

DEPARTMENT: Administration

BY: Rick Benson
PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a resolution modifying the operational time limits of Conditional Use Permit (CUP) No. 206 for Outback Materials for the construction of replacement temporary bridges to make El Portal and Yosemite Valley more fully accessible to essential traffic from Highway 140 and the communities of Midpines and Mariposa. Caltrans is undertaking an emergency contract with Teichert Construction to construct replacement temporary bridges at the Ferguson Rockslide. To provide minimum disruption to vehicular and river traffic, Caltrans has authorized nighttime construction resulting in the necessity for Outback Materials to commence operations outside of the permitted hours granted under CUP #206 of 7 AM to 6 PM in order to supply concrete to Teichert Construction.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board adopted Resolution 06-325 on July 18, 2006, modifying the operational time limits of CUP #206 for Outback Materials for the emergency construction of the temporary bridges to bypass the Ferguson Rockslide.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not adopt the Resolution. Outback Materials may not be able to supply the concrete to Teichert Construction for the construction of the replacement temporary bridges due to the nighttime operations of the project. Teichert Construction may have to identify another concrete supplier at a farther distance which could compromise the project.

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Resolution
Source:		<i>letter from outback</i>
Internal Transfer		
Unanticipated Revenue	4/5's vote	
Transfer Between Funds	4/5's vote	
Contingency	4/5's vote	
() General () Other		

CLERK'S USE ONLY:

Res. No.: *08-180* Ord. No. _____
Vote - Ayes: *4* Noes: _____
Absent: *Bobby*
May Approved
() Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

CAO: *[Signature]*

MARIPOSA COUNTY RESOLUTION NUMBER 08-180
AN EMERGENCY RESOLUTION TEMPORARILY MODIFYING OPERATIONAL TIME LIMITS
FOR CONDITIONAL USE PERMIT NO. 206 FOR OUTBACK MATERIALS

WHEREAS, the Ferguson Rock Slide closed Highway 140 in Mariposa County and isolated people and emergency services on both sides of the slide; and

WHEREAS, Mariposa County has declared and maintained a Local State of Emergency based upon the Ferguson Rock Slide; and

WHEREAS, the State of California has issued a State Disaster Declaration for Mariposa County based upon the Ferguson Rock Slide; and

WHEREAS, due to the Ferguson Rock Slide access for public safety, fire, emergency services, transportation and other necessary public services has been cut off or the time to provide such services has increased to the point where public safety could be compromised; and

WHEREAS, Caltrans is currently undertaking an emergency contract with Teichert Construction, a private construction company, to construct replacement temporary bridges to bypass the Ferguson Rock Slide area to make El Portal and Yosemite Valley more fully accessible to essential traffic from Highway 140 and the communities of Midpines and Mariposa; and

WHEREAS, the construction of the replacement temporary bridges necessitates construction of concrete foundations on both sides of the Merced River; and

WHEREAS, Outback Materials, a local business, is providing ready mix concrete to Teichert Construction for this project; and

WHEREAS, Outback Materials ready mix batch plant is located at APN 012-120-046, a 2.48 acre parcel located on Gold Leaf Drive in the Bardini Industrial Park; and

WHEREAS, Outback Materials is operating under Conditional Use Permit No. 206, which was approved by the Mariposa County Planning Commission on the 13th day of March, 1987, by Resolution No. 87-5; and

WHEREAS, Condition No. 1 of Mariposa County Planning Commission Resolution No. 87-5 establishes the hours of operation for Outback Materials as 7:00 a.m. to 6:00 p.m.; and

WHEREAS, in order to provide minimum disruption to vehicular and river traffic, Caltrans has authorized nighttime construction, and therefore Teichert Construction has requested concrete delivery which would necessitate that Outback Materials commence nighttime and early morning operations; and

WHEREAS, the requested morning delivery time is also a function of the foundation design for the replacement temporary bridges, the necessary size of a day's concrete "placement", the effect daytime temperature has on concrete curing, and Caltrans' specifications for concrete materials. The quality of the concrete delivered to the project site affects the workability of the material; and

WHEREAS, Outback Materials has submitted a written request for permission to work overnight for the duration of the emergency replacement temporary bridges construction project for the Ferguson Rock Slide; and

WHEREAS, Outback Materials proposes to communicate with Mariposa County Planning in advance of each day on which the earlier start up times are planned; and

WHEREAS, Outback Materials proposes to limit the number of trucks which are loaded prior to 7:00 a.m.; and

WHEREAS, Outback Materials has officially acknowledged their Conditional Use Permit operational time limits and agrees to comply with these limits for all other projects and work orders.

NOW THEREFORE BE IT RESOLVED, pursuant to Government Code Section 8634 and as otherwise authorized by law, the Board of Supervisors of Mariposa County, a political subdivision of the State of California, hereby finds that due to the threat to public health and safety as described herein that this action is necessary to protect life and property and hereby temporarily modifies Condition No. 1 of Conditional Use Permit No. 206, Mariposa County Planning Commission Resolution No. 87-5 as follows:

1. The use is approved for a concrete batch plant facility and aggregate sales yard as shown on the approved site plan. Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. as proposed in the application, except that any work which is directly related to providing construction materials for construction of the replacement temporary bridges to bypass the Ferguson Rock Slide shall be exempt from these hours of operation for a period of 90 days from the effective date of this resolution or until the replacement temporary bridge construction is completed and accepted by Caltrans to provide an improved by-pass around the Ferguson Slide area, whichever comes first.

BE IT FURTHER RESOLVED, notice shall be provided to Mariposa County Planning by a representative of Outback Materials a minimum of 18 hours in advance of an intended early start day for work. Notice shall consist of a written notice, which may be hand delivered to Mariposa County Planning at 5100 Bullion Street, Mariposa or which may be delivered by facsimile copy to (209) 742-5024.

BE IT FURTHER RESOLVED, Mariposa County Planning may at any time request copies of plant batch tickets or other evidence that the materials for the early start day for work at Outback Materials were for construction work associated with the Ferguson Rock Slide as described in item 1 above.

BE IT FURTHER RESOLVED, the Board of Supervisors finds that this action is necessary to ensure that the final strength of the foundations for the replacement temporary bridges is not compromised by the quality or strength of the concrete from Outback Materials.

BE IT FURTHER RESOLVED, this action is taken to facilitate the emergency construction activities associated with the replacement temporary bridges, so that access may be resumed to essential traffic as quickly as possible along Highway 140 between El Portal and the communities of Midpines and Mariposa.

BE IT FURTHER RESOLVED, this action is taken based upon a finding that any delay of the construction activities of the replacement temporary bridges to bypass the Ferguson Slide area has the potential to significantly impact protection of life and property.

BE IT FINALLY RESOLVED, this action is taken based upon a finding that this action is exempt from CEQA, the California Environmental Quality Act, pursuant to Section 15269, CEQA Guidelines.

On motion by Supervisor Fritz, seconded by Supervisor Aborn this motion is passed and adopted by the Board of Supervisors of Mariposa County this 6th day of May, 2008, by the following vote:

Ayes: ABORN, TURPIN, FRITZ, PICKARD
Noes: NONE
Excused: NONE
Absent: BIBBY
Abstained: NONE



LYLE TURPIN, Chairman

ATTEST:



MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM:



THOMAS P. GUARINO, County Counsel



AUBERRY - FRIANT - MARIPOSA - O'NEALS - OAKHURST

Ready Mixed Concrete * Concrete Products * Aggregates

April 30, 2008

BY EMAIL

Sarah Williams
Deputy Director Planning
Mariposa County
5100 Bullion Street
Mariposa, CA 95338-2039

RE: OUTBACK MATERIALS - HOURS OF OPERATION

Dear Sarah:

As an impacted business owner, I am thrilled to request special concessions to our permitted operating hours in order to provide ready mixed concrete to Cal-Trans on an emergency basis to construct two additional bridges that will increase traffic flow to the park through Mariposa.

I have been informed by Cal-Trans and Teichert Construction that they intend to construct two additional bridges over the Merced River this spring and summer. I wrote a letter to you dated July 15, 2006 requesting special allowances on our permitted hours of operation for the ready mix plant in order to supply concrete for the first Ferguson Slide temporary bridge construction project.

I am now requesting the same concessions granted by the County during the construction of this bridge in July and August of 2006 for this emergency project.

I understand our operating hour restrictions and the importance of following the regulations and rulings imposed by the Planning Commission in order to keep our permit in place. I take very seriously our responsibility to the community, especially our neighbors. However, I also believe that there are mitigating factors that should be considered in providing allowances for special projects that benefit the citizens of Mariposa County and therefore respectfully request you allow a temporary modification to our operating hours until this project is complete.

P. O. Box 999 O'Neals, CA 93645 * Office: 559-868-8800 * Fax: 559-868-6221

I appreciate your assistance and your consideration of my request and look forward to your response. I can be reached in the office at (559) 868-8803 or (559) 999-4403.

Sincerely,

OUTBACK INC.

A handwritten signature in cursive script that reads "D. Curtis Lovett". The signature is written in dark ink and is positioned above the printed name and title.

D. Curtis Lovett
President