
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2012-021 A resolution approving the forfeiture of the financial assurance mechanism for Bear Creek Slate Quarry, CA Mine ID No. 91-22-0011 and revoking Mining Permit No. 2001-1, Mariposa Decco Rock, Inc. (Donald McCulley), operator

WHEREAS, the Planning Commission of Mariposa County, adopted Resolution No. 2001-015 approving Mining Permit/Reclamation Plan No. 2001-1; and

WHEREAS, it is the responsibility of Mariposa County, as the lead agency for the implementation of the Surface Mining and Reclamation Act (SMARA) in the county, to ensure that mines are operating in conformance with the approved mining permit, SMARA regulations, and Title 18; and

WHEREAS the mine operator has failed to comply with SMARA, Title 18, and conditions of approval for Mining Permit No. 2001-1; and

WHEREAS a public hearing was scheduled for the 15th day of June, 2012; and

WHEREAS the forfeiture of Financial Assurance Mechanisms and revocation of a mining permit are not considered a project pursuant to the California Environmental Quality Act; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Planning Commission held a duly noticed public hearing on the matter in accordance with Mariposa County Code Chapter 17.132 and Public Resources Code Section 2773.1(b); and

WHEREAS based on the public input of a party interested in taking over operation of the mine, the Planning Commission continued the public hearing to the 3rd day of August 2012 in order to allow time to meet the requirements necessary to take over the mine; and

WHEREAS on the 3rd day of August, based on the public input of an interested party that work was ongoing towards meeting the requirements to take over operation of the mine, the Planning Commission further continued the public hearing to the 17th day of August 2012 in order to allow time to meet the requirements necessary to take over the mine; and

WHEREAS on the 17th day of August, based on the public input of an interested party that work was still ongoing towards meeting the requirements to take over operation of

the mine, the Planning Commission further continued the public hearing to the 7th day of September 2012 in order to allow time to meet the requirements necessary to take over the mine; and

WHEREAS on the 7th day of September, based on the public input of an interested party that work still was ongoing towards meeting the requirements to take over operation of the mine, the Planning Commission further continued the public hearing to the 19th day of October 2012 in order to allow time to meet the requirements necessary to take over the mine; and

WHEREAS due to uncontrollable and unforeseen circumstances, the Planning Commission meeting for the 19th day of October 2012 did not have a quorum of members in attendance and pursuant to Resolution No. 82-18, this public hearing item was continued by the Chairman of the Planning Commission to the next regularly scheduled Planning Commission meeting on the 2nd day of November 2012; and

WHEREAS on the 2nd day of November, based on the public input of an interested party that work was still ongoing towards meeting the requirements to take over operation of the mine, the Planning Commission further continued the public hearing to the 21st day of December 2012 in order to allow time to meet the requirements necessary to take over the mine and established it as the deadline to have made a substantial amount of progress towards meeting the necessary requirements; and

WHEREAS the Planning Commission did hold a public hearing on the continued date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, the lack of progress made towards another operator taking over operation of the mine and failure of the current mine operator to meet the conditions of the mining permit, SMARA and Title 18.

BE IT THEREFORE RESOLVED THAT, the Mariposa County Planning hereby revokes Mining Permit No. 2001-1 and finds that the operator has abandoned the surface mining operation without commencing reclamation and directs staff to take all steps necessary to secure the funds to complete reclamation in accordance with Reclamation Plan No. 2001-1, the requirements of the Surface Mining and Reclamation Act and the following:

1. Notify the mine operator that the county intends to take appropriate action to forfeit the financial assurance.
2. Allow the operator 60 days to commence reclamation and set a time limit for completion of required reclamation.
3. Use the proceeds from the forfeited financial assurance to conduct and complete reclamation in accordance with the approved reclamation plan.

BE IT THEREFORE FINALLY RESOLVED THAT, this action is based upon the following findings supported by substantial evidence in the public record, pursuant to Section 18.02.200 of Mariposa County Code and Public Resources Code Section 2773.1:

1. The Mining Operation has failed to comply with all of the required Conditions of Approval that were made a part of Mining Permit No. 2001-1. Condition 13 requires the mine operator to provide adequate financial assurances sufficient to cover the cost of reclamation. The last financial assurance mechanism was submitted in 2009 and did not cover the financial assurance cost estimate provided. No updated financial assurance cost estimates have been submitted since then. Condition 15 requires that the applicant schedule an annual inspection of the mine with the Planning Department. The operator has not scheduled an inspection since 2009 and staff has not received a response to their requests to schedule an inspection. Condition No. 23 requires that upon cessation of all mining activities, reclamation of the entire site shall be completed within 6 months. It appears that the mine has not been in operation since at least 2010 and no reclamation of the mine has been commenced by the mine operator.
2. Ample time has been provided to the mine operator to bring the mine into compliance or to begin reclamation.
3. Ample time has been provided to interested parties to meet the requirements necessary to take over operation of the mine.
4. The operator has abandoned the surface mining operation known as Bear Creek Slate Quarry and CA Mine ID No. 91-22-0011 without commencing reclamation. The operator has not responded to mailed or personally delivered (to wife) requests for the required information which includes scheduling an annual inspection, providing updated financial assurance cost estimates, providing updated financial assurance mechanisms or submitting and Interim Management Plan. The operator has also failed to submit the required annual report and fees to the Department of Conservation, Office of Mine Reclamation. The last annual inspection conducted for the mine occurred in 2009. The last financial assurance cost estimate was submitted in 2009. The financial assurance mechanism information submitted in 2009 indicated that it was not sufficient to cover the cost of reclamation and the operator failed to provide an updated financial assurance. Based on a site visit conducted in March of 2011 as part of the Lead Agency Review conducted by the Office of Mine Reclamation, mining activity has ceased.

ON MOTION BY Commissioner Rudzik, seconded by Commissioner Francisco, this resolution is duly passed and adopted this 21st day of December 2012 by the following vote:

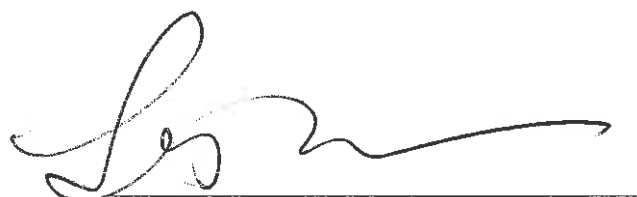
AYES: Rudzik, Francisco, Tucker, and Marsden

NOES: None

ABSENT: None

ABSTAIN: None

EXCUSED: Ross



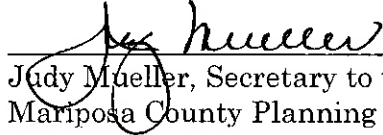
Les Marsden, Chair

**Resolution 2012-021 · Mining Permit/Reclamation Plan No. 2001-1; Mariposa Decco Rock,
Inc.(McCulley), Operator
APN 011-250-009**

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Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Department