

May 14, 2015

Fawn McLaughlin, Chairman  
CALAVERAS COUNTY PLANNING COMMISSION  
CALAVERAS COUNTY PLANNING DEPARTMENT  
891 Mountain Ranch Road  
San Andreas, CA 95249

**Re: Application of Appeal of Permitted Use Determination for Asphaltic  
Concrete Batch Plant at 3650 Hogan Dam Road, APN 050-003-031**

Dear Ms. McLaughlin:

On behalf of the Calaveras County Water District (the "District") we write to appeal the April 30, 2015, approval of the Ford Construction Company's new, portable hot asphalt concrete plant to be located at the Hogan Quarry (3650 Hogan Dam Road) which was made without an opportunity for public review or comment, and is attached hereto as **Exhibit A**. We submit this appeal pursuant to section 17.98.020 of the County Code.

The District currently provides water service to approximately 12,800 municipal and residential/commercial customers throughout the County, and provides sewer service to approximately 4,500 customers located throughout the County. The proposed asphalt plant is located across the river from one of the District's sources of water supply, the Calaveras River. If the proposed asphalt plant is sited without appropriate public input, community notification, and environmental review necessary for a project of this scale, the consequences could reasonably include, but are not limited to, contamination of District drinking water sources in the Calaveras River. As a result, the District has serious concerns regarding the environmental impacts of the project, including, but not limited to, the impacts of the project on the District's sources of water supply.

The District understands that the County's approval of the proposed project was issued on the basis that Section 17.42.020.A of the County Code allows this use. The Planning Director concluded that the Code permits only "concrete mixing and batch plant[s], ready-mix," but that the term "concrete" in the Code "includes both asphaltic concrete and Portland cement type concrete." *See* Exhibit A. However, asphalt is not the same product as concrete, or ready-mix concrete. Asphalt has a distinct industrial process and unique environmental impacts resulting from that industrial process. This use is not a permitted use pursuant to the County Code, and the approval of the project is a discretionary action.

At a minimum, an evaluation of the environmental impacts of the project and an opportunity for public notice and comment on the proposed project, pursuant to the California Environmental Quality Act ("CEQA"), California Public Resources Code §§21000-21177, is required before any discretionary County action approving the siting of this facility occurs. We are concerned that additional discretionary approvals for this project may also arise triggering the County's obligations under CEQA.

While the District appreciates and supports economic growth and expansion in Calaveras County, it remains concerned that the environmental impacts of the proposed project at Hogan Quarry have not been fully considered. It welcomes the opportunity to confer with the County and the project proponent to address the concerns identified in this letter, and related concerns, and files this appeal to preserve its rights to raise these issues before the Planning Commission.

Very truly yours,

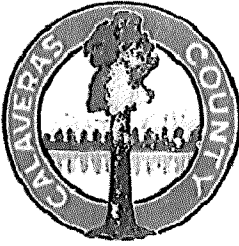
DOWNEY BRAND LLP



Matthew J. Weber

MJW

Enclosure



## County of Calaveras Department of Planning

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**Peter N. Maurer ~ Planning Director**  
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April 30, 2015

Nick Jones, President  
Ford Construction Company, Inc.  
300 W. Pine Street  
Lodi, CA 95240

Re: Asphaltic Concrete Batch Plant at Hogan Quarry

Dear Nick:

The Planning Department has reviewed the records of the Hogan Quarry, historic documents regarding the M1 and M2 zones and permitted uses, and the letter submitted by your counsel. We have concluded that an asphaltic concrete batch plant, or "hot plant", is permitted at the site of the quarry.

The M1, Light Industrial and M2, General Industrial zones permit "concrete mixing and batch plant, ready-mix" (§17.40.020.A.8 and 17.42.020.A respectively.) Previous County codes referred to both asphalt batch plants and concrete plants as permitted uses. More recent amendments to the code do not differentiate between the two, and we have concluded that "concrete" includes both asphaltic concrete and Portland cement type concrete.

We do not agree that the use is vested, as suggested by Ms. Kindermann in her letter of April 29, 2015. There does not appear to be any record of historic use at the site of any type of batch plant, and while batch plants may be common with quarry operations, there are many quarries where such uses are strictly prohibited. However, the issue is moot, since the use would be permitted under the circumstances associated with the Hogan Quarry.

Please contact me if you have any questions.

Sincerely,

Peter N. Maurer  
Planning Director

Cc via e-mail: Jerry Middleton  
Diane G. Kindermann, Abbott & Kindermann, LLP  
Steve Kearney, Supervisor, District 5