




TRINITY COUNTY
COMMUNITY DEVELOPMENT SERVICES
BUILDING ♦ PLANNING ♦ ENVIRONMENTAL HEALTH
P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

Kim Hunter, Director

MEMORANDUM

DATE: April 3, 2021
TO: Planning Commissioners and members of the public
FROM: Kim Hunter, Director of Planning 
SUBJECT: Agenda Item 4 – Modification / Revocation of Conditional Use Permit P-97-32

As requested at the March 25, 2021, Planning Commission meeting, Resolution 2021-05 is attached with findings for revocation of Conditional Use Permit P-97-32 for the Smith Pit Tailings Project Phase II.

RESOLUTION NO. 2021-05

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY
FOR REVOCATION OF CONDITIONAL USE PERMIT P-97-32
(Trinity Sand and Gravel, Smith Pit Tailing Project Phase II)**

WHEREAS, pursuant to Trinity County Code Section 17.25A.030(B) a use permit is required in order to conduct mining activities on parcels zoned Open Space; and

WHEREAS, a Conditional Use Permit (Use Permit) and Floodplain Development Permit (Exhibit A), along with a Reclamation Plan, was approved by the Planning Commission on November 13, 1997 to allow mining operations on Phase II of Smith Tailings Project (then identified as APN's 012-120-42-00 and 012-120-49-00); and

WHEREAS, as a result of a Tentative Parcel Map (P-08-06) the subject parcels are now identified as APN's 012-120-62, 012-120-63 and 012-120-64; and

WHEREAS, in 2018, Trinity Sand and Gravel became the landowner and mine operator of the Smith Tailings Project mining operation and subject properties; and

WHEREAS, the Trinity County Planning Commission and Planning Department received complaints from the Junction City Community beginning in 2017 which continue to the present time; and

WHEREAS, the Trinity County Planning Department or Department of Transportation has not issued any notices of violation to the Mine Operator within the last three years; and

WHEREAS, the Trinity County Department of Transportation oversees the implementation of the Surface Mine and Reclamation Act (SMARA) program; and

WHEREAS, revocation of a Use Permit does not revoke a Reclamation Plan or alter an existing financial assurance mechanism; and

WHEREAS, with the revocation of a of Use Permit P-97-32, slide material located on the parcel will remain in place; and

WHEREAS, a new use permit must be obtained to continue mining operations; and

WHEREAS, pursuant to Section 17.32.060(C) County Code of Ordinances, during the August 13, 2020, Planning Commission meeting, the Planning Commission directed staff to have the Smith Pit Tailings mining operation on the agenda for the next reasonable meeting for discussion; and

WHEREAS, during the October 8, 2020 Planning Commission meeting the Planning Commission gave direction to staff to schedule Use Permit P-97-32 for modification or revocation by the Planning Commission per Trinity County Code Section 17.32.070(C); and

WHEREAS, after due notice of a public hearing in accordance with applicable laws, the matter came before the Planning Commission of the County of Trinity on March 25, 2021; and

WHEREAS, at said hearing, due consideration was given to all oral and written comments regarding the request for modification or revocation the Conditional Use Permit, and the Planning Commission directed

staff to prepare findings for revocation of Use Permit P-97-32 to present at the April 8, 2021, Planning Commission meeting.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Trinity makes the following findings:

1. Pursuant to Section 17.32.060(C) County Code of Ordinances, which includes provisions for the Planning Commission to set a hearing for Modification or Revocation of a Use Permit.
2. The Planning Commission makes the following determinations regarding the Phase II Smith Pit Tailings Mining Operation Commission Issued Use Permit P-97-32:
 - A. Given complaints received by Junction City School staff and Junction City residences regarding noise, air quality, hours of operation, disruption of school activities, and general concern with students' and residences' safety and welfare, the Planning Commission has determined that the mining operation has been conducted in a manner that is determinantal to the public health, safety or welfare and constitutes a public nuisance (Exhibit B); and
 - B. The Planning Commission determines that this mining operation has been found in violation of Condition #5 after staff investigated complaints submitted by Junction City residents on January 31, 2020 and October 15, 2020 (Exhibit C):
3. The Planning Commission of the County of Trinity hereby adopts Resolution 2021-05 for Revocation of Use Permit P-97-32.

DULY PASSED AND ADOPTED this 8th day of April, 2021 by the Planning Commission of the County of Trinity by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

DIANA STEWART, CHAIRMAN
Planning Commission
County of Trinity, State of California

ATTEST:

By: _____
KIMBERLY HUNTER
Secretary of the Planning Commission

TRINITY COUNTY
PLANNING DEPARTMENT

EXHIBIT A

303 Trinity Lakes Blvd. 916-623-1351
P.O. Box 2819 916-623-1353 (fax)
Weaverville, CA 96093-2819



PLANNING LAND USE ENTITLEMENT(S)

Project No. P-97-32 APN: 12-120-42 & 49
Project Location: Adjacent to the southwest bank of the Trinity River, approx.
1/2 mile NW of Junction City School, off Red Hill Road
Applicant: Clint Robison-Weaver City Con. Owner: Irvin Jim Smith
Address: P.O. Box 2250 Address: P.O. Box 310
Weaverville, CA 96093 Junction City, CA 96048
Applicant's Signature: [Signature] Date: 5/21/97
(Please Sign and Date Only)

Requested Entitlement(s):

Modification of an existing use permit, amendment of an existing reclamation plan, and a floodplain development use permit to allow for expansion of an existing commercial sand and gravel mining operation.

Reviewed By:

- ☐ Board of Supervisors
☒ Planning Commission
☐ Subdivision Review Committee
☐ Planning Director
☐ Architecture Review Committee

Action Taken:

approval

Date:

11/13/97

Entitlement(s) Granted & Conditions:

Commission Issued Use Permit, Floodplain Development Use Permit and approval of Reclamation Plan for a sand and gravel operation on APN 12-120-42 & 49, subject to conditions of approval (attached).

November 27, 1997

Effective Date:

[Signature]
John Alan Jelichich
Planning Director

Note: Approval does not constitute a Building Permit. Building Department may not issue a permit until the effective date.

WEAVER CITY CONSTRUCTION: P-97-32
SMITH TAILINGS PROJECT, PHASE II
APN: 12-120-42 & 49

Use Permit, Flood Plain Development permit, and reclamation plan to allow mining operations on phase II of Smith Tailings Project (located between the Trinity River and Red Hill Road, Junction City) subject to conditions of approval and based on findings which follow:

CONDITIONS OF APPROVAL:

1. All mining operations and activities; method of mining and equipment used; and area to be mined shall be those described in the approved final reclamation plan. The limits of the mine area (described in Rec. Plan, and identified on the aerial map included in the plan) have been flagged and posted on the site and benchmarks have been established. The mine operation boundaries and benchmarks shall be maintained throughout the life of the mine for easy identification during operations and annual inspections. (Note: In order to provide continued access to the property after mining has been completed, it is not necessary to reclaim the haul road; therefore, the haul road may be developed prior to final approval of the reclamation plan and completion of financial assurances, but it must be developed in accordance with the description in the reclamation plan and these conditions of use permit approval.)
2. The operator shall amend the reclamation plan to provide financial assurances in accordance with Public Resources Code Section 2773.1 to ensure that reclamation is performed and completed as described in the approved reclamation plan. Initial financial assurances shall be secured, as reviewed and approved by the Planning Director in consultation with County Counsel and the California Department of Conservation, prior to any site disturbance associated with mine operations. Adjustments to the financial assurances shall be made if necessitated by modifications to the project, including, but not limited to, changes in site conditions or the cost of reclamation (ref: PRC, Sec 2773.1 (a)(3)). In order to provide for clear review during annual inspections and to provide for the orderly reclamation of each phase, separate financial assurances shall be provided for each phase.
3. The operator shall file an initial report and subsequent annual reports with the Department of Conservation and Trinity County Planning Department in accordance with Public Resources Code Section 2207. Operator shall meet state and county requirements for annual inspections and reporting.

4. The reclamation plan shall be amended if site conditions, mining operations, or other activities necessitate a reevaluation of mine operations and reclamation in relation to standards contained in Sections 3700 et.seq. (Article 9, Reclamation Standards) of the California Code of Regulations, including any amendments to the standards.
5. Hours of operations for the mining activities shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday, with no operations to occur during the weekend (Saturday and Sunday) or on legal holidays. Mechanical screening activity, if it occurs, shall cease by 4:00 p.m. each business day. To reduce potential conflict between the proposed commercial truck activity associated with this mine operation and school related pedestrian and vehicle traffic, material hauling on Red Hill Road shall not occur during the morning and afternoon periods when children are coming to or leaving school (one-half hour prior to and fifteen minutes after the start of school, and for a 45 minute period after school ends).
6. This is primarily a "scoop and haul" operation. The only on-site processing permitted is the use of one (1) portable, temporary screening unit. Grates on the screening unit shall be padded to dampen noise generated when loading rock into the equipment. The power source used for the screening unit and/or other equipment shall be equipped with noise suppressor(s) when possible. The screening unit shall be located within the limits of the area to be mined as shown in the reclamation plan, and shall, to the extent practical, be situated to take advantage of natural sound barriers (e.g.: behind tailing piles). When transporting material along Red Hill Road, "jake" brakes shall be used only when absolutely necessary for safety. The permittee is advised that the operation of screening equipment will require a permit from the North Coast Unified Air Quality Management District.
7. The haul road and mine area shall be watered as needed during dry periods to control dust and curtail fugitive particulate matter from leaving the property.
8. The permittee (operator) shall obtain an encroachment permit from the County Department of Transportation for access onto Red Hill Road. The encroachment improvements shall be completed and approved by the Director of the Department of Transportation, or his designee, prior to commencement of mining operations. The approximate location of the encroachment is as shown on the map included in the reclamation plan. Only one access onto Red Hill Road is permitted.
9. The permittee (operator) shall provide sanitary facilities on-site for employees as required by the County Health Department.

10. The permittee (operator) shall not operate within one hundred (100) feet of the Trinity River riparian corridor during the period of September through April each year. During the remainder of the year (May through August), the operator shall observe a setback of thirty (30) feet from the riparian area. The limits of the riparian setback area (non-disturbance zone) shall be flagged or posted on the site, prior to commencement of mining activity, for easy identification during operations and annual inspections. Following completion of reclamation outside of the setback area, the remaining tailings within the setback area may be carefully removed and processed, without disturbing riparian vegetation, to allow for final leveling and reclamation activities. Planning staff and the California Department of Fish and Game shall be notified when work will commence within the setback area.
11. The permittee (operator) shall design the mine and conduct mine operations in a manner which will prevent fish entrapment. The reclamation plan includes a road location which will meet this requirement, provided that the road is elevated above the mine excavation. This road location shall not adversely affect the flow of flood waters during a 100 year storm event as shown in aerial photos from the 1974 flood of the Trinity River, which is the best available information.
12. There shall be no storage, placement or disposal of fuel, oil or any other material on the property which may pose a hazard to fish, wildlife or humans. Maintenance of equipment, other than emergency repairs, shall not occur on the property. The County Health Department and the California Department of Fish and Game shall be notified immediately of any spill of material which may be hazardous to fish, wildlife or humans. The permittee (operator) shall be responsible for acting immediately to contain any contamination of the site and shall clean the site as required by the appropriate agency. Financial assurances pertain only to reclamation activities, neither Trinity County nor the State of California will assume any responsibility for site clean-up. If the permittee does not meet his obligations to contain or clean-up a contaminated area, then the landowner shall be responsible for the clean-up and associated costs.
13. While the area to be mined is not adversely affected by 100 year flood events as shown on 1974 aerial photos and site review following the January 1997 storm, the haul road will cross a flood channel which was active in the January 1997 storm. The haul road passing through the channel shall be designed and constructed in a manner which does not impede the flow of flood waters in a 100 year storm event. The grade of the haul road across the flood channel shall not be higher than the existing grade. The existing grade shall be established by a California licensed land surveyor, and a signed copy of his report (with wet stamp and signature) shall be provided to the County Flood Plain Administrator (Planning

Director) prior to commencement of road construction activities. Verification of compliance with permitting requirements of the U.S. Corps of Engineers shall also be provided to the Planning Director prior to earth disturbing activities to construct the haul road.

14. Prior to the commencement of mining activity, both the permittee (operator) and landowner shall enter into an agreement with the County, which is to be approved by County Counsel, stipulating the following:
 - a. County, State, and Federal agencies will not be responsible for any damages to mining facilities or property as a result of flooding, or site contamination.
 - b. It is the responsibility of the permittee and landowner to keep informed of the status of river flows, especially during major storm events, and to ensure that all mining facilities are removed from the path of rising flood waters.
 - c. It is the responsibility of the mine operator and landowner to contact State and Federal agencies to obtain information for any scheduled or emergency flood flow releases from Trinity and Lewiston dams.
 - d. Any other statements which County Counsel determines should be included to reduce agency liability in the event of flooding or site contamination.
15. Permittee shall comply with requirements of other permitting authorities, such as requirements of the North Coast Unified Air Quality Management District for operation of the screening unit, California Department of Fish and Game for riparian setbacks and prevention of fish entrapment, the U.S. Army Corps of Engineers for any necessary permits, County Health Department, County Department of Transportation, and compliance with Department of Conservation requirements for mine operations, reclamation and financial assurances.
16. Monitoring:
 - a. The permittee (operator) shall make arrangements for a site inspection prior to the commencement of mine operations. The inspection shall assess compliance with use permit and reclamation requirements.
 - b. The site, operations and reclamation activities shall be subject to review by planning staff during annual inspections, or more frequently if necessary, to ensure that use permit and reclamation plan requirements are being met.

- c. The permittee (operator) shall reimburse county for costs of monitoring and annual inspections as set forth in the County fee schedule.

EXHIBIT B



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PHONE (530) 623-1351 ♦ FAX (530) 623-1353

Kim Hunter, Director

USE PERMIT COMPLIANCE REPORT

DATE: February 3, 2020

TO: Kim Hunter, Director

FROM: Bella Hedtke, Associate Planner

SUBJECT: Smith Pit Mining Operation Truck Traffic Observation Report Per Condition #5 of P-97-32

After receiving several complaints from nearby sensitive receptors (residences and the Junction City School District), staff was instructed to observe truck traffic on Red Hill Road in Junction City to verify the Smith Pit Mining Operation was compliant with Condition #5 of P-97-32's Conditions of Approval list.

Condition #5 of P-97-32 states:

"Hours of operations for the mining activities shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday, with no operations to occur during the weekend (Saturday and Sunday) or on legal holidays. Mechanical screening activity, if it occurs, shall cease by 4:00 p.m. each business day. To reduce potential conflict between the proposed commercial truck activity associated with this mine operation and school related pedestrian and vehicle traffic, material hauling on Red Hill Road shall not occur during the morning and afternoon periods when children are coming to or leaving school (one-half hour prior to and fifteen minutes after the start of school, and for a 45 minute period after school ends)."

Staff emailed the Principal/Superintendent of Junction City Elementary School, Christine Camara, on Thursday, January 30, 2020 to confirm the time periods when children are coming to and leaving school. Mrs. Camara informed staff that school formally starts at 8:30am and runs until 2:00pm on Fridays, and until 3:00pm Monday-Thursday. Given the specific timeframes notated in Condition #5, no mining activities shall occur prior to 7:00am and material hauling on Red Hill Road shall not occur during the following time periods:

- Between 8:00am and 8:45am
- Between 2:00pm and 2:45pm

Staff observed truck traffic from the Junction City Elementary School parking lot on Friday, January 31, 2020 during the following times and the following conditional use permit violations were observed:

- Between 6:15am to 8:45am
 - Two trucks were seen heading to the Smith Pit Mining Operation site prior to 7:00am
 - One truck was seen heading to the Smith Pit Mining Operation at 8:40am
- Between 2:00pm to 2:45pm
 - Two trucks were seen heading to the Smith Pit Mining Operation
 - One full truck was seen leaving the Smith Pit Mining Operation with a load that littered dust past the school

Staff did not review this mining operation for compliance with all conditions found in P-97-32, but the operator is in violation of Condition #5 for operating before 6am and material hauling on Red Hill Road during the morning and afternoon periods when children are coming to and leaving school.

EXHIBIT C



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Kim Hunter, Director

USE PERMIT COMPLIANCE REPORT

DATE: October 16, 2020

TO: Kim Hunter, Director

FROM: Bella Hedtke, Associate Planner

SUBJECT: Smith Pit Mining Operation Truck Traffic Observation Report Per Condition #5 of P-97-32

After receiving complaints on Friday, October 9th and Wednesday October 14th regarding trucks operating during the restricted time periods notated in Condition #5 of Conditional Use Permit (P-97-32), Trinity County Planning Department staff was instructed to observe truck traffic on Red Hill Road in Junction City to verify the Smith Pit Mining Operation was compliant with Condition #5 of P-97-32's Conditions of Approval list.

Condition #5 of P-97-32 states:

“Hours of operations for the mining activities shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday, with no operations to occur during the weekend (Saturday and Sunday) or on legal holidays. Mechanical screening activity, if it occurs, shall cease by 4:00 p.m. each business day. To reduce potential conflict between the proposed commercial truck activity associated with this mine operation and school related pedestrian and vehicle traffic, material hauling on Red Hill Road shall not occur during the morning and afternoon periods when children are coming to or leaving school (one-half hour prior to and fifteen minutes after the start of school, and for a 45 minute period after school ends).”

Staff confirmed with Junction City Elementary School staff that the school schedule is currently:

- School instruction starts at 8:30am Monday – Thursday
- School dismissal is at 3:00pm Monday – Thursday and 2:00pm Friday

Given the specific timeframes notated in Condition #5, material hauling on Red Hill Road shall not occur during the following time periods:

- 8:00am – 8:45am Monday – Friday
- 3:00pm – 3:45pm Monday – Thursday
- 2:00pm – 2:45pm Friday

Staff observed truck traffic from the Junction City Elementary School parking lot on Thursday, October 16, 2020 from 6:45am to 8:45am and from 3:00pm to 3:45pm.

3:00pm to 3:45pm: Truck traffic was observed during the restricted time period at 3:07pm and 3:24pm. Staff followed the truck to the Smith Pit Mining Operation site to ensure that the truck was associated with the mining operation and a video was taken during 3:07pm and 3:24pm. This constitutes as a violation of Condition #5 as referenced in Conditional Use Permit (P-93-32, Smith Pit Mine Tailings).

Attachments:

1. Screenshot of videos with time stamp and location

Screenshot of Truck Observation 10.15.2020

