ordinances to allow fast tracking of surface mines.

Jobs are needed in the county and Fast Tracking can be a good idea.

However, that is if three criteria can be met.

First the project should actually be proven to be able to create net jobs and not hurt the economy.

Secondly the project should provide jobs relatively "fast", (or why bother to save only a couple of months of public hearings.)

Third, there should not be environmentally controversial problems.

As far as Liberty Quarry is concerned, the first criteria, concerning net job creation and economic growth was proven to be false.

During the hearings, the Claremont McKenna College prestigious Rose Institute presented its economic report. Lack of a need for aggregate was stated as the reason why new quarry jobs would be offset by a reduction in jobs at other quarries.

Granite Construction's own economist explained at a Planning Commission hearing that a new quarry supply would not create new demands.

The Rose Institute report gave \$3.6 billion as the conservative loss in the county over 50 years and proved that jobs in many industries would be lost and real estate would be negatively effected.

As a local agent who presented hundreds of Realtor Opposition Statements to you at the hearings, I can now testify that we have proof that the Rose Institute economic experts were correct about the quarry's harm to real estate values.

On Feb. 16, 2012 there was jubilation over the supposed end of the quarry threat.

Buyers were excited to buy. However, there was a dramatic change in their attitudes after Granite Construction's July 25th re- submission of a new Liberty Quarry, which although it is slightly smaller, can always be expanded in the future. This, of course, had to be disclosed to buyers according to California law. All the agents I contacted complained.

I personally lost four "in process" escrows in one month. The asking prices of the homes all had to be reduced, while two were forced to be sold as short sales. Lower prices mean less county property taxes.

Also, consider that the 1000+ member Temecula Chamber of Commerce opposes a quarry. Do they not care about business and jobs?

Both Liberty Quarry and wind turbine projects can not meet the second criteria. The community expects that Fast Tracking equates with getting jobs created fast. It will take years to get permit approval for large CEQA projects.

9/25/12 3.56

I called the Army Corp of Engineers to check on what the length of their permit processes for Liberty Quarry would be. The South Coast Branch Chief, Therese O. Bradford, asked Project Manager/Biologist R.J. Van Sant to supply me with information. I have given you copies of his emails.

J.R's 9/20/12 email concerned Corps records of the Liberty Quarry project.

I quote, "We did assign it a project # back in 2005....Because we have no permit application we've taken no action."

His 9/19/12 email explains in detail how a larger controversial project would take at least 1 to 2 years with lots of possibilities for an extended time table.

In addition to the Army Corps and the Water Quality Agencies, permits need to be given by the Air Quality Agencies, the EPA, the California School Lands Dept., among others.

None of this can be fast tracked.

I don't think waiting for years would satisfy people who need a job now.

As far as the wind turbines are concerned, my handout today includes information provided by The California Energy Commission. CEQA processes, state and federal regulations and laws are referenced.

For example, the California Department of Fish and Game have an important part in the process, protecting birds and bats, so they are not threatened by wind turbines.

As a side note, I found out in 2011 that in the Palm Spring Area, turbines had to have Meteorological or MET Stations on site for a whole year to record wind patterns.

I shared this fact during my presentation at the Liberty Quarry hearings. It amazed me that a \$300,000 turbine would require an on site one year professional wind study. However, Granite used only partial data from S.D. State University students, gathered 600 feet below the quarry's mountain site, in a valley, and located about two miles away. The EIR stated mountains and valleys effect air quality, but did not account for the poor data.

The EIR stated that wind direction, speed, and stability effect air quality. Therefore the EIR lists of total amounts of pollutants, some up to seven times above acceptable limits, are actually projected using faulty wind and air data. Maximum pollution credits would have to be paid by Granite! The County Planning Staff decided that poor air quality could not be mitigated below the level of significance.

I would like to remind you, that these facts were not lost on such Liberty Quarry opponents as the American Lung Association state experts and the State Senate Natural Resources Committee.

This leads to the third criteria necessary for fast tracking. When a project, such as a quarry, has the potential to negatively effect the environment or the health of citizens for generations, you certainly should not want to give the appearance of trying to pull a "fast one" on the citizens of the county.

Continuing on this road is sure to have dire consequences for all involved, including those who voted for you and gave you their trust.

I urge you not to change the ordinances.

-----Original Message-----

From: marelledorsey@verizon.net [mailto:marelledorsey@verizon.net]

Sent: Thursday, September 20, 2012 10:57 AM

To: Van Sant, Richard SPL

Subject: Liberty Quarry

Dear R.J. Van San Sant,

As Project Manager/Biologist for the U.S.Army Corps of Engineers, Regulatory Division, may I ask you if records of the Liberty Quarry Project are in your system going back to 2005?

Secondly, have you received a permit application yet?

Lastly has any work been done by the Corps, on the process which would be necessary to obtain the Section 404 Clean Water Act Standard Individual Permit for the above project?

Thank you for sending the flow chart and individual steps that would be necessary for a large quarry project of its type. It shows that it might take years to complete the permit process.

I will pass on the information to those interested in this necessary process.

Thank you for your professional, courteous, prompt assistance in collecting all the facts.

Sincerely,

Marelle Dorsey

Classification: UNCLASSIFIED

Caveats: NONE

Thursday, Sep 20 at 12:55 PM

From: "Van Sant, Richard SPL" <Richard.J.Vansant@usace.army.mil>
To: "marelledorsey@verizon.net" marelledorsey@verizon.net
Subject: RE: Liberty Quarry (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Mareille,

I look up the project in our database and we did assign it a project number back in 2005; however, it doesn't appear that anything has occurred since then on our end. The database only gives a 1-2 sentence project description and that is all. Currently, we do not have a permit application and have received no information from the applicant. Because we have no permit application we've taken no actions nor conducted any work in relation to the project.

Regards,
R.J.

R.J. Van Sant
Project Manager/Biologist
U.S. Army Corps of Engineers
Regulatory Division
PH: (760) 602-4837
richard.j.vansant@usace.army.mil

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://ce12.nwp.usace.army.mil/survey.html>

From: "Van Sant, Richard SPL" <Richard.J.Vansant@usace.army.mil>
To: "marelledorsey@kw.com" marelledorsey@kw.com

Subject: Permit process summary for a Section 404 Clean Water Act permit (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Hi Marelle,

As requested from your phone call, attached is an overview of the permit process for obtaining a Section 404 Clean Water Act Standard Individual Permit (SIP) from the Corps of Engineers. In addition to analyzing the effects a project will have on waters of the U.S., the Corps is also required to analyze any impacts the project may have on federally endangered/threatened species and historic resources. The Corps must also conduct an alternatives analysis and public interest review. Depending on the project size, the amount of time it takes to analyze the project will change. Smaller, less controversial projects that are authorized under a SIP can take as little as 120 days; however, larger, controversial projects with many endangered/threatened species or historic resources or that have a large public interest may take much longer (1-2 years or even longer). If an EIS is required, those projects generally take a little longer. Also, the amount of time it takes to review a project depends on whether or not the Corps receives a complete application upon initial submission from an applicant. That is often one of the most common time delays in the process. An applicant may submit an application but if it is not complete or the information is out-of-date the applicant must take the time to get all the requested information or update the information. There are also other potential time delays if the EPA is involved and deems the waters of the U.S. on the project site as an Aquatic Resource of National Importance (ARNI). In addition, the Corps cannot issue a final 404 permit before the Water Board issues a 401 water quality certification. If the Water Board is delayed for some reason, the Corps' final permit will also be delayed. I hope this provides some clarification as to the permit process under Section 404 of the Clean Water Act, potential time frames, and potential delays. Please let me know if you have any additional questions.

Regards,
R.J.

R.J. Van Sant
Project Manager/Biologist
U.S. Army Corps of Engineers
Regulatory Division
PH: (760) 602-4837

The California ENERGY COMMISSION

[Home](#) → [windguidelines](#) → [faq](#)

Frequently Asked Questions About California Guidelines for Reducing Bird and Bat Impacts from Wind Development

(November 12, 2008)

The **California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development (Guidelines)** was approved by the California Energy Commission in September 2007. To address the many questions that Energy Commission and California Department of Fish and Game (CDFG) staff have received since that time we have compiled these answers to the more frequently asked questions.

For more information on the **Guidelines** or to download a copy, please go to: www.energy.ca.gov/windGuidelines/

1. What prompted development of the **Guidelines**, and what are they intended to accomplish?

The idea for the **Guidelines** originated in the California Energy Commission's *2005 Integrated Energy Policy Report* (IEPR), a document produced every other year as an assessment and forecasting tool to help guide California energy policy. The 2005 IEPR recognized that potential controversy about wind energy projects that harm raptors and other birds might slow renewable energy development in California.

The suggestion to create wind-energy/wildlife **Guidelines** was further promoted at a workshop sponsored by Audubon California and the American Wind Energy Association (AWEA) in January 2006. Many participants at the conference encouraged the Energy Commission and CDFG to collaborate, with input from all interested parties, and establish voluntary statewide **Guidelines** to address siting, operation and mitigation of wind power to reduce its impacts on birds and bats.

The **Guidelines** were completed by the Energy Commission and CDFG in October 2007. The 18-month process of **Guidelines** development involved eight public workshops/hearings around the state (Sacramento, Bakersfield, Livermore, and Riverside) and public review of three drafts of the **Guidelines**.

The **Guidelines** provide consistent, scientifically sound recommendations for studying, siting, and operating wind energy facilities in the state, while at the same time avoiding, minimizing and mitigating the impacts of that development on birds and bats.

2. Is use of the **Guidelines** for California wind energy development projects mandatory by law?

The **Guidelines** are advisory only, and their use is voluntary. The process of permitting a wind energy facility in California however is governed by a number of laws that are not voluntary. One of those laws is the California Environmental Quality Act (CEQA), which requires California public agency decision makers (like counties and cities) to document and consider the environmental impacts of their actions, such as approving a wind energy project. The other state and federal wildlife protection laws relevant to the permitting of a wind energy project are discussed in Chapter 2, pages 30-35 of the **Guidelines**. The methods recommended in the **Guidelines** will help wind energy developers secure information on impacts and mitigation that will apply to the CEQA review and permitting process and to state and federal wildlife protection laws.

3. What authority issues permits for wind energy development in California?

Counties, cities, federal agencies such as the Bureau of Land Management and the U.S. Forest Service (if federal lands are involved) and sometimes public utilities are the "lead agencies" that approve wind energy projects within their jurisdictions. For wind energy projects subject to the California Environmental Quality Act

(CEQA), which would be the case for construction of most utility scale large wind turbines, lead agencies are required to consult with the CDFG before determining whether a negative declaration or environmental impact report is required for the project (i.e., "early consultation", Public Resources Code §21080.3). Furthermore, lead agencies must consult with trustee and responsible agencies and other public agencies that may have jurisdiction by law with respect to the project (Public Resources Code §21153).

The California Energy Commission and the CDFG do not license wind energy development, but the CDFG is a trustee agency with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species and has authority to regulate activities that might affect those resources. CDFG uses its biological expertise to review and comment upon impacts to wildlife from the project and makes recommendations to the lead agencies regarding the protection of those resources (Fish and Game Code §1802). If the project could potentially "take" species listed as threatened or endangered, the applicant should consult with the CDFG regarding the need for an Incidental Take Permit and avoid, minimize, and compensate for any take (Fish and Game Code §2081(b)).

4. Aren't wind energy developments good for the environment? Why isn't that taken into consideration when requiring so many studies?

Wind energy has less environmental impacts compared to electricity generated by fossil fuels because it is renewable and does not contribute to greenhouse gas emissions. The California Environmental Quality Act (CEQA) provides opportunities for lead agencies to consider those kinds of environmental benefits when they are deciding whether to approve a project. However, these lead agencies must also consider the impacts of any project before approving it. The **Guidelines** provide recommended study methods to gather the information required by lead agencies to assess the impacts to wildlife of a wind energy project, and as CEQA requires, weighing those impacts against the environmental benefits. Other state and federal wildlife laws also require this type of impact assessment. Using the methods recommended in the **Guidelines** will help wind energy developers secure information on impacts and mitigation that will apply both to the CEQA permitting process and to wildlife protection laws.

5. Why focus on the wind energy industry when other types of development projects kill more birds and may not have to mitigate avian impact? Is wind energy development being held to a different standard regarding the amount of information required during the permitting process?

The California Environmental Quality Act and California's wildlife protection laws generally apply to all proposed projects in the state, with a few exceptions. All large scale energy projects, including gas-fired power plants, thermal solar energy, and hydroelectric power, are subject to an environmental review and approval process. The recommended methods in the **Guidelines** are consistent with the environmental review requirements of other utility scale energy development and do not reflect any different standard.

6. Why are bird and bat studies necessary for projects that use the new generation turbines, which are much taller and have slower rotor speeds? Don't these new turbines have much lower impacts to birds?

During California's early wind energy development turbines were relatively small, spaced closely together, with the rotors spinning at high speeds. Wind turbines installed at the Altamont Pass Wind Resource Area, San Geronio, and Tehachapi during the 1980s generally had an installed capacity of around 100 kilowatts, reached heights of approximately 50 feet from the ground to the tip of the extended rotor, with blades spinning around 30 revolutions per minute (rpm). The new generation turbines (installed capacity around 1.5 megawatts) can be as tall as 450 feet from ground to rotor tip, with lower rotational speeds ranging from 15-27 rpm and tip speeds of approximately 200 feet/second.

A number of researchers hypothesized that these new-generation, taller turbines would reduce wildlife impacts, in part because birds would be better able to see and avoid the slower-spinning blades. As studies have been conducted on "repowered" sites, where old turbines were replaced with the new, large turbines, it appears that impacts to some species such as golden eagle are reduced. However, impacts to raptors such as red-tailed hawks and American kestrels do not seem to have declined. Other researchers have analyzed bat fatality data as a function of turbine height and found that as turbine height increases, more bats are killed possibly because the taller turbines reach into the airspace used by migratory bats.

Many factors affect the collision risk to birds and bats at a wind resource area, including turbine variables (size, rotational speed, operational time, rotor swept area, spacing, tower type), habitat, and bird/bat use. Research is

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INLAND EMPIRE WATERKEEPER.

6876 Indiana Avenue, Suite D
Riverside, CA 92506
Phone 951-530-8823
Fax 951-530-8824
www.icwaterkeeper.org

September 25, 2012

Sent via Facsimile

Riverside County Board of Supervisors
ATTN: Chairman John Tavaglione
4080 Lemon Street - 1st Floor
Riverside, CA 92501

RE: Opposition to the amendments to Ordinance Nos. 348 and 555 allowing fast track authorization for surface mining permits, reclamation plans and Wind Energy Conversion Systems ("WECS") permits.

Dear Chairman Tavaglione and Members of the Board,

I am writing on behalf of Inland Empire Waterkeeper ("Waterkeeper") in opposition to the amendments to Ordinance Nos. 348 and 555 allowing fast track authorization for surface mining permits, reclamation plans and WECS permits and in opposition of the finding that the adoption of such amendments is exempt from CEQA pursuant to CEQA Guideline Section 15061(b)(3). Waterkeeper is an environmental organization with the mission to protect and enhance the water quality of the Upper Santa Ana River Watershed through programs of advocacy, education, research, restoration, and enforcement. This letter is intended to urge the Board of Supervisors to vote no on the proposed amendments to Ordinance Nos. 348 and 555 that will put surface mines, reclamation plans and WECS on the County's fast track program and to find that the adoption of such ordinances is not exempt from CEQA regulations because there is a measurable possibility that these action have a significant effect on the environment.

Board of Supervisors should not adopt Ordinance Nos. 348.4750 and 555.19.

Surface mines, reclamation plans and WECS are among the most complex and environmentally impactful projects in any county or municipality. They are known to have significant impacts on the environment. These significant environmental impacts should be fully addressed by the Planning Commission and should not be fast tracked.

Fast tracking environmentally impactful projects creates a less than desirable outcome for all parties involves. Critical details, important alternatives, mitigating factors and conditions may get missed or excluded when such a project is fast tracked. Limiting public review on such projects rejects the voice of the people who will be most affected by such a potentially harmful project. This limitation only plants seeds of doubt in your constituents' minds about your ability to put the public interest first. To limit the public's involvement in such important proceedings is to validate any opinion that government puts special interest groups first because of political agendas.

In matters involving surface mining, reclamation projects and WECS, which have significant environmental impacts, it is best practice to fully study, discuss and debate such permits before the Planning Commission. A comprehensive review by the Planning Commission is the only way to properly address the serious issues that face these projects. Fast tracking these projects will only promote public distrust in the Board of Supervisors and allow critical issues to fester discussed and unmitigated.

Adoption of Ordinance Nos. 348.4750 and 555.19 will not be exempt from CEQA.

9-25-12
3.50

2012-9-114997

The adoption of Ordinance Nos. 348.4750 and 555.19 will not be exempt from CEQA pursuant to CEQA Guideline 15061(b)(3) because the projects that the proposed ordinances cover have a potential for causing a significant effect on the environment. The relevant language of CEQA Guideline Section 15061(b)(3) is as follows:

“A projection is exempt from CEQA if... The activity is covered by the general rule that CEQA applies only to projects which have the *potential for causing a significant effect* on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA (emphasis added).”

These proposed ordinances cannot be said “with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” For example, surface mines and accompanying reclamation projects are among the most complex and environmentally impactful projects in any municipality or county. As demonstrated by the proposed Liberty Quarry, surface mines are known to have significant environmental impacts such as: adverse impacts to quality of life, water pollution, air pollution, and wildlife degradation. These significant environmental impacts should be fully addressed by the Planning Commission and should not be fast tracked. WECS have also raised substantial concerns regarding noise pollution, visual impacts and death various species of wildlife.

While it stands to reason that some projects that come before the Planning Commission may not have a significant environmental impact, it also stands to reason that many of these projects will have significant environmental impacts. It cannot be said with absolute certainty, as required by CEQA Guideline Section 15061(b)(3), that all projects that fall into the categories of surface mines, reclamation projects or WECS will have no possibility of a significant effect on the environment. It is arbitrary and capricious to fast track such projects without fully addressing the environmental impacts before the Planning Commission. Fully addressing a project means careful study, discussion and meaningful public comment and debate.

This letter is by no means an exhaustive list of our complaints. This letter simply outlines Inland Empire’s most pressing concerns with the proposed amendments. Waterkeeper urges to Board of Supervisors to vote against the adoption of Ordinance Nos. 348.4750 and 555.19 for the aforementioned reasons.

Regards,



Colin A. Kelly
Staff Attorney
Inland Empire Waterkeeper



3151 AIRWAY AVE., STE F110
 COSTA MESA, CA 92626
 phone: (714) 850-1965
 fax: (714) 850-1592
 www.coastkeeper.org

Education, Advocacy, Restoration, Enforcement

FAX TRANSMITTAL

TO: Clerk of the Board PHONE: (951) 955-9500
 FROM: Inland Empire Waterkeeper ^{Colin Kelly} DATE: 9-25-12
 ATTENTION: for distribution the Board of Supervisors
 SUBJECT: Opposition letter re. Ordinance Nos. 348, 4750 & 555.19

FAX NUMBER: (951) 955-1071 TOTAL PAGES: 3

"To Protect and Preserve our Coastal Legacy"

Clerk's Copy



palm desert area
chamber of commerce
OPENING DOORS FOR BUSINESS

September 18, 2012

John Tavaglione, Chairman
Riverside County Board of Supervisors
4080 Lemon Street, 5th Floor
Riverside, CA 92051

RE: Support for amendments to allow mining projects to be fast tracked.

Chairman Tavaglione,

We are writing in support of amendments to ordinances that will allow fast tracking for projects like Granite Construction's Liberty Quarry. This project brings new jobs and new revenue to our region at a time when they are desperately needed. We support amending ordinances to allow this project to move quickly to create new jobs that are desperately needed in our region.

As leaders in the business community, we have witnessed first-hand the toll the current economic downturn has taken on Riverside County's workforce. With Riverside County currently facing double digit unemployment, new jobs are at a premium and amendments which allow fast tracking of development projects that create jobs should be embraced and welcomed. As one of those development projects, Liberty Quarry will create high-paying jobs in an industry that has been severely affected by this recession.

Creating jobs and boosting revenue are key to healing our county's economic problems. That is why we fully support amendments to allow important projects like Liberty Quarry to be fast tracked. These amendments will be good for Riverside County's economy and good for its residents.

Sincerely,

Barbara deBoom

Barbara deBoom, CEO/President
Palm Desert Area Chamber of Commerce

CC: Supervisor John Benoit

27988 HIGHWAY 111
PALM DESERT, CA 92286
951-316-6111
PDCO.ORG

ACCREDITED

Clerks Copy



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fax 760.347.6069
www.indiochamber.org
info@indiochamber.org
82-921 Indio Blvd. • Indio, CA 92201

September 18, 2012

John Tavaglione, Chairman
Riverside County Board of Supervisors
4080 Lemon Street, 5th Floor
Riverside, CA 92051

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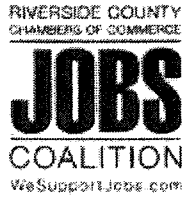
Handwritten signature of Patrick Swarouth in black ink.

Patrick Swarouth
Chairman
Government Affairs & Public Policy Committee

Handwritten signature of Joyce Donaldson in black ink.

Joyce Donaldson
President/CEO
Indio Chamber of Commerce

CC: Supervisor John Benoit



Charles Cozy

September 20, 2012

Dear Board of Supervisors,

We need jobs.

Please approve the proposed amendments that will allow mining projects like Liberty Quarry to be fast tracked.

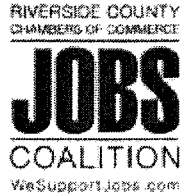
The jobs and new revenue that will be created are critically important to local workers.

Now more than ever we need you to vote yes on jobs and yes on amending ordinances to allow fast tracking for mining projects.

Regards,

William Harker
Retired
31130-85 S. Gen Kearny Rd.
Temecula, CA 92591

cc: Riverside County CEO



September 20, 2012

Dear Board of Supervisors,

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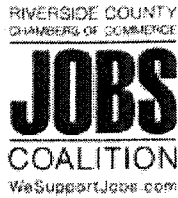
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Regards,

David Thompson
27315 Jefferson Ave.
J100
Temecula, CA 92590

cc: Riverside County CEO



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Regards,

Larry Lepley
45911 Parsipany Ct.
Temecula, CA 92592

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

Riverside County is hurting. Double digit unemployment and the slow economic recovery is taking a toll on us all.

Please support amendments to allow mining projects to be fast tracked so that projects like Liberty Quarry can start creating the permanent jobs we need to put people back to work. Making changes to the necessary ordinances in order to fast track the creation of new jobs in Riverside County is a great idea.

Creating jobs and boosting revenue are key to healing our county economic problems. That is why I fully support fast tracking projects like Granite Construction Liberty Quarry project.

Brian Caris
40478 Calle Katerine
Temecula, CA 92591

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

I am writing to support amendments which will allow mining projects to be fast tracked just like other industrial projects that create jobs.

We need the new jobs and revenue provided by these important projects.

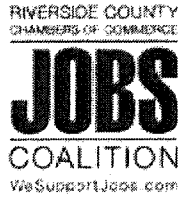
The proposed amendments will clear the way for new jobs that are so desperately needed in our community.

I urge you to approve the proposed amendments to support fast track for mining projects.

Regards,

Bill Demmin
LCPOA
20655 Paseo Montana
Murrieta, Ca 92562

cc: Riverside County CEO



September 19, 2012

Dear Board of Supervisors,

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Regards,

Edwin Manske
Manske Properties
22861 Rolling Glen Ct.
Murrieta, Ca 92562

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

I am excited to see that Liberty Quarry submitted a new application. At a time when our regions is facing double-digit unemployment and high foreclosure rates, this project will provide a much needed boost to our economy.

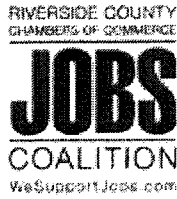
By reducing the size of the project, Liberty Quarry is also reducing its environmental impacts. But the project will still create hundreds of new jobs and provides millions in new revenue for Riverside County. That's great news for a cash-strapped county that has been laying off employees and cutting services.

This project should have been approved the first time. With these new changes, I urge you to fast track your vote for jobs and revenue.

Regards,

Colette Grant-Burke
CPCMG
25485 Medical Center Drive, Ste. 220
Murrieta, CA 92592

cc: Riverside County CEO



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Regards,

Mrs. Moser
Coworking Construction
25185 Madison Avenue #A
Murrieta, CA 92562

cc: Riverside County CEO



September 18, 2012

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Please support amendments to allow mining projects to be fast tracked so that projects like Liberty Quarry can start creating the permanent jobs we need to put people back to work. Making changes to the necessary ordinances in order to fast track the creation of new jobs in Riverside County is a great idea.

Creating jobs and boosting revenue are key to healing our county economic problems. That is why I fully support fast tracking projects like Granite Construction Liberty Quarry project.

Duane Patterson
39498 Via Monserate
Murrieta, Ca 92563

cc: Riverside County CEO



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Rick Neugebauer
RTN Development
25109 Jefferson Ave Suite 205
Murrieta, Ca 92562

cc: Riverside County CEO



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Regards,

Dione Moser
Impact Marketing and Design, Inc.
25185 Madison Avenue
Murrieta, CA 92562

cc: Riverside County CEO



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Dot Demmin
20655 Paseo Montana
Murrieta, Ca 92562

cc: Riverside County CEO



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Regards,

John Denver
Mayor of Menifee
27230 El Pico Ln.
Menifee, CA 92586

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

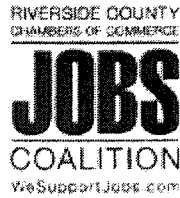
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Jeff DeGrandpre
5594 Green Grass Court
Eastvale, CA 91752

cc: Riverside County CEO



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Regards,

Mark Bleeker
Hofmeyer Company
34389 Olive Grove Road
Wildomar, CA 92595

cc: Riverside County CEO



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Regards,

Angel Zarobinski
29632 Camino Cristal
Menifee, CA 92584

cc: Riverside County CEO



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Rich Loomis
1240 Amberwood Dr.
Hemet, CA 92543

cc: Riverside County CEO



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Jorge Hernandez
14830 Artisan St.
Moreno Valley, CA 92555

cc: Riverside County CEO



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This project should have been approved the first time. With these new changes, I urge you to fast track your vote for jobs and revenue.

Regards,

Rick Kellogg
32765 Sexton Street
Wildomar, CA 92595

cc: Riverside County CEO



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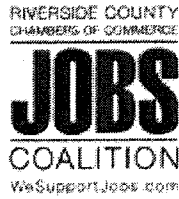
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Ted Wegener
Real Estate
27361 Prominence Road
Sun City, CA 92586

cc: Riverside County CEO



September 19, 2012

Dear Board of Supervisors,

We need jobs.

Please approve the proposed amendments that will allow mining projects like Liberty Quarry to be fast tracked.

The jobs and new revenue that will be created are critically important to local workers.

Now more than ever we need you to vote yes on jobs and yes on amending ordinances to allow fast tracking for mining projects.

Regards,

Pat Oygar
P.O. Box 413
Palm Springs, CA 92263

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

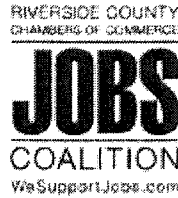
Riverside County is hurting. Double digit unemployment and the slow economic recovery is taking a toll on us all.

Please support amendments to allow mining projects to be fast tracked so that projects like Liberty Quarry can start creating the permanent jobs we need to put people back to work. Making changes to the necessary ordinances in order to fast track the creation of new jobs in Riverside County is a great idea.

Creating jobs and boosting revenue are key to healing our county economic problems. That is why I fully support fast tracking projects like Granite Construction Liberty Quarry project.

Nelly Hernandez
14830 Artisan St
Moreno Valley, CA 92555

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

I am excited to see that Liberty Quarry submitted a new application. At a time when our regions is facing double-digit unemployment and high foreclosure rates, this project will provide a much needed boost to our economy.

By reducing the size of the project, Liberty Quarry is also reducing its environmental impacts. But the project will still create hundreds of new jobs and provides millions in new revenue for Riverside County. That's great news for a cash-strapped county that has been laying off employees and cutting services.

This project should have been approved the first time. With these new changes, I urge you to fast track your vote for jobs and revenue.

Regards,

Tim Pape
1051 Park Way
Lake Elsinore, CA 92530

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

Riverside County is hurting. Double digit unemployment and the slow economic recovery is taking a toll on us all.

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Roy McLennon
4540 Cover Street
Riverside, CA92506

cc: Riverside County CEO



September 18, 2012

Dear Board of Supervisors,

I am writing to support amendments which will allow mining projects to be fast tracked just like other industrial projects that create jobs.

We need the new jobs and revenue provided by these important projects.

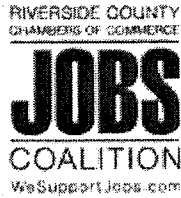
The proposed amendments will clear the way for new jobs that are so desperately needed in our community.

I urge you to approve the proposed amendments to support fast track for mining projects.

Regards,

Larry Upson
LL. Upson Construction
26511 Hempstead Ct.
Sun City, CA 92586

cc: Riverside County CEO



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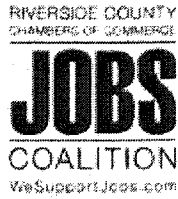
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Now more than ever we need you to vote yes on jobs and yes on amending ordinances to allow fast tracking for mining projects.

Regards,

Kay Hazen
3111 E. Tahquitz Canyon Way
Palm Springs, CA 92262

cc: Riverside County CEO



September 20, 2012

Dear Board of Supervisors,

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Regards,

Dan Wagner
Wagner Trucking
23467 Schooner Drive
Canyon Lake, CA 92587

cc: Riverside County CEO



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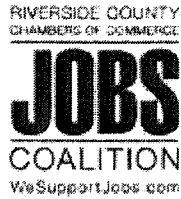
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I urge you to approve the proposed amendments to support fast track for mining projects.

Regards,

Sue Walters
1 Mt. San Jacinto Cir.
Rancho Mirage, CA 92270

cc: Riverside County CEO



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Regards,

Lee Haven
Granite Construction Company
3800 Monroe Street
Indio, CA 92203

cc: Riverside County CEO



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Regards,

Julio Marroquin
4467 Rubidoux Ave.
Riverside, CA 92506

cc: Riverside County CEO



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This project should have been approved the first time. With these new changes, I urge you to fast track your vote for jobs and revenue.

Regards,

Thomas Wallace
24960 Greenhouse Ct.
Wildomar, CA 92595

cc: Riverside County CEO



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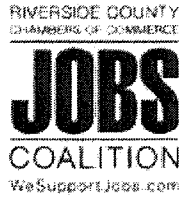
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I urge you to approve the proposed amendments to support fast track for mining projects.

Regards,

Rick Shirey
36491 Yamas Dr. #302
Wildomar, CA 92595

cc: Riverside County CEO



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Regards,

Rebecca Hubbs
PO Box 1031
Rancho Mirage, CA 92270

cc: Riverside County CEO



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Regards,

Janelle Aulick
32790 Magdaleno Court
1308 Mohican Drive
Lake Elsinore, CA 92530

cc: Riverside County CEO



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Regards,

Pat Oygar
P.O. Box 413
Palm Springs, CA 92263

cc: Riverside County CEO



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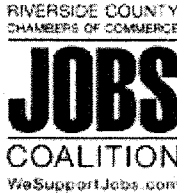
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Regards,

Web Developer Testing
71-537 Hwy 11
Suite N
Rancho Mirage, CA 92270

cc: Riverside County CEO



September 18, 2012

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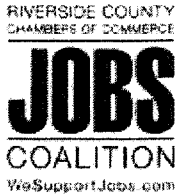
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Maurice Kane
1772 Avupenida Entrada
San Dimas, CA 91773

cc: Riverside County CEO



September 18, 2012

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Gabriel Villarreal
Ironworkers Local 433
252 West Hillcrest Avenue
San Bernardino, CA 92408

cc: Riverside County CEO



September 17, 2012

Dear Board of Supervisors,

I am excited to see that Liberty Quarry submitted a new application. At a time when our regions is facing double-digit unemployment and high foreclosure rates, this project will provide a much needed boost to our economy.

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Regards,

Laura Bruno
SBL Consulting
449 Paseo de la Playa
Redondo Beach, CA 90277

cc: Riverside County CEO



September 21, 2012

Dear Board of Supervisors,

I am writing to support amendments which will allow mining projects to be fast tracked just like other industrial projects that create jobs.

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The proposed amendments will clear the way for new jobs that are so desperately needed in our community.

I urge you to approve the proposed amendments to support fast track for mining projects.

Regards,

Maurice Kane
1772 Avenida Entrada
San Dimas, CA 91773

cc: Riverside County CEO