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San Rafael: Quarrel over quarry asphalt heads to appeals court

Residents near rock pit fighting county over approval of asphalt recycling plan

By Richard Halstead, Marin Independent Journal

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Operations at the San Rafael Rock Quarry and the county's enforcement of regulations governing the quarry are once again generating controversy.

The debate concerning the quarry, which had raged for years, seemed to end in 2010 when the Marin County Board of Supervisors issued the quarry a new permit.

Now, however, the Point San Pedro Road Coalition, which represents people living near the quarry, is battling with the county over its decision to allow the quarry to import asphalt paving

“grindings” left over during repavement projects to the quarry for recycling.

The Board of Supervisors in 2013 voted unanimously to give the quarry permission to import asphalt and recycle it, over the objections of the coalition, which filed suit over the matter in October 2013.

Marin Superior Court Judge Paul Haakenson ruled against the county in September and ordered the quarry to halt asphalt recycling.

Haakenson said the county's decision to authorize the asphalt recycling was inconsistent with the 2004 decision by Marin Superior Court Judge John Sutro “that San Rafael Rock Quarry has no vested right to import asphalt for recycling.”

The county and the quarry have appealed Haakenson's ruling to the state 1st District Court of Appeal.

“The fundamental issue is the quarry is not to expand its operations,” said Bonnie Marmor, the coalition's co-president. “(Judge Sutro) ruled in a trial in which the county was a co-plaintiff that doing this would be an expansion of quarry operations, and now the county is allowing them to expand their operations, which is a violation.”

‘Sound practice’

Aimi Dutra, daughter of the Bill Dutra, the CEO of the Dutra Group which operates the quarry, and a spokeswoman for the Dutra Group, said, “The RAP (reclaimed asphalt pavement) we receive comes from local Marin County projects. It's unfortunate that we can no longer receive RAP as it was an environmentally

sound practice.”

Dutra said the recycling of the reclaimed asphalt resulted in no additional truck trips, no additional noise and less greenhouse gas emissions. She said if the material can’t be sent to the San Rafael Rock Quarry it must be trucked to Dutra’s Richmond facility.

“Many Caltrans projects and municipalities request a portion of the project utilize RAP,” Dutra said.

When the county reviewed the matter in 2013, Eric Steger, assistant director of public works, told supervisors the asphalt recycling would result in no new or significant impacts, including truck trips. He said trucks that now arrive at the quarry empty to pick up asphalt would arrive filled with asphalt grindings. The quarry is limited to a maximum of 250 daily truck trips.

Derek Cole, the Dutra Group’s attorney, said he will argue in his appeal that the recycling operation does not constitute a significant expansion of operations and that the county of Marin should be allowed to decide what constitutes a significant expansion.

Marmor said that despite Haakenson’s ruling the coalition is skeptical that asphalt recycling at the quarry has ceased. She said quarry management initially indicated it wanted to continue the practice while the matter was being appealed.

“I don’t know where it stands,” Marmor said. “We don’t know if the county is monitoring to determine if they are in compliance or not.”

Oversight faulted

When Judge Sutro issued his decision in 2004 he faulted the county of Marin for its ineffectual oversight of the quarry. Sutro said it was clear the Dutra Group had improperly expanded its operations at the quarry beyond the scope spelled out in the 1982 reclamation plan. But Sutro said it was equally clear that the county’s public works department failed to do its job.

Jeremy Tejrjian, a county planning manager, said, “The quarry has ceased accepting off-site asphalt grindings, and will not be accepting such material during the pendency of the appeal, unless allowed by court order.”

Tejrjian also said implementation of the quarry’s reclamation plan is behind schedule because of the discovery of the presence of a California red-legged frog, which is an endangered species.

“The quarry has undertaken the federal permitting process required by resource agencies, such as United States Fish and Wildlife Service, to allow the large-scale reclamation work to commence,” Tejrjian said.

Dutra said her company is doing all it can to keep the process moving but is accountable to the regulatory agencies that oversee compliance with such a finding. She said, “We intend to start reclamation in 2017.”

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