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Calaveras County
Planning Department

Project number/name: Appeal of Resolution 2015-019:

Appellant Janice Bassett, a resident within one mile of the proposed asphalt plant on Hogan Dam Road in Valley Springs, challenges the December 17th 2015 Planning Commission Resolution 2015-019 finding that the use of hazardous substances at the asphalt plant proposed to be operated at the Hogan Quarry will not have a significant effect on the environment, and because of that determination a conditional use permit is not required pursuant to Calaveras County Code Section 17.42.035.

The challenges are based on the following: The Planning Commission declares in the heading of its Resolution No. 2015-019 "A resolution finding the use of hazardous substances at the asphalt plant proposed to be operated at the Hogan Quarry will not have a significant effect on the environment, and because of that determination a conditional use permit is not required pursuant to Calaveras County Code Section 17.42.035." This declaration presumes the ability of the Planning Commission to see into the future and deny all possibility of the potential for the types, quantities, and method of use of the hazardous materials to have a significant effect on the environment.

On page three the resolution states that "the Planning Commission does not believe that the intended result of 17.42.035 is to require a CUP when the chance of a significant impact on the environment is as remote as the Commission finds it to be under these facts." The phrases "will not" in the opening paragraph and "not likely to, and "remote chance" on page three are inconsistent. All aspects of potential impacts, including the safety of the air and water for thousands of people are at stake. All precautions and mitigations must be considered.

The Planning Commission does not state how it came to its belief of the intended result of county code 17.42.035, and focuses only on accidents or mechanical mishaps while the testimony of the Environmental Health Director and the staff report consider potentially significant impacts during the course of normal operations. The language of the code, as admitted by the Planning Commission on page two of its own resolution, states that analysis of legislative history is required to assist in its interpretation of the drafter's intent. No such analysis was cited to support their belief.

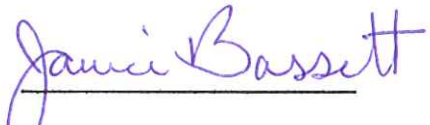
In fact, the only legislative history referred to in the resolution given as evidence actually contradicts the planning commission's belief as it states "The language and legislative history of 17.42.035 evidence a policy decision by the Board of Supervisors to require otherwise permitted uses in industrial zones to obtain conditional use permits in those circumstances where materials or substances involved with the proposed use have the potential to significantly affect the environment. The Board of Supervisors lawfully implemented this policy by assigning its Environmental Health Officer, whose routine duties include assessment and mitigation of risks pertaining to hazardous materials in the county, the task of reviewing a project proponent's proposed use of hazardous materials in industrial zones and determining whether this use involves a potentially significant effect on the environment." In other words, the task of determining when to impose 17.42.035 is not given to the Planning Commission, but to the Environmental Health Officer.

The legislative language in evidence gives direction to the Planning Commission to only consider whether or not the type, quantity and method of use of hazardous material have the potential (the

ability to) have a significant effect on the environment. The Planning Commission's findings are disproved in its own resolution.

Janice Bassett reserves the right to submit additional and supporting facts, law and other documentation as soon as feasible after filing this appeal.

Dated: 1-4-2016


Janice Bassett

2997 Cedar Ct

Valley Springs, Ca 95252

C: Diane Kinderman

c/o Abbott & Kinderman, LLP

2100 21st St.

Sacramento, Ca 95818