

## **County proposes to shut Ojai mine after owner refuses to pay up**

**Kathleen Wilson, Ventura County Star, 10-28-11**

Ventura County officials are moving to shut down an Ojai quarry over what they say is the owner's refusal to follow an approved cleanup plan and provide a financial assurance payment that he says would cost close to \$3 million.

In a letter issued last week, county planning officials said they would be asking the Ventura County Planning Commission on Nov. 17 to revoke Larry Mosler's permit to operate the rock mine off Highway 33 northwest of Ojai.

The agency also ordered Mosler to cease operations, but that would not take effect unless the commission upholds the action.

Mosler said this week he will be fighting the county Planning Division's decisions in court with a federal civil-rights suit.

"They're targeting me," he said. "They're trying to put me out of business."

Brian Baca, the planning manager overseeing mines, said Mosler was not being singled out. Planners had no recourse after Mosler's attorney said his client refused to put up the financial assurance — one of the legal requirements for operating a mine in California, he said.

"You don't comply with the law, you are out of business," Baca said.

The government requires that mine operators put up the money in cash, bond or other financial instrument to cover the costs of cleaning up the mine if they should default on the responsibility. Ventura County planning officials have required far lower amounts in the past not only for Mosler but also for other mine operators.

Mosler, for example, had put up an assurance of \$23,000. He expected to pay \$50,000 in the future.

Baca said the new amounts reflect a correct interpretation of the costs, and the old ones were simply wrong.

"We're required to acknowledge our mistakes but not repeat them," he said.

Mosler's attorney, Derek Cole, said he hoped to reach an agreement with county planning staff and eliminate the need for the commission hearing.

"What the county is doing is so inconsistent with every other agency I've worked with," said Cole, who said he's represented clients in half a dozen other counties in California. "I've never seen this level of animosity and overregulation."

County planning officials are ordering Mosler to pay an amount necessary to pay for cleanup, estimated by state officials at 285,000 cubic yards of fill dirt. At \$10 a cubic yard, Mosler says that would cost \$2.85 million. Planning officials expected that would replace territory that's been over-mined and meet the standard set out in the reclamation plan approved in 1995.

Mosler has proposed an alternative that would involve cutting the slope of the mined area and spraying it with a mixture of seeds, fertilizer and a binding agent. Mosler said that would stabilize the slope and prevent erosion without doing environmental damage to the creek below or protected steelhead trout.

Baca, however, said Mosler's alternative reclamation proposals are unacceptable.

"They're not even readable," he said.

County planners appear to be applying the law more stringently to the 13 active mines in the county than in the past. Baca tied that to his hiring in 2010 and that of Ebony McGee, the planner assigned to the Mosler quarry.

Baca said planners had not been correctly applying the standards of a 1975 law known as Surface Mining and Reclamation Act.

"The level of scrutiny of these mines and the implementation of the law was not up to par. Since I arrived along with Ebony, we have been trying to upgrade and improve the implementation, and this is part of it."

Pat Richards, who oversaw Mosler's operation of the mine when he held Baca's position from 2006 to 2009, said holding too tightly to regulations can work against finding solutions.

"As a regulatory agency, you can make life absolutely miserable for somebody if you want to make everything exact," said Richards, who now works for Mosler as a consultant. "It's how do you want to do business."

Mosler Rock Products/Ojai Quarry has existed since 1939, but Mosler bought it in 2005 and expanded the small mining operation.

Starting in 2008 and escalating through 2010, county planners have faulted him for the way he's been operating the mine. In November of last year, the county Planning Commission sympathized with Mosler's struggle to meet layers of local, state and federal rules, but upheld 14 violations issued by county planners. The violations related to hours of operation, equipment approval, truck traffic and permitted mining areas.

The proposal to revoke his permit and order to cease operations, though, is far more serious. He blames his increasing troubles on Supervisor Steve Bennett and the Stop the Trucks! Coalition, which opposes heavy truck traffic through Ojai.

"Stop the Trucks! is leaning on Bennett," he said. "Bennett is where it's all coming from."

Bennett flatly denied that. He said he has never put any pressure on planners to act against Mosler.

"The facts are the facts," he said. "To whatever extent there are issues the Planning Department has, they independently make those recommendations to the board."

Bennett could have a pivotal role in any Ventura County Board of Supervisors decision because he represents the district in which the mine lies. Under board practice, supervisors often defer to the wishes of the local supervisor.

The supervisors switched the territory where the mine lies into Bennett's district during the countywide revision of district lines earlier this year. The property had formerly been located in Supervisor Kathy Long's district.

Bennett said the switch was done to keep communities with common interests in the same district.

"The mine issue by itself was not the determining fact," he said. "That area is very close to the city limits of Ojai. We were trying to link communities of interest."