

Rec'd 27 OCT 98
From Janice. JHA



September 16, 1998

Members of the Ventura County Grand Jury
800 South Victoria Avenue
Ventura, California 93009

Subject: 1997-98 Grand Jury Final Report

This is in response to the 1997-1998 Grand Jury Final Report, "Reclamation of Aggregate Mining Operations" (copy attached). The Grand Jury Report findings, conclusions and recommendations are briefly summarized as follows:

Findings

- Open pit mining active since 1920's.
- No mining permits issued until the 1950's.
- SP Milling (SPM) site excavation to over 100' deep.
- SPM advised that compliance of CUP 1942 could be \$20 million.
- The costs are impacted by UWCD recharged operations.
- CUP Reclamation to conform to Rural Agricultural or Park and Open Space.
- SPM has exhausted all aggregate to be mined at the site, and use batch plant only with imported aggregate.
- SPM offered the following options to fulfill legal obligations:
 - Relocate batch plant and excavate site for fill.
 - Obtain aggregate from outside source to fill pits with residual sand and still remain in business.
 - Post \$10 million bond to reclaim site operations.
- CALMAT's CUP conditions more stringent than SPM.
- CALMAT has operated CUP, i.e., filling pits as excavation proceeded, and reclaimed pits are now 20' deep.
- In 1966, County permitted CALMAT to dig additional 25' and backfill the pits 2' higher than the pre-mining elevation.
- If Ferro Site deeper mining is approved, CALMAT would have surplus aggregate to sell to SPM.
- Oxnard is concerned with CALMAT's proposal of Ferro Site mining.
- County to re-evaluate EIR in light of recent court ruling.

Conclusions

- CALMAT's pits are ideal for UWCD's water storage
- SPM pits are in good location for aquifer replenishment, wetlands and recreation areas after mining operations cease.
- Hydroponics filtration of water through SPM pits stored in CALMAT pits would yield high quality water for replenishment.
- Enforcement of SPM refill criteria appears subjective.
- The terms of CUP 1942 are inadequate considering the current environmental requirements.
- Inspection of the pits are subject to interpretation resulting in questionable enforcement criteria.
- If CALMAT is permitted to dig beyond the authorized limits, UWCD would be allowed to use the pits for clean water storage.

Recommendation

- SPM pits to be filled to level per CUP 1942.
- CALMAT be allowed to mine to 22' below historic high groundwater level. Excess aggregate would then be used for filling the SPM site and provide UWCD a clean water storage area.
- County to facilitate CALMAT deed title of site to UWCD.
- An independent testing lab be allowed access to the excavation sites, for testing, inspections for possible water contamination and assurance of CUP compliance.

Based on our review, we are in general agreement with the contents of the Grand Jury's Report. Although the findings, conclusions and recommendations are consistent, we do have concern on the second recommendation, and hereby provide a more recent development of the first recommendation. We therefore submit the proposed response/comments to the 1997-1998 Grand Jury Report.

City of Oxnard
Responses to the
1997-98 Ventura County Grand Jury Report
"Reclamation of Aggregate Mining Operations"

First Recommendation:

"That the open pits at the SPM site be filled to the level specified in CUP 1942 as soon as possible."

On May 15, 1998, SPM submitted a revised modification to CUP 2425 (copy attached). If implemented, together with the City's comments of August 6 and September 3, 1998, (copies attached), it will substantially accomplished the Grand Jury's first recommendation. In that case, the City concurs with this recommendation.

Second Recommendation:

"That CALMAT be allowed to mine to a level 22 feet below the historic high-groundwater mark. The excess aggregate from this excavation could be used for filling the SPM site and provide UWCD a clean water storage site."

On May 14, 1998, Judge Barbara Lane issued a judgement commanding the County of Ventura and its Board of Supervisors to vacate and set aside the approvals for CALMAT's deep pit mining project in the Oxnard Forebay Basin. Judge Lane also enjoined CALMAT from taking any action in furtherance of the deep pit mining project unless and until there is compliance with the California Environmental Quality Act.

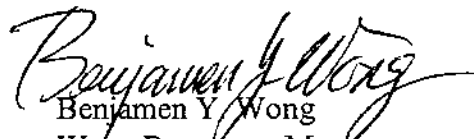
The key feature to the County's approval of the deep pit mining project which was of the utmost concern to the City, was an amendment to the County's General Plan to permit mining below the groundwater table. Currently, the County's General Plan prohibits deep pit mining as a means of protecting the groundwater. Deep pit mining removes the natural protective layer (the vadose zone) above the aquifer, allowing biological and chemical contaminants and pollutants to directly enter the water supply. The CalMat project would not only have permitted CalMat to mine below the groundwater 40 acres at a time (the size of approximately 50 football fields), but it would have opened the door to deep pit mining, and the potential for contamination, throughout the entire Oxnard Forebay. The cost to obtain an alternative water source if such contamination occurs is upwards of \$50 - \$60 million dollars.

The County and CalMat's response to the concerns of the City, the Environmental Coalition, and numerous interested water agencies, over deep pit mining was a last minute change to the project to include the construction of an untested artificial vadose zone through backfilling of the deep pit mine. Judge Lane pointed out, however, backfilling "was not adequately described and disclosed in the final [Environmental Impact Report ("EIR")] or any predecessor ERIS for the project...Consequently, the "backfilling" component was not analyzed in any of the EIRS for its efficacy and adverse environmental impact." Judge Lane further found the "CalMat failed to bring before the public or the Board of Supervisors any project description details, or scientific or soils studies that would indicate that the proposed vadose zone filter, composed of mixed local and imported sand, would protect the Oxnard Plain Forebay Basin's groundwater and aquifers from pollution." As a result, Judge Lane concluded that the Ventura County Board of Supervisors abused its discretion under CEQA, by certifying the [Final] EIR under consideration, and by granting approval of the General Plan amendment, changing the County's long-standing water protection policies, without first preparing and re-circulating a subsequent EIR.

As a result of the Court's ruling and the City's efforts, the County now has to thoroughly analyze all environmental impacts of the proposed deep pit mining project, including those impacts on water quality and quantity, and disclose those impacts to the City, the water agencies and the public before it can take action on CalMat's project again.

If you have any questions, please feel free to contact me at (805) 385-8252..

Very truly yours,


Benjamin Y. Wong
Water Resources Manager

Enclosures

cc: Edmund F. Sotelo, City Manger
Karen Burnham, Assistant City Manager
Mayor and Council Members