

# Quarry lawsuit is filed by Riverbank

**Kevin Valine, Modesto Bee, 5-6-11**

SONORA -- Riverbank sued Tuolumne County on Thursday over its approval of an open-pit mine that would ship rock by railroad through downtown Riverbank.

The city wants a judge to overturn the county's April 5 approval of the Cooperstown Quarry and require it to conduct what the city calls a more thorough environmental review of the project.

The city also seeks a halt to work on the mine until there is a decision on its lawsuit. A ruling on that request could come in as soon as two weeks, said attorney Douglas White, who represents Riverbank.

Riverbank filed its lawsuit in Tuolumne County Superior Court.

"This is a 75-year project that is going to have huge, huge impacts on our community," Mayor Virginia Madueño said last month after the City Council voted 5-0 to file a lawsuit. "We (the council) all agreed we need to have the court look to see if Tuolumne County did its due diligence. We believe it did not."

The Cooperstown Quarry is proposed for 135 acres bordering Stanislaus County, about nine miles southeast of Knights Ferry. Miners could remove as much as 56 million tons of crushed rock over 75 years. The rock would be used as railroad ballast, in road building and other industrial uses.

Trains from Oakdale-based Sierra Northern Railway would haul the rock through Oakdale and Riverbank. The trains can have as many as 60 cars, which is about two-thirds of a mile long, and make as many as 20 round trips per week.

But Sierra Northern officials have said they will make far fewer trips. At the mine's peak production, railroad officials have said they would make five round trips per week. Sierra Northern is owned by The Sierra Railroad Co.

In Riverbank, the trains would follow Patterson Road through downtown, crossing at Claus Road near Riverbank High School and Eighth Street before crossing Patterson Road and turning into a switching yard.

The trains would travel through town at 10 mph; at that speed it would take about four minutes for a train to clear a crossing. Riverbank is concerned about the trains backing up traffic and delaying fire engines and ambulances responding to 911 calls.

In its lawsuit, Riverbank also claims train traffic would "create significant health and safety risks due to, among other things, a lack of sufficient rail safety measures to avoid rail conflicts with vehicles; cause significant increases in noise, dust and pollutants; (and) decrease local air quality."

Though Oakdale officials have raised similar concerns, the trains could have less impact there.

A Tuolumne County attorney declined to comment Thursday because she had not seen the lawsuit. But county officials repeatedly have said they followed state environmental law in their review and approval of the project.

## **Review insufficient?**

The county issued what is called a mitigated negative declaration. But Riverbank says that is an insufficient environmental review for a project of this size and scope.

For instance, Riverbank says Tuolumne County's review did not consider the mine's impacts on Riverbank and Stanislaus County. And the San Joaquin Valley Air Pollution Control District has said the project exceeds its limits for nitrogen oxides, a key component of smog.

Riverbank wants Tuolumne County to perform an environmental impact report for the mine, a far more extensive and expensive review than what the county conducted.

The city also is suing Jack and Tricia Gardella, who own the 135 acres, and mine operator Resources Exploration Drilling LLC. In approving the mine, the county required the landowners and mine operators to pay the county's legal costs if it were sued.

Resources Exploration Drilling and its attorney did not return phone calls Thursday afternoon. But Sierra Railroad criticized Riverbank.

"We have offered repeatedly to discuss any issues Riverbank has," Sierra Railroad President Mike Hart wrote in an e-mail. "In fact, we created a working group specifically to address Riverbank's concerns. But Riverbank has refused to even tell us what its concerns are. It makes me wonder if even Riverbank knows what its concerns are."

Riverbank is not the only one opposing the mine in court.

The Central Sierra Environmental Resource Center and Friends of the Mother Lode sued Tuolumne County, the mine operator and the landowners in Stanislaus Superior Court on Wednesday. They also are asking for an environmental impact report.