

BUTTE COUNTY PLANNING COMMISSION MINUTES
April 10, 2008

I. PLEDGE OF ALLEGIANCE

II. PRESENT: Commissioners Marin, Leland, Lambert, Nelson and Chair Wilson

ABSENT: None

ALSO PRESENT:
County Counsel Felix Wannemacher, Deputy County Counsel
Development Services Tim Snellings, Director
Pete Calarco, Assistant Director
Charles Thistlethwaite, Division Manager
Stacey Jolliffe, Principal Planner
Mark Michelena, Senior Planner
Chris Thomas, Associate Planner
Brett Walker, Associate Planner
Tina Bonham, Commission Clerk
Environmental Health Doug Fogel, Program Manager
Public Works Eric Schroth, Civil Engineer, Associate

III. ACCEPTANCE OF AGENDA - Commission members and staff may request additions, deletions, or changes in the Agenda order.

Ms. Stacey Jolliffe requested that the minutes be moved up on the agenda in order to provide adopted minutes to the Board of Supervisors and that General Business be moved to after Public Hearing Item C due to the possible length of Public Hearing Item D.

It was moved by Commissioner Nelson, and seconded by Commissioner Marin and carried unanimously to accept the agenda with requested changes by staff.

IV. BUSINESS FROM THE FLOOR ON ITEMS NOT ALREADY ON THE AGENDA
(Presentations will be limited to five minutes. The Planning Commission is prohibited by State Law from taking action on any item presented if it is not listed on the Agenda)

None

V. MINUTES: February 28, 2008

It was moved by Commissioner Lambert, seconded by Commissioner Leland and carried unanimously to approve the February 28, 2008 minutes with the following changes, page 5 line 18 change to remove the word "near", page 7 line 14, 15 change the word "heard" to "herd", page 8 replace lines 45 and 46 with 28 and 29, page 15 line 26 add "location of access for entering and exiting involving industrial traffic,

VI. PUBLIC HEARINGS The Chair will call for staff comments. The hearing will be opened to the public for proponents, opponents, comments, and rebuttals. The hearing will be closed to the public and

discussion confined to the Commission. The Commission will then make a motion and vote on the item.

It is requested that public initiated presentations be limited to a maximum of 5 minutes so that all interested parties will have an opportunity to address the Commission. Following your presentation, please print your name and address on the speakers sheet so that the record will be accurate.

The recommendation of County staff is indicated below. It is only a recommendation and has not yet been considered by the Planning Commission. Copies of the Staff Report are available at the Planning Division Office.

- A.****WAV07-0001** – staff recommended approval
Name: Steve & Carole Lotti **Project:** Waiver of Parcel Map
Planner: Brett Walker **APN:** 047-230-155, 158 **Zoning:** FR-40
Location: The parcels are located on Nicalog Road, located on the south/east side of Cohasset Road, 3.5 miles northeast of the Chico Airport.
Proposal: A Waiver of Parcel Map to divide a 188-acre site into three 40-acre parcels and one 68-acre parcel.

Mr. Brett Walker gave a summary with a power point presentation.

Commissioner Lambert asked if, by deed, will the mitigations transfer to a new owner and if the 24 month requirement could be extended like a regular tentative parcel map.

Mr. Eric Schroth is not sure of the ability to extend the time frame on a waiver.

Ms. Stacey Jolliffe said the approval of a waiver is largely the same as far as time frames. The difference is that with a waiver it is a note on the deed as opposed to a map.

Chair Wilson opened the public hearing.

Mr. Steve Lotti showed on the map where the 19 acres are. They are part of a 160 acre parcel with a different land designation. He said that in regards to Mitigation 4 page 11 he will be using existing roads and place the house in an area that will not disturb any of the trees.

Chair Wilson closed the public hearing and confined comments to Commission and staff.

Commissioner Lambert said she believes that the area is becoming rural residential as opposed to agricultural. She asked if the buffer and other mitigations can be transferred to a new owner.

Ms. Jolliffe said that those conditions are implemented when a building permit is applied for.

Commissioner Lambert asked if Mr. Lotti is required to notify a new owner that they are buying land that is in an agricultural zone. She also expressed concern over creating ranchettes with allowing smaller parcels.

Mr. Wannemacher said that disclosures are required.

Commissioner Lambert asked if the disclosure would be on the deed.

Mr. Wannemacher said that it would be in the transfer documents as a disclosure statement at the time of sale.

Commissioner Marin said that it will show in a title report and that will trigger a disclosure statement.

Commissioner Leland said that any new owners need to research restrictions to the property.

Commissioner Lambert said that small of a parcel could not be used for grazing.

Chair Wilson said that grazing is seasonal.

Commissioner Leland said that property can be leased out during grazing season. He doesn't see how it violates the agricultural element.

It was moved by Commissioner Marin, seconded by Commissioner Leland and carried by the following vote:

Ayes: Commissioners Marin, Leland, Nelson and Chair Wilson

Noes: Commissioner Lambert

Absent: None

Abstain: None

to approve WAV07-0001 for Steve and Carole Lotti, adopting the mitigated negative declaration and Resolution 08-22.

There is a 10-day appeal period on decisions with the Clerk of the Board.

B. UP08-0002 – staff recommended approval

Name: Dave Sien – KHSL TV **Project:** Use Permit

Planner: Mark Michelena **APN:** 056-070-080 **Zoning:** TM-5

Location: On the west side of Cohasset Road, approximately 1 mile north of Mud Creek Road, at 10895 Cohasset Road.

Proposal: A use permit to allow for the replacement of an existing 195-foot communication tower with analog TV transmission with a 500-foot *digital* TV signal transmission tower.

Mr. Mark Michelena gave a summary with a power point presentation.

Commissioner Lambert asked if the current tower will be removed.

Mr. Michelena said yes.

Chair Wilson opened the public hearing.

Mr. John Stall gave a history of KHSL and that the FCC has mandated that all towers be digital instead of analog by February 2009. If he is unable to change to digital it will interrupt service and cause daily fines. He said he believes that KHSL is good for the 13 counties it serves.

Commissioner Nelson asked what the difference is between analog and digital.

Mr. Stall said the picture is better and it is more energy efficient.

Commissioner Marin asked about the cost.

Mr. Stall said it is very expensive, but it is required.

Chair Wilson closed the public hearing and confined comments to Commission and staff.

It was moved by Commissioner Lambert, seconded by Commissioner Leland and carried unanimously to approve UP08-0002 for Dave Sien - KHSL, to adopt the mitigated negative declaration and adopt Resolution 08-23.

There is a 10-day appeal period on decisions with the Clerk of the Board.

C. TPM07-0013 – staff recommended approval

Name: Rob Romaguera **Project:** Tentative Parcel Map
Planner: Chris Tolley **APN:** 069-330-016 **Zoning:** AR-1

Location: The parcel is located at 10 Riverview Drive, Oroville (on the west side of Riverview Drive, approximately 0.27-mile south of the intersection of Riverview Drive and Hillcrest Avenue), near the City of Oroville.

Proposal: A Tentative Parcel Map to divide a 4.6-acre parcel into four residential parcels ranging in size from 1.14 acres to 1.16 acres served by public sewer (LOAPUD) and public water (SFWPA).

Mr. Charles Thistlethwaite went over a letter received by LAFCo that brought up many concerns. It is recommended by staff to continue off calendar to resolve these concerns.

Chair Wilson opened the public hearing.

Mr. Thomas Clark is a landowner to the south. He was concerned that the parcel is allowed a second dwelling and if that dwelling could be an apartment or duplex.

Ms. Jolliffe explained that the second dwelling is for a second single family residence. The parcel can't be split so that the second dwelling can't become a primary residence.

Mr. Clark was concerned the area could potentially become a rental district. He asked which easement would be used for the access road.

Mr. Eric Schroth said that it is unlikely that a 60 foot easement would be used as a road.

Mr. Clark is not concerned with the project itself. There are other neighbors who are concerned with the possible use of the easement.

It was moved by Commissioner Lambert, seconded by Commissioner Leland and carried unanimously to continue TPM07-0013 off calendar.

There is a 10-day appeal period on decisions with the Clerk of the Board.

- D. Revised Order to Comply, New Era Mine** - Item continued closed from March 13, 2008 meeting at 1 p.m. (Attachments for this item are too large to place on the website to download. If you would like a cd of the attachments please call 530-538-7601 to request a copy.)
- Name:** Ronald and Betty Logan (Owners) and Floyd Leland Ogle and Frank Noland, North Continent Land & Timber, Inc. (Operators)
- Project:** Revised Order To Comply, New Era Mine
- Planner:** Chris Thomas **APN:** 041-080-027 **Zoning:** FR-40
- Location:** 4095 Dry Creek Road, approximately 2.5 miles north of its intersection with Messilla Valley Road.
- Proposal:** Hearing to consider the Revised Order To Comply in regards to the current mining operation at the New Era Mine, issued on February 11, 2008 to Ronald and Betty Logan, Owners, and Floyd Leland Ogle and Frank Noland (President and Vice President, North Continent Land & Timber, Inc.), Operators.

Chair Wilson began the closed hearing for discussion with Commission and staff.

Mr. Tim Snellings went over the prior meeting using a power point presentation. The County has the estimated financial assurances from Office of Mine and Reclamation (OMAR). He went over the two Resolutions provided to the Commission.

Mr. Pete Calarco said there are two corrections to Resolution 2 on page 56 of new staff report. Change "however it is in violation" to "it is not in violation of SMARA section 2777." Also, the next two paragraphs of Resolution 2 should be deleted.

Mr. Snellings said that staff had tried to take prior discussions and give the Commission two options with the two resolutions today. He said it is the operators' perspective that they are in compliance with their permit and would like to finish the financial assurances without any additional requirements. The appeal period for an Order to Comply is 30 days which would end on May 12, 2008.

Commissioner Leland said that he received a letter from the lawyer for New Era Mine and that he did read it. He also visited the site, but said that both items may not be used to base his decision. In the prior meeting, the Commission had not determined whether there was substantial deviation or environmental impacts. If there had been substantial impacts then there would be a long process to identify and mitigate those impacts. There is a different rate of extraction, but the disturbed land and amount of material moved has not changed. Traffic and water use may have been impacted. He said he does not see the operation as not in compliance with the reclamation plan and does not see a substantial deviation.

Commissioner Marin said he agreed.

Commissioner Nelson did not agree. He said the geologist report that he read was based upon a much smaller operation. He said a larger scale operation would have impacts and those impacts would need to be addressed. If it was a new mine, it would not go through the process with just a mitigated negative declaration. He would like to find a way to make the applicant do it right and comply with both the Mining Permit and Reclamation Plan while still working with the applicant and not impacting the current operation.

Commissioner Lambert said that she had received correspondence also. She asked for clarification of the difference between a Mining Permit and a Use Permit.

Mr. Calarco said in the 1980's some zones required a Mining Permit while others required a Use Permit to mine. Either a Use Permit or a Mining Permit was needed to mine.

Commissioner Lambert asked if both types of permits go with the land.

Mr. Calarco said yes.

Commissioner Lambert asked if the applicant comes into compliance with the violations, does the Planning Commission disregard those violations.

Mr. Calarco said yes.

Commissioner Lambert asked if the \$3,000.00 financial assurance being paid is a correction and that the Planning Commission would no longer consider this a violation.

Mr. Calarco said that, per SMARA, financial assurances are supposed to be reviewed every year. He said that SMARA does see the new financial assurance estimate of approximately \$102,000 as appropriate.

Commissioner Lambert asked if that was based on how the mine operates today.

Mr. Calarco explained that the financial assurance is based on what it would cost if the operator left without following up on the Reclamation Plan. It includes removal of equipment and buildings as well as returning the land to its natural setting.

Commissioner Leland asked what the baseline would be for an amended use permit.

Mr. Felix Wannemacher said that the baseline would be what is allowed by the existing permit. He gave the Martin Marietta mining operation as an example.

Commissioner Leland asked if an environmental review needed to be done if there was an amended permit due to certain native vegetation being disturbed. He assumed that a biological analysis was done to address issues during the initial permit and would not have to be reviewed again for an amended permit.

Mr. Wannemacher said that the original permit was for gradual mining across the property. There was a condition to leave vegetation alone until it was required to be disturbed. He said that he wouldn't start with the assumption that all the vegetation needed to be removed. The Commission will need to consider how much vegetation has been disturbed and whether it conforms to the condition from the original permit.

Commissioner Leland asked if the original permit allowed for the removal of the vegetation would a new analysis be required.

Mr. Wannemacher said that it would probably not need to be reviewed again, but that he was not prepared to say definitively.

Mr. Calarco said that if the Commission determines that the permit and reclamation plan are valid then they would be entitlements. He said that the Commission would not compare the requirements for the permit from that time with today's standards.

Commissioner Marin asked what the difference is between Resolution 1 and Resolution 2.

Mr. Calarco said that Resolution 1 requires an amended mining permit and reclamation plan whereas Resolution 2 requires a minor modification to the existing permit and a supplement to the reclamation plan.

Commissioner Leland asked if there was flexibility to use some remedies in Resolution 1 in Resolution 2.

Mr. Wannemacher said that the Commission must determine what the Order to Comply should be based on. The Resolution has to show the findings, but it is the Order to Comply that needs to be determined first.

Commissioner Nelson asked if staff was only recommending the two options.

Mr. Snellings said no.

Commissioner Nelson said he was more inclined to require a new reclamation plan due to the higher rate of extraction having a significant impact.

Commissioner Leland said that the permit allowed for them to move that amount of material and asked what impacts it would have for it to be a higher rate of extraction.

Commissioner Nelson said that there would at least be traffic and erosion.

Commissioner Marin referenced a letter by Mr. Logan stating he was referring to processed material. He believes the operation is in compliance with the permit and reclamation plan because they are doing the reclamation as they mine. He talked about the financial assurance and that \$3,000 in the early 1980's was a significant amount of money and may compare with the estimate that was recently provided.

Commissioner Nelson said it appears that the original application was for 80 cubic yards. That amount would still make it a small operation.

Commissioner Marin said he disagreed. The equipment used was front end loaders and bulldozers during the original operation. Those are large pieces of equipment that move a significant amount of material. He talked of the tradition for gold mining in Butte County. He did not believe there is a substantial deviation and does not want to see the operation shut down. Until currently, both the applicant and the County were not doing the reporting and inspections that were required. The Order to Comply was brought forward because of neighbor complaints.

Chair Wilson agreed also. He said there is no way anyone could make a profit by moving only 20 yards of rock per day.

Commissioner Leland said that since there was talk of different phases, he thinks that the original permit was a trial run to see what was there.

Commissioner Lambert said that she believed the applicants are not in compliance with the reclamation plan because they are not restoring the land as they move on to the next area.

Commissioner Marin said he had not been to the mine, but going by testimony and paperwork, the reclamation plan does need to be updated in regards to the financial assurance.

Commissioner Lambert asked if there are 12 acres that still have not been reclaimed.

Mr. Calarco said that staff estimated that 12 acres of soil have been disturbed and 6 acres have been mined.

Commissioner Nelson reiterated that he did not want to shut down the operation. He wanted to work with the applicants in getting compliant while allowing them to continue their business.

Commissioner Marin said he did not see where there are any violations at all regarding the permit.

Commissioner Leland reached the conclusion that the current use exceeded the original permit. He changed his mind regarding the deviation if the Commission can prove that 12 acres are still exposed and only 2 acres are authorized by the reclamation plan.

Mr. Calarco said that staff estimated 12 acres have been disturbed, and 6 of those acres have been mined.

Mr. Snellings said that the reclamation plan requires only 2 acres at a time. The record, not the reclamation plan, indicates they are to mine 2 acres and reclaim those 2 acres.

Chair Wilson asked how many acres are the ponds and how deep are the ponds.

Mr. Snellings said that staff does not know the answer to those questions.

Commissioner Lambert asked if the operation started up again last year.

Mr. Calarco said it was last year when the calls were received about increased activity.

Commissioner Leland would like to see an amended permit where the environmental analysis is limited to new impacts that were not reviewed in the original negative declaration. He asked what a Statement of Responsibility is. He also said that it is fair to charge the new operators for the cost of analyzing the new impacts.

Mr. Thistlethwaite said the Statement of Responsibility is a standard form that shows a new operator accepts responsibility.

Commissioner Leland and Commission asked to see what the form looked like. A staff member retrieved one and showed the Commissioners.

Commissioner Leland asked how the Commission could make the finding that there has been substantial deviation and that the operation is not in compliance with the use permit.

Mr. Wannemacher said that is on page 31 of the new staff report under Resolution 1. Section M shows the findings needed to make that determination.

Mr. Snellings pointed out page 27 section G that talks about what 20 cubic yards means.

Mr. Wannemacher also referred the Commission to page 29 section H.

Commissioner Leland said he does not see a problem with the estimated financial assurance. He asked when a new application is brought in, does the applicant choose their own consultant.

Mr. Calarco said that applicants can generally choose their own consultant team to submit paperwork. In this case staff is looking for an outside consultant that would help maintain timelines and give expertise.

Commissioner Leland asked what would happen if the Commission does an Order to Comply and that Order is not followed. What is the range of remedies the County would have?

Mr. Wannemacher said one answer is on page 197 number 4 which talks about how failure to comply could result in administrative penalties of up to \$5,000 per day for violations. It depends on what is in the order, but this is a potential remedy.

Commissioner Leland asked if it would involve another hearing or would it be a judicial issue.

Mr. Wannemacher said that traditionally it would be an administrative hearing, but it could be judicial.

Commissioner Leland asked if the Commission could assess penalties now.

Mr. Wannemacher said no. The Commission has not issued an Order to Comply. However, penalties could be assessed for not submitting annual reports.

Commissioner Nelson said he thought that the violation would be brought back before the Planning Commission or the Board of Supervisors.

Mr. Snellings said that penalties for violation of the Order To Comply would come back to the Planning Commission.

Commissioner Lambert said that page 197 notes \$5,000 per day for violations under SMARA.

Mr. Wannemacher said that is the maximum.

Commissioner Leland asked if, under item 4, three months was enough time to submit a mining permit application and reclamation plan.

Mr. Snellings said yes, that was an adequate timeframe.

Chair Wilson said he does not see that the operators have deviated from the reclamation plan. He referenced page 15 of the March 13, 2008 staff report. That report stated moving 250,000 tons per year. If you take weekends and holidays into consideration then that is approximately 1,000 yards of material per day. He asked who fills out that form.

Mr. Calarco said that the applicant does.

Chair Wilson said that it appears this information was not incorporated into the reclamation plan.

Commissioner Leland said that a deviation would be in Attachment 6 pages 19-21. He referenced the drawing on page 20 that was titled Three Phases. He said that the Commission could use that to figure out the area of disturbed soil. Page 19 shows one settling pond and now there are three.

Chair Wilson said that could be a requirement based on scale of operation.

Commissioner Leland said that it could still be considered a deviation.

There was a break from 2:35 p.m. to 2:50 p.m.

Commissioner Nelson asked, if he made a motion using Resolution 1, could he or the Commission set the level of work and timeframes.

Mr. Snellings said that staff is working on language that would allow the application to continue to operate through the permit process. There is no guarantee as to how long the permit process would take.

Commissioner Nelson said that he was ready for a motion and would like to see what the other Commissioners are thinking.

Commissioner Marin said he liked Resolution 2.

Commissioner Leland was comfortable with the findings in Resolution 1 and Exhibit A, but it should have language regarding the County not applying additional violations while the applicant is going through the permit process.

Chair Wilson asked if the Commission could amend the existing permit.

Mr. Snellings said yes.

Chair Wilson said he would like to see an amendment to the permit.

Commissioner Nelson wanted to see an environmental analysis.

Commissioner Leland said that the analysis should only be for what was not reviewed before. He didn't think the applicant should have to go through a full environmental review process.

Commissioner Nelson said that if another mine wanted to amend their permit, it would be subject to environmental review.

Mr. Snellings passed out new language for Condition 7. "The operators shall be allowed to operate within the functional limits of Pit 1 and Pit 2 and auxiliary areas (retention ponds, equipment areas, etc.) during the execution of the Revised Order to Comply while taking all appropriate actions necessary to obtain approval of a permit and reclamation plan. The functional limits of Pit 1 and Pit 2 shall be demonstrated on a plan prepared by the operator and approved by the Director of Public Works. The remainder of the site shall be stabilized per the requirements of the Regional Water Quality Control Board."

Commissioner Marin wanted the word "amended" in front of permit.

Chair Wilson asked if this is allowing 20 cubic yards of material per day.

Commissioner Leland said yes.

Commissioner Nelson wanted to make sure that the site is monitored so that the neighbors are satisfied.

Chair Wilson asked if there was a road maintenance agreement.

Mr. Snellings said no, only the condition regarding dust control.

Mr. Wannemacher said that the Commission needs to go through the order, starting on page 194, so that it can determine if changes are needed.

Commissioner Lambert asked if the Commission had to determine if the permit had lapsed.

Mr. Wannemacher said the Commission can reserve that question or make that determination.

It was the consensus of the Commission that the permit had not lapsed.

Mr. Snellings would insert the word "not" on line 2 of page 195 to show that the Commission determined the permit did not lapse.

Mr. Wannemacher said that there should be a change in language to Permit 81-135 instead of UP 81-135. He also brought up Condition 4 and asked if the language needed to be changed.

Mr. Calarco said that an estimate had been made; it was only the mechanism that needed to be put into place.

It was determined to delete #4-1 through #4-4.

Mr. Wannemacher said that staff needed to check condition 4 and 6 for modification and add in condition #7.

Commissioner Nelson asked if that was the condition Mr. Snellings provided.

Commissioner Leland went over the new language of condition 4 which states "submit to Butte County Department of Development Services a good faith application and reclamation plan to

amend mining permit 81-135 within 3 months of this order and promptly supply any additional information requested by Butte County staff". That is how he would read the new condition 4.

Mr. Wannemacher said yes. He said the bold language needed to be changed to read on March 13, 2008 and April 10, 2008. The second paragraph needed to be deleted since it is covered by condition 7. He checked Public Resources Code section 2207 and it does not relate to assessing administrative penalties for violation of an order. The Commission could discuss the process the Commission would like to use for putting that into an order.

Commissioner Leland asked if the penalty was the maximum of \$5,000 per day and the Commission needed to determine how to assess the penalty. He would like to see it be referred back to the Planning Commission for further proceedings.

Mr. Snellings said, from the Department of Development Services' perspective, that is a good idea.

Mr. Wannemacher said that the Order to Comply would have April 10, 2008 as the date and be signed by the Chair of the Planning Commission.

Commissioner Lambert asked if the third paragraph would stay the same.

Mr. Wannemacher said yes with an additional sentence at the end of paragraph 4.

Commissioner Leland said he believed the compliance schedule was superseded by Exhibit A, and that there are enough timelines in the order.

Mr. Snellings said that it was written in conjunction with the order and thought it should stay.

Commissioner Leland said he is comparing to make sure that the Order to Comply matches with Exhibit A. He gave an example of one document saying 12 weeks and the other document saying 3 months. They should be the same language. He said to change Exhibit A to say 12 weeks instead of 3 months. He said that condition 7 limits the operator to Pit 1. He asked if Pit 1 would last 18 months.

Mr. Snellings said that condition 7 should include Pit 2 also.

Commissioner Leland asked County Counsel if there was anything else that needed to be addressed.

Mr. Wannemacher said there should be some clarifications in Resolution 1. Page 19 fourth paragraph from bottom needed to say "Whereas a duly noticed public hearing was held on March 13, 2008 and closed." Then add "Whereas the Planning Commission began deliberations on the appropriate actions to take.", and amend the final whereas to show "Whereas the Planning Commission resumed its deliberations." On page 29 number 8 it should start with the word "The".

Mr. Snellings said that to match the Resolution the words "modified order" needed to be changed to "revised order" and "revised mining" needed to be changed to "amended mining".

It was moved by Commissioner Leland, seconded by Commissioner Marin and unanimously carried to adopt Resolution 1 as set out in the staff report dated April 10, 2008 and making the findings set out in the Resolution with the following changes:

Page 19, the 7th "Whereas" clause will be changed to "Whereas a duly noticed public hearing was held and closed on March 13, 2008; and whereas the Planning Commission began deliberations on the matters discussed," revising the last "whereas clause" to read "Whereas the Planning Commission resumed its deliberations at a closed second hearing on April 10, 2008 to discuss the revised Order to Comply and the current extent of the operations at the New Era Mine,"

Page 28 including the factual information on page 50 of the staff report relating to the limit of 20 cubic yards of material moved, specifically; that the data sheet prepared with the original application included a statement by the applicant as follows "During the operation of the gold mine the applicant hopes to process up to 80 yards of rock per day (about 100 tons per day.),

Page 29 section H paragraph 4 as follows "the phase 1 limit of 20 cubic yards per day is considered a total volume, and the current extent of the New Era Mine, approximately 12 acres of disturbed land with an estimated 100,000 cubic yards of material moved between June and October 2007, is well in excess of the Phase 1 limitation specified in condition 21,"

Page 29 section I insert the word "in" on first line between the words longer and violation,

Page 37, the last page of the resolution, the first paragraph will read as "Now therefore be it resolved that the Planning Commission modifies the revised Order to Comply to provide for an amended mining permit and reclamation plan for the New Era Mine, Ronald and Betty Logan owners, and Floyd Leland Ogle and Frank Noland, North Continent Land and Timber Company, Inc. operators, and reissue the order as set forth,"

Where it says "revised mining permit" change to "amended mining permit" and change "modified order to comply" to "revised order to comply".

Exhibit A will be The revised Order dated February 11, 2008 issued with the following changes: in all places the term "Use Permit (UP)" will be changed to "Permit",

Page 195 of March 13, 2008 staff report, top paragraph, delete the first sentence and replace with "The Planning Commission, after taking evidence, has determined that permit 81-135 has not lapsed,", delete section 4 regarding the financial assurance and delete the remainder of page 195 and first half of page 196 to the language that starts with "In order to comply".

The numbered sections 1 through 6 will be replaced with language from page 38 of the staff report dated April 10, 2008, changing section 4 to read "submit to the Butte County Department of Development Services a good faith application and reclamation plan to amend Mining and Reclamation Permit 81-135, with the required application fee, within 12 weeks of the effective date of the order and promptly supply any additional information required by staff of the Department of Development Services", add a number 7 which will read as "The operators shall be allowed to operate within the functional limits of Pit 1 and Pit 2 and auxiliary areas (retention ponds, equipment areas, etc.) during the execution of the Revised Order to Comply while taking all appropriate actions necessary to obtain approval of a permit and reclamation plan. The functional limits of Pit 1 and Pit 2 shall be demonstrated on a plan prepared by the operator and approved by the Director of Public Works. The remainder of the site shall be stabilized per the requirements of the Regional Water Quality Control Board."

On the Order itself, it should include the language from page 197 of the staff report dated March 13, 2008 delete the time, date and place that the hearing has been set and change it to "the matter was heard by the Planning Commission at 9 a.m. on March 13, 2008 and continued to 1

p.m. on April 10, 2008 at 25 County Center Dr., Oroville, California", delete the remainder of the paragraph and the next paragraph, add a sentence at the end of the third full paragraph of page 197 "In the event that the applicant fails to comply with this revised order the matter shall be referred back to the Planning Commission for further proceedings",

Commission Leland further noted that the Order needed to be dated with today's date and signed by Chair Wilson.

There is a 30-day appeal period on decisions with the Clerk of the Board.

VII. GENERAL BUSINESS - This section of the agenda is to be utilized by the Planning Commission and Director of Development Services on items of interest, general discussion, or items for which staff has been directed to do research and bring back to the Commission. Items A, B, & C may not always be addressed at every hearing, but will always be listed as part of the agenda.

- A. Directors' Report
- B. General Plan/Zoning Ordinance Update

Mr. Thistlethwaite gave a summary of the General Plan meetings that have occurred and are coming up. He went over the handout given to the Commission. He also went over the code changes that staff is working on.

- C. Update of Board of Supervisors' Actions

Mr. Snellings gave a brief summary of the Board of Supervisors actions which included a discussion on the changes made by Environmental Health on ordinances and regulations for their department.

Ms. Jolliffe went over the 4 projects that were appealed to the Board of Supervisors.

Mr.. Thistlethwaite said that there is only one item for the May 8th hearing and asked if the Commission would like to officially cancel that meeting and be ready for the May 9th General Plan Study Session.

Commissioner Lambert asked if the Study Session could be held on the 8th.

Mr. Thistlethwaite said that would be dependant on whether the material can be prepared.

- D. Legislative Case Law Update
- E. Planning Commission Concerns

VIII. CLOSED SESSION

IX. MINUTES – February 28, 2008

X. COMMUNICATIONS - Communications received and referred. (Copies of all communications are available in the Planning Division Office.)

XI. ADJOURNMENT

Meeting adjourned at 4:10 p.m.

Chair Wilson