

Judge -- Chevreaux's Meadow Vista asphalt plant permit valid

Gus Thomson, Auburn Journal, 5-27-10

Meadow Vista residents opposed to an asphalt plant at Chevreaux Aggregates have been steam-rolled again – this time by a Placer County superior court judge.

Judge Charles Wachob ruled against a bid by the Meadow Vista Protection group to strike down Placer County Planning Director Michael Johnson's determination that the Chevreaux plant has the legal right to operate a portable asphalt plant in Meadow Vista.

Johnson's finding in favor of continued, intermittent operation of an asphalt plant at Chevreaux's Bear River shoreline site had been backed by the county Board of Supervisors in November 2007 on a 5-0 vote.

That moved the focus to the legal arena, with Meadow Vista Protection (MVP) arguing that a 1995 Placer County zoning ordinance stating use permits can lapse if not utilized within a 12-month period trumped the original "intermittent" language placed in a 1972 permit.

MVP's concerns include safety, increased truck traffic and air pollution.

In his ruling, Wachob said that Johnson's interpretation of the veracity of the use permit would stand partly because courts may overturn an agency's interpretation of its own laws only "if a reasonable person could not have reached the same conclusion."

Wachob said that planning directors are called upon from time to time to provide interpretations of code provisions that are seemingly "black and white," but in the light of facts and uses "are cast more in shades of gray."

Wachob said there was no evidence Chevreaux intended to abandon its rights to intermittent asphalt production on the property. But there was evidence into the 2000s that it continued to actively seek to keep its use permit intact, he said.

The case relied on 6,000 pages of historical and administrative records dating back to the 1940s. MVP had appealed the planning director's determination, losing a unanimous vote while contending that the permit had lapsed because an asphalt plant had not operated for lengthy periods over the previous 35 years. Wachob stated the appeal denial was factually and legally supported.

"The Board of Supervisors' denial of the petitioner's appeal of the determination was not in error," Wachob said.

Wachob filed his determination April 30, giving MVP 60 days to lodge an appeal with the state Appeals Court in Sacramento. Laurie Sweeney, president of the Meadow Vista group, declined to comment on the case. She said the organization was in discussion with attorneys on its options.

Mark Protiva, a Meadow Vista resident opposed to the asphalt plant, said that the next logical step is an appeal.

"It didn't have a chance in front of the Placer County supervisors or a Placer County judge," Protiva said. "My assumption is if you go after the county, you'd better get out of the county."

Chevreaux Aggregates is involved in a possible sale to Sacramento's Teichert and Rocklin's Western Care Construction Co. Teichert is managing operations. Dana Davis, Teichert Materials president, said Chevreaux laid off its employees and its business is now idled. The number of employees laid off was not immediately available.

"There's no real time frame to reopen," Davis said, citing a lack of demand for aggregate and asphalt products.

But the judge's ruling is being evaluated as part of due diligence the partnership is undertaking as it moves toward a possible purchase of the business, Davis said.