

MARIPOSA COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 89-625

A RESOLUTION DENYING AN APPEAL OF THE PLANNING COMMISSION'S ACTION ADOPTING A NEGATIVE DECLARATION FOR MINING PERMIT/RECLAMATION PLAN 89-2, COLONY PACIFIC, APPLICANT.

WHEREAS, the County of Mariposa has adopted a Surface Mining Ordinance implementing the provisions of the Surface Mining and Reclamation Act of California, and

WHEREAS, the County of Mariposa has adopted an ordinance implementing the California Environmental Quality Act, and

WHEREAS, in accordance with the County's Surface Mining and CEQA provisions, the Planning Commission is responsible for consideration of mining permits when a negative declaration is utilized, and

WHEREAS, the Planning Commission adopted a negative declaration for this application, and

WHEREAS, the Planning Commission's action on the negative declaration was appealed by Barry Cunningham, representing the Mariposa Downwind Association, and

WHEREAS, in accordance with the CEQA and Surface Mining Ordinance procedure, the Mariposa County Board of Supervisors is designated as the appeal body for environmental determinations of the Planning Commission, and

WHEREAS, the Mariposa County Board of Supervisors considered the appeal in a duly noticed public hearing that provided the appellant and other parties in interest an

1 opportunity to present the basis for the appeal.

2 NOW THEREFORE, the Board of Supervisors hereby denies  
3 the appeal and upholds the adoption of a negative declaration  
4 for this project based upon the following findings:

5 1. The Planning Department prepared an initial study  
6 for the project based upon consultation with all affected  
7 agencies. The initial study identified potentially significant  
8 effects on the environment, however, the project was amended to  
9 avoid the effects or reduce the effects to a point where clearly  
10 no significant effects would occur.

11 2. The proposed negative declaration was prepared based  
12 upon the initial study and circulated to all local agencies and  
13 State agencies through the State Clearinghouse. No concerns  
14 regarding the negative declaration were identified.

15 3. A public review period and public hearing was held  
16 on the proposed negative declaration in accordance with the  
17 requirements of State law and County ordinance.

18 4. The initial study and negative declaration contains  
19 a monitoring program to ensure implementation of the identified  
20 mitigation measures in accordance with section 21082 of the  
21 Public Resources Code.

22 5. The record of the Planning Commission hearing  
23 reflects that no substantial evidence that the project may have  
24 a significant effect on the environment was provided.

25 6. The Board of Supervisors considered testimony at the  
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1 public hearing held on the appeal of the negative declaration  
2 and determined that no substantial evidence that the project  
3 may have a significant effect on the environment was provided.

4 7. The Board of Supervisors considered testimony that  
5 the negative declaration was inadequate for this mining  
6 exploration project because it did not address the possible  
7 future production mining projects. The Board of Supervisors  
8 determined that this exploration project was not part of a  
9 production mining project and that the nature of a future  
10 production mining project is speculative and unknown, that no  
11 meaningful analysis of impacts can be made at this time, and  
12 that if production mining is proposed in the future, further  
13 environmental review on the specific proposal will be required.  
14 Based upon these factors, the Board of Supervisors determined  
15 that the adoption of a negative declaration was appropriate.

16 BE IT FURTHER RESOLVED that the Board of Supervisors  
17 directs an amendment to the initial study, Section VI, No. 7,  
18 Mitigation Measure for Cultural Resources. The section shall be  
19 modified to read as follows:

20 " The archaeological consultant shall verify, to the  
21 satisfaction of the Planning Director, that the exploration  
22 project will not disturb any of the identified  
23 archaeological resources. If any portion of the exploration  
24 activity affects the Rhyolite Quarry Site (CA-MRP-0831/H),  
25 the site shall be sampled by excavating a maximum of six  
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1 small pits (1m x 1m) to determine site depth, age, cultural  
2 affiliation and other information which will permit  
3 evaluation of the scientific significance of this cultural  
4 resource. This partial testing of the site will retrieve  
5 much of the information available from the site and will  
6 mitigate to an acceptable level the potential partial or  
7 total loss of the site. All other cultural resource sites  
8 identified on the property will be mitigated by avoidance,  
9 as no other site will be disturbed by the proposed  
10 exploration program."

11 This modification to the mitigation measure is based  
12 upon input provided at the Board of Supervisors hearing by L.  
13 Kyle Napton from the Institute of Archaeological Studies,  
14 California State University, Stanislaus. Dr. Napton testified  
15 that based upon more detailed field investigation, the  
16 disturbance associated with the exploration project will not  
17 impact any of the identified archaeological resources.

18 PASSED AND ADOPTED this 12th day of December, 1989 by  
19 the following vote:

20 AYES: BAGGETT, PUNTE, ERICKSON, RADANOVICH  
21 NOES: TABER  
22 ABSTAINED: NONE  
23 EXCUSED: NONE

24 *Gertrude R. Taber*

GERTRUDE R. TABER, Chairman  
Mariposa County Board of Supervisors

25 ATTEST:

26 *Margie Williams*  
MARGIE WILLIAMS, Clerk of the Board

27 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

28 *Jeffrey G. Green*  
JEFFREY G. GREEN, County Counsel