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Calaveras County
Planning Department

This is an appeal to the decision by the Planning Commission of December 10 and 17, 2015, proposing that the BOS allow Ford/CB to proceed with construction of a hot asphalt plant at the site of the Hogan Quarry without first requiring an environmental impact report, overruling the recommendation of the county's chief environmental officer.

I reserve the right to add to this appeal before the matter is heard by the BOS.

I also reserve the right to file a separate action based on the initial stated deadline of 12/30/15, which did NOT allow the required amount of time and left me with the impression that I would be out of town at the deadline.

Subsequently, the deadline was adjusted to 01/04/16, which was correct, as it was the first business day after the 14 full days which the law requires be set aside for people who wish to appeal a decision.

Since I returned to find that I DID have time to file an appeal, I am doing so now, but it will logically be incomplete, the product of only a couple of hours of efforts.

Thus, I, Brock Estes, reserve the right to submit additional and supporting facts, law, and other documentation as soon as feasible after filing this appeal.

My appeal will initially focus on the Yorke Report and I request that an officer of that firm be present at the hearing to answer questions about the inconsistencies in their report.

I will be quoting from portions of the report which I believe Yorke ignored when drawing their conclusions. These will be their words, not mine.

As a basic overview, I would say that Yorke (seemingly deliberately) made this report far more complicated than it could have been.

There were also several factual errors, almost as though no one proofread the final document.

But my main charge is that Yorke (through no fault of their own) was presented with "facts" that in fact, are not "facts" at all (except by some strained and stretched logic in Ms. Kinderman's world).

Thus, the "conclusions" drawn by Yorke which led to almost everything being "zero" or "less than significant" are basically worthless, since they were based on facts not in evidence.

Here is the footnote from the bottom of Page 1 of the Yorke Report:

1 Petroleum asphalt is a petroleum product that acts as the binder for HMA. HMA is a mixture of petroleum asphalt, sand, aggregate, and various additives. The term "asphalt" is used in this document to mean either petroleum asphalt or HMA.

Let's look at that second sentence:

The term "asphalt" is used in this document to mean either petroleum asphalt or HMA.

WHY would the Yorke Report DO that?

I mean, HOW confusing can you make the report?

We have been calling the "petroleum asphalt" the "bitumen mix"...

Why not simply call it that?

Why call BOTH the liquid mixture AND the solid product by the SAME NAME?

I read this report five times and I continually was asking myself, "WHICH are they talking about, the liquid or the solid.?"

Let me give you an example:

On page 6, immediately below Table 1, reads this paragraph:

The total quantity of hydrogen sulfide in a single truck is less than the screening threshold for either air district. So even if there was an unplanned release of a full truckload of petroleum asphalt within 25 meters of a receptor (house, school, etc.), and 100% of the hydrogen sulfide present in the asphalt was emitted during a single hour, the emissions still would not cause a significant adverse health impact.

OK. At least they referred to "petroleum asphalt" in this case, so, this is an inward bound

tanker truck and Yorke poses a hypothetical accident.

But when they say, "within 25 meters of a receptor", do they mean to suggest that there would not be a significant adverse health impact even if the distance from the house was less than ONE meter?

That seems highly unlikely and I will later include a link to a video report of a June 2015 accident in Elk Grove (which is said to be the town where most of the petroleum asphalt will be trucked from), where a spill damaged five cars which were later determined to be total losses. So, a spill could destroy five cars but would have no significant adverse health impacts on humans?

Incidentally, in Table 1, "receptor distance" is listed as "receptor distance" - sloppy, as is the assertion (page 11, final paragraph) that the speed limit on Silver Rapids Road is 35 mph (it is actually 55mph)...

The next paragraph reads as follows:

Please note that vehicular accidents involving the release of hazardous materials in transportation are infrequent. In a study published by the Battelle Institute, the accident frequency for trucks involved in the transportation of hazardous materials is reported to be $4.96414E-07$ accidents/mile, and the frequency of a release of hazardous materials during an accident 30.91%. Based on these values, and project transportation requirements of 2 trucks per day, 310 days per year, and a one-way distance traveled while loaded with petroleum asphalt of 30 miles, the probability of any accident is 0.018466 accidents per year, or 1 accident every 54 years. An accident involving a release of hazardous materials from the operation of the project would have a probability of occurring once every 175 years.

So, by Yorke's own words, we ARE dealing with the transportation of a hazardous material. By that standard alone .035 should require an EIR. The code is clear. If the Environmental officer notes that hazardous materials will be used (or trucked in to be used) at the site, he must inform the Planning Director that an EIR is required.

That was done, but the Planning Commission decided to move the goalposts.

I will later include a report of a major spill of a truckload of the bitumen mix (asphalt petroleum) earlier this century not 20 miles from the quarry. So, I guess we are safe for the next 160 or so years, but these accidents DO happen - the only question is "will we risk discharging the load into the drinking water for a major city?" (Stockton).

Now, if you go to the last word on Page 2 of the Yorke Report and continue through the first paragraph on Page 3, you see this:

At the proposed operating level of two (2) additional truck trips per day within the County over the baseline facility operations, the transportation emissions from the proposed Project are negligible, and well below the significance thresholds established by the air districts in the state.

Well, that might carry some weight IF the facts were true.

But the facts are NOT true.

I have seen Ms. Kinderman make this statement numerous times at the Planning Commission.

Pointedly, she never gives an actual number. And they never ASK her for a number.

She obviously made this as a statement of fact to Yorke (who also decline to refer to a "baseline number" of trucks without naming a number), Yorke parrots this statement back to her on pages 2-3 and again later as a conclusion.

But it simply is not true.

Although I don't think Yorke knew that.

But WE all know that the number of trucks currently leaving the quarry with "rock" will CONTINUE, at the same rate, to leave the quarry loaded with rock in 2016.

The ADDITION is not just the 2 trucks per day coming inbound with the bitumen mix (petroleum asphalt) BUT the more than 12,000 ADDITIONAL trucks leaving the quarry with HMA annually.

And Yorke appears to be totally devoid of the understanding that this is a "boom or bust" type of (asphalt making) operation.

Thus, the Environmental Officer's report references CB documents referring to "maximum weeks" (usually between late spring and early fall - mostly on hot summer weekdays when kids are out playing all day), whereas Yorke makes no mention of maximum weeks at ALL.

I have no idea where Yorke got the information that the quarry operates 310 days per year (page 6, final paragraph). It may be a misprint (perhaps meant to say 210 days), but if Yorke was stating fact there, then the quarry would be operating at least one weekend day every week plus every single Monday through Friday all year long and we just know that is not true.

So, what you get is the Environmental Officers description of 150 HMA outbound trucks per day in maximum good weather weeks and Yorke's insistence that the number is "less than 3 per hour, less than 20 trucks per day" (page 10/midpage of Yorke Report).

That is a HUGE difference and the BOS must decide whether to rely on facts supplied by the chief environmental officer or facts produced by Yorke engineering, based on a misleading (at best) bit of information provided TO Yorke by Ms. Kinderman.

Page 11 of the Yorke Report begins by concluding Part B and reads as follows:

Based on the infrequent exposure to the transport trucks (i.e., less than 3 per hour, on average), the brief duration of the exposure to asphalt fumes, and the expected dilution of the fumes due to the speed of the trucks and the distance from the roadways to receptor locations, the impact of odors during transport of asphalt to and from the facility are expected to be less than significant.

Here we have another reference to "distance from the roadways to receptor locations".

But whereas the previous reference was to a hypothetical spill of the inbound bitumen mix (petroleum asphalt), THIS reference is clearly to outbound HMA truckloads, but the Yorke Report fails to say WHAT distance (is it ALSO "25 meters"?) WOULD be "significant. As a matter of fact, I don't believe the authors of the Yorke Report have any idea at all HOW close to "receptor locations" those trucks would be passing - they are simply giving Ms. Kinderman the answer she wants to hear based on the incorrect information she provided them WITH.

So, if the BOS believes that the kids outside playing on a hot summer day would only be subjected to less than 3 HMA trucks per hour, then sure, you could conclude that "every twenty minutes" is indeed "infrequent exposure".

However, if the BOS concludes that throughout most of the summer, those kids outside playing would be exposed to ONE TRUCK EVERY FOUR MINUTES ALL DAY EVERY WEEKDAY (150 trucks X 20 tons = 3000 tons per day which makes one every

four minutes), then you MUST ignore the "less than significant" conclusion from Yorke..

I believe I shall stop here and take this appeal to San Andreas. At a later time, shall supply supplemental information from the Yorke Report, beginning with "odors".