

MINUTES

County of Inyo Board of Supervisors

SPECIAL MEETING

May 6, 2009

The Board of Supervisors of the County of Inyo, State of California, met in special session at the hour of 9:00 a.m., on Wednesday, May 6, 2009, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Beverly Brown presiding, Linda Arcularius, Susan Cash, Marty Fortney and Richard Cervantes. Supervisor Richard Cervantes provided the Invocation, and Supervisor Arcularius led the Pledge of Allegiance.

- Public comment The Chairperson announced the public comment period and there was no public comment forthcoming.
- Planning/Little
Lake Ranch
Appeal of the CUP
#2007-03/Coso
Operating LLC The Chairperson reviewed the process, which would be followed for today's de novo hearing as outlined in the Hearing Agenda, which set the order in which the Board would take information in the matter. The Chairperson opened the public hearing at 9:00 a.m., regarding the appeal, filed by Little Lake Ranch, Inc., of the Planning Commission's adoption and certification of the Final Environmental Impact Report (FEIR) for, and approving Conditional Use Permit #2007-03/Coso Operating LLC. Mr. Doug Wilson, former Interim Planning Director, briefly described the Coso Project. Mr. Wilson requested the Clerk of the Board enter any correspondence received by the Board of Supervisors in this matter. The Clerk entered into the record the following: Exhibit A – April 30, 2009 letter, with attachments, from Gary Arnold, Counsel for Little Lake; Exhibit B – April 30, 2009 letter with attachments – re: U.S. Navy, from Gary Arnold, April 10, 2009 letter from Mr. Arnold, March 24, 2009 letter from Edward McIntyre, April 14, 2009 letter from Janet Westbrook Professor of Biology at Cerro Coso College in Ridgecrest, May 3, 2009 letter from Steven McLaughlin, President, Bristlecone Chapter of the California Native Plant Society, and April 27, 2009 letter from Steven McLaughlin; Exhibit C – May 4, 2009 letter from Gregory Yarris, Director of Conservation Policy for California Waterfowl; Exhibit D – May 6, 2009 letter from Jeff and Vicki Davis; Exhibit E – Copies of correspondence from the Bishop Tribal Counsel to various entities regarding the project; and Exhibit F – May 5, 2009 letter from Sara J. "Sally" Manning, Ph.D. Mr. Wilson then introduced Ms. Tanda Gretz, Inyo County Senior Planner, who presented the staff report and recommendations. At the conclusion of Ms. Gretz remarks, she asked that the Staff Report and all attachments including the 2 volumes of environmental documents be entered into the record and they were marked Exhibit G.
- County Consultant
MHA Presentation The next speakers were representatives of MHA the Inyo County Planning Department Consultants that prepared the Final Environmental Impact Report (FEIR), which included the initial Draft EIR (DEIR) prepared for this project. Ms. Laurie McClenahan Heitter, Ms. Tania Treis, Dr. Galen Kenoyer, Mr. John Heal, and Ms. Jill Haizlip, provided an explanation of the process used to develop the EIR and the analysis and science used for the conclusions. Topics discussed included, detailed monitoring for Little Lakes protection, the appeal of the adequacy of the DEIR, hydrological analysis, groundwater monitoring, pumping and runoff history of the area, recharge rates, seasonal water flow fluctuation levels, baseline and trigger levels and drawdown levels.
- Recess/
Reconvene The Chairperson recessed the special meeting at 10:28 a.m., to reconvene in the public hearing at 10:45 a.m., with all Board Members present.
- MHA Presentation
Continued The discussion continued with the MHA representatives and included adaptive management practices, biological aspects of the project, cultural resource analysis, background information on the hot springs, and analysis of alternative using air cooling towers. During the discussion on the analysis of the alternative MHA requested that a letter from Viezades & Associates, Inc., dated April 29, 2009, addressing the evaluation of conversion from wet cooling to dry cooling system be entered into the record and it was marked Exhibit H. In conclusion MHA said that the FEIR was adequate under CEQA, the conclusions were drawn using sound science and the project will be mitigated to a less than significant impact.

Recess/ Reconvene	The Chairperson recessed the special meeting at 12:10 p.m., to reconvene the public hearing at 1:15 p.m., with all Board Members present.
Inyo County Water Department Presentation	Dr. Bob Harrington, Director of Inyo County Water Department, discussed the County's Groundwater Ordinance, a summary of the hydrology of the Coso/Hay Ranch project area, potential impacts related to groundwater pumping for the project and the monitoring, mitigation and pumping management under the County's Groundwater Ordinance. A copy of the information presented by Dr. Harrington was provided and marked Exhibit I.
Recess/ Reconvene	The Chairperson recessed the special meeting at 2:10 p.m., to reconvene the public hearing at 2:20 p.m., with all Board Members present.
Project Applicant Coso Presentation	Representatives of the project Applicant addressed the Board. Mr. Joe Greco, Senior Vice President of Terra-Gen Power, made a presentation to the Board regarding the Coso Geothermal Facility Hay Ranch Water Project and entered a copy of the presentation into the record, which was marked Exhibit J. The Coso presentation included, how thermo resources work, the infeasibility of the air cooling process for this operation, the benefit increased production of geothermal power offers, the very conservative monitoring and pumping management plan, the belief that the hydrologic model is very conservative and water will be available from the basin for a longer period of time before the triggers are pulled, that the conservative hydrologic model protects Rose Valley and Little Lake water resources, additional protection for private wells in Rose Valley including the Davis Ranch, early warning system built into the pumping management plan, a review of some of the project supporters and a request to have a letter from Cerro Coso Community College dated May 5, 2009 entered into the record, which was marked Exhibit K, the thoroughness of the plan to protect the Valley's water resources, and the benefit the Coso operations brings to the County and its citizens. Mr. Dennis Williams, President of Geoscience Support Services, Inc., discussed the hydrology of the area, the conservative aspects of the monitoring and pumping plan and the recharge estimates. Mr. Henry Vezades of Vezades and Associates, made a presentation on the evaluation his company did of the conversion from wet to dry cooling for the Coso Geothermal Project, confirming that the technology is infeasible for a project the size of Coso's operations in Inyo County. A copy of Mr. Vezades's presentation was entered into the record as Exhibit L.
Public in Support of the Project	The following individuals addressed the Board to support the project: Ms. Melinda Salmonds of Olancho, Mr. David Tanksley of Bishop, Mr. Kenny Lloyd of Bishop, Mr. Jess McMurtrie of Bishop, Mr. Ken Lloyd of Bishop, and Ms. Colleen Brock of Ridgecrest.
Recess/ Reconvene	The Chairperson recessed the special meeting at 3:40 p.m., to reconvene the public hearing at 4:00 p.m., with all Board Members present.
Appellant Little Lake Presentation	Mr. Gary Arnold, attorney for the Appellant, Little Lake Ranch, addressed the Board regarding Little Lake Ranch's concerns with the project and its negative impact to Little Lake and the surrounding land. He noted the numerous letters which have been provided and entered into the record from him regarding the inadequacy of the environmental documents, including the lack of the project description to identify Coso's future plans for the site, the impact to the lake level which is significant, the lack of an adequate evaluation of the alternative of using air cooling technology, the damage to the environment which will be caused by a dramatic reduction or depletion of the aquifer, the significance of a 10% reduction in water to the Little Lake Ranch, their experts disagreement with the hydrologic studies, the fact that the current data shows that pumping at the levels requested would result in the triggers being pulled in a little over one-year, the importance of not issuing a long-term permit before results of initial studies and monitoring are known, and that while Little Lake Ranch is owned by only 25 people, it is a vital wetland which is in jeopardy if the project moves forward. Mr. Bruce Ivey of Little Lake Ranch, addressed the Board to support the appeal and to provide some historic insight into the operations of the Ranch and the wetlands developed on the property. He noted his concern with a reduction of even .3 of a foot in the lake level, and the impact this project will have on future water exportation or recovery operations in the area.
Public in Support of Appeal	The following individual addressed the Board to support the appeal of the project by Little Lake Ranch: Mr. Steven McLaughlin, California Native Plant Society.
Recess/ Reconvene	The Chairperson recessed the special meeting at 5:30 p.m., to reconvene the public hearing at 6:15 p.m., with all Board Members present.

Public in Support of Appeal	The following individuals addressed the Board to support the appeal of the project by Little Lake Ranch: Dr. Sally Manning of Bishop, Mr. Harry Williams of the Bishop Paiute Tribe, and Mr. Mark Bagley of the Sierra Club and the Owens Valley Committee, who submitted a copy of his comments, which was marked Exhibit M.
Other Public Comment	The Clerk requested that a letter from Ms. Sophia Ann Merk of the National Public Lands News, dated May 5, 2009, a copy of Lone Pine Paiute-Shoshone Reservation Resolution 03-03-02-01, and a March 12, 2009 Letter From the Department of the Navy to Mr. Richard Button, Chairperson of Lone Pine Paiute-Shoshone Reservations be entered into the record and they were marked Exhibit N. Other individuals who spoke regarding the project were Mr. Jim Scott of Bishop who provided information on the history of the alfalfa operations at the Hay Ranch and to support the project, and Ms. Charity Schiller, Attorney for Coso, who summarized Coso's position regarding the Hay Ranch Project and submitted a letter from her dated May 5, 2009, which was marked Exhibit O.
Recess/ Reconvene	The Chairperson recessed the special meeting at 7:15 p.m., to reconvene the public hearing at 7:30 p.m., with all Board Members present.
Rebuttal	The Chairperson announced the chronology of the rebuttal and the follow individuals offered rebuttal comments and responded to questions from the Board regarding the project and information provided earlier: MHA representatives, Dr. Bob Harrington, Ms. Charity Schiller, Mr. Gary Arnold, Mr. Dick Aruda of Coso, Mr. Joe Greco, and Mr. Chris Ellis of Coso.
Recess/ Reconvene	The Chairperson recessed the special meeting at 9:40 a.m., to reconvene the public hearing at 9:40 p.m., with all Board Members present.
Rebuttal Continued	Additional rebuttal comments were made by Mr. Jess McMurtrie, Mr. Dave Tanksley, and Mr. Bruce Ivy. There being no further comments, the Chairperson closed the public hearing at 10:30 p.m.
Board of Supervisors Deliberations	The Board began their deliberations. Each Board Members provided opening remarks regarding the project, the appeal and the information they have received during today's de novo hearing. The Board continued to discuss various aspects of the project County Counsel reviewed the decision before the Board, which he said was to make a determination if the EIR meets the requirements of CEQA and if the criteria for a Conditional Use Permit have been met. The Board continued their deliberations by discussing the specific findings itemized in the resolution being considered for approval of the project. Supervisor Fortney continued to identify areas of concern he had with the project and its effect on groundwater in the area. Supervisor Cash expressed concern that the County does not have the ability to recoup its costs in the event legal action is required to enforce the CUP and the Board talked about how the resolution might be amended to accomplish this. The Board requested staff rework the wording of the resolution to add appropriate language to protect the County's ability to recoup costs if legal action is required to enforce the CUP.
Recess/ Reconvene	The Chairperson recessed the special meeting at 11:35 p.m., to reconvene in open session at 11:55 p.m. with all Board Members present.
Resolution No. 2009-18/ Approving CUP #2007-03/Coso	County Counsel provided the Board with revised copy of the proposed resolution approving the Conditional Use Permit #2007-03/Coso. Mr. Bruce read into the record the added language on page six the last paragraph 7.) <i>Actions to Enforce Conditional Use Permit: If the County brings an action against the Applicant and is the prevailing party, the County will be entitled to recover from the Applicant the cost of bringing such action, and enforcing the judgment or order of the court, including its reasonable attorney fees</i> and on Page 5, paragraph E. <i>...as approved by this Resolution.</i> Mr. Bruce clarified further that if the County does not prevail in court, this section provides that Coso would also be entitled to recover reasonable fees. Moved by Supervisor Cervantes and seconded by Supervisor Arcularius to adopt a resolution titled "A Resolution of the Board of Supervisors of the County of Inyo, State of California, Certifying and Adopting the Final Environmental Impact Report for and Approving Conditional Use Permit #2007-03/Coso Operating Company LLC: motion carried on a four-to-one vote with Supervisors Arcularius, Cash, Brown, and Cervantes voting yes, and with Supervisor Fortney voting no.

Adjournment The Chairperson adjourned the special meeting at 11:59 p.m.

Chairperson, Inyo County Board of Supervisors

Attest: *KEVIN D. CARUNCHIO*
Clerk of the Board

by: _____
Patricia Gunsolley, Assistant