

**PLUMAS COUNTY  
ZONING ADMINISTRATOR**

Minutes of the Regular Meeting of December 13, 2023

The Plumas County Zoning Administrator convened in a meeting on December 13, 2023, at 10:17 a.m. in the Mineral Building at the Plumas County Fairgrounds, East Quincy. Interim Zoning Administrator, Jim Graham, presiding. Planning Director, Tracey Ferguson, and Josh Brechtel, Deputy County Counsel, are in attendance.

**I. PUBLIC COMMENT OPPORTUNITY**

No public comment is presented.

**II. DETERMINATION OF VESTED RIGHTS - ENGELS-SUPERIOR MINES; CALIFORNIA-ENGELS MINING COMPANY (owner) / US COPPER CORP (applicant); APN 007-080-004 (ENGELS MINE) & 007-090-003 (SUPERIOR MINE); T.27N/R.11E/S.3,4,9,7,8,17,18 MDM**

As continued from the October 11, 2023, Zoning Administrator meeting, the request for a determination of vested rights for the Engels and Superior mines, located at 9130 Diamond Mountain Road, north of Taylorsville, for US Copper Corp pursuant to Plumas County Code, Title 9 Planning and Zoning, Chapter 5 Permit to Mine and Reclamation Plan, Sec. 9-5.05 (Vested Rights), is presented. Jim Graham, Interim Zoning Administrator, explains that this is a continuation of the public hearing held on October 11, 2023. Continuing, Graham states no decision will be made at this time and the public hearing will remain open for a subsequent meeting.

Josh Brechtel, Deputy County Counsel, states that there was a little confusion at the last meeting about what a vested rights determination means. Brechtel explains that he understands there are a lot of ramifications should vested rights be determined, but there is a process that absolutely needs to be followed. At this time all that would be determined is whether US Copper Corp has vested rights for the two subject parcels submitted under the application. Continuing, Brechtel states he wants to make sure that any comments made today are not addressing any other parcels that may or may not be where US Copper Corp might request a determination of vested rights sometime in the future. Brechtel explains that based on some of the public comments that he reviewed, there was discussion of the Moonlight and some other different properties around there. Brechtel wants it to be very clear and limited today that these are the only two parcels we talk about. Brechtel states we're going to be strict about the scope of the comments. Today is not the day to discuss environmental issues, financial assurances, or any other concerns in terms of traffic, infrastructure, etc. We are all aware there will be an impact should this mine go forward, and there is a separate process where those concerns will be addressed. A reclamation plan will have to be developed by US Copper Corp to address those types of environmental factors. Today we will be discussing if a determination of vested mining rights is appropriate in this matter. The kinds of things to be discussed today are things such as when did mining commence, what is the vesting date of the two parcels, whether prior to that vesting date did mining operations occur on the properties, whether the owner has waived or abandoned its vested right to mine, and whether or not evidence in the record establishes an objective manifestation of intent to continue mining the Engels and Superior mines. Brechtel states the County will not be establishing time limits for public comment and the public is welcome to take as much time as needed for comment about the determination of vested mining rights topics. Finally, Brechtel reiterates the focus of the scope of public comment at the hearing so everyone can say what needs to be said regarding whether there are vested mining rights or not.

Mat Fogarty, resident of Crescent Mills, comments that in terms of the scope, we all know that if this is given a green light, mining can go ahead. You can limit it to legal concepts, but the reality is if this mine goes ahead all these other things you don't want to talk about will become a reality. All those things are

part of your decision. There is room in there at some level to listen to the community and change that decision. There is room in there for opinion.

Graham explains that the County is tasked to determine whether or not this operation has a vested right to mine. There are certain criteria that the County needs to look at. It's strict, there is no discretion involved. One criteria is whether they started mining before there were any County regulations controlling mining, which goes to the vesting date of the mine. Another criteria is whether they at some point in time intentionally relinquished their right to mine, and have they always had the intent to mine the entirety of the property. That last subject has been discussed in court cases and the courts have made interpretations about what that means. The operational impacts of the mine are not within the scope of the vested rights determination, although Graham explains he completely understands people wanting to talk about impacts. There is going to be a time in the future for that to occur. The vested rights determination comes first. Graham completely understands the importance to the community and explains the County is welcome to as much information as we can obtain to assist in the determination; he states we want information about vested rights.

Ted Stout, resident of Indian Valley, clarifies that determining vested rights on these particular properties will allow US Copper Corp to assert those rights on all adjacent properties. We have to be aware that within the scope of this, it will allow them to expand on all adjacent properties, which covers about 13 sq. miles.

Greg Wallace questions if the vesting includes if there is a change in the process or procedure of mining because what was going on before is really different than taking the top of the mountain off. Graham responds that that is one of the subjects to be investigated, and the County is in the process of hiring a consultant to help. Continuing, Graham explains the County is looking for a consultant with experience in vested mining rights with attorneys that are also familiar with vested mining rights and SMARA (Surface Mining and Reclamation Act).

Tracey Ferguson, Planning Director, explains that the Planning Department happens to be concurrently undergoing interviews for SMARA consultants to assist with the County's annual inspections and reporting responsibilities and that three different mining consultants have been interviewed, two of which have vested mining rights experience. Once the County receives a scope and bid from the two with vested mining rights expertise, Ferguson explains that County staff expects to recommend a selection to the County Board of Supervisors soon. Ferguson states the scope of the consultant will be to review the whole of the record, which includes the staff report, information provided by US Copper Corp, relevant court cases, and public comments. Graham adds that staff realized after the meeting in October 2023 that help was needed from people who have expertise in this area. Continuing, Graham states the consultant will review the court cases, especially regarding objective manifestation, which speaks to the intent of the operator to mine the entirety of the land in the future. We are looking for comments that speak to those issues that are pertinent to the determination of vested mining rights. Graham asks that comments be focused on that.

Laura Kearns, resident of Taylorsville, thanks the Planning Department and Zoning Administrator for all they do. Kearns states members of the audience support the County to ensure the health and safety of the residents of the County and understand the workload. Continuing, Kearns states that SMARA Section 2776(a) states no person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a use permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation. Kearns feels that Section of the code is very simple and would like to echo that.

Ann Newberg, resident of North Arm, comments that Turner Excavating is mining historical overburden, and questions what overburden is. Assistant Planning Director (retired), Rebecca Herrin, responds that

Turner Excavating is mining rocks out of the tunnels, or the overburden, to provide a marketable product. Newberg comments that doesn't sound like mining.

Ted Stout states he would like to recognize the County staff for the hard work they have been doing under difficult conditions as the County has had several natural disasters and is being stretched very thin. Stout feels it is important to note that a finding of vested rights will allow US Copper Corp to extend those rights over a 13 sq. mile area. It is Stout's understanding that once a determination is made, it cannot be revoked at a later date. Stout is not against mining, but rather mining done with reduced oversight and regulation. US Copper Corp very much wants vested rights to be granted because it will exempt them from many reporting, permits, and environmental requirements. There will still be oversight, but the County will effectively have their ability to enforce any rules removed. The community will have lost their opportunity for input into this project, and make no mistake, this project is vast. Continuing, Stout states the Staff Report appears to have no external resources referenced, other than that which was provided by US Copper Corp. Stout feels a corporation with an obvious interest in a positive finding should not be the sole source from which to obtain the facts to determine this issue. With that in mind, it is critical to verify and validate the facts that are being asserted to justify granting a vested right. There are several legal questions that need to be answered and should be reviewed by legal counsel that specializes in mining and possibly environmental law. Stout questions if the selling of aggregate from a tailings pile constitutes surface mining. Additionally, all vested mining rights regulations specifically use the term "surface mining." Historically, the sites in question appear to have been underground works. Given the information above, Stout respectfully requests the items be spelled out in Addendum A (provided by Stout). Stout does not believe we have sufficient verified facts to support a finding of fact in this matter.

Jason, a resident on the end of Diamond Mountain Road, comments that he is curious about the abandonment required for the vestment and questions what the terms are on that, because it's only lately they've seen Turner Excavating picking up so much more material. Graham explains that in terms of the abandonment clause, which is one of the items looked at when determining vested mining rights, he understands that the court's interpretation of abandonment is it has to be an active intentional action, it can't be passive like just not having mined for some period of time.

Mary Sher, resident of Greenville, responds to the comment County Counsel made at the beginning of the meeting. Sher states she hopes there is a repeat of what happened at the last meeting, because what she saw was her fellow citizens being very polite, lawful, and making an effort to understand the process. She asks for patience as they learn about this process. Sher shares a point that resonated with her from Tom Peltier, a retired engineering geologist and former certified engineer geologist for the State of California: "At the outset, let me state that I do not believe vested rights for this property extend beyond aggregate mining, which has been the only actual use of the mine in recent history. The proposed open pit mine is so fundamentally different from any mining operation that has ever occurred at this site that the County cannot pretend that the project qualifies for the vested rights that US Copper Corp is seeking."

Gordon Keller, resident of Genesee and geotechnical engineer, states he understands the approval rights come through the local agency, and he understands that mining operations have been going on for years since the turn of the century. Keller thinks the real question is the law appears vague about the change in scope of the operation, and the scope is a key thing a lot of us are concerned about. In the documentation, it asks what type of surface mining has been conducted. Historically it's been hard rock mining, tunnels, and milling operations. Now what we're looking at is open pit mining, heat bleach processing, possibly two large tailing dams. A totally different scope of operation. Historically they took a million pounds of copper. Now they're looking at taking a billion pounds out. It seems reasonable that the Planning Department consider the potential impacts of the operation, because the change in scope is the key issue. Otherwise, it bypasses 60 years of environmental laws and regulations that have been developed.

Graham states that he's received many direct calls and correspondence that were sent to him, all of which were forwarded to the Planning Department to make sure it's part of the record. There are scope issues that we want to make sure are addressed and are consistent with court cases interpreting what the scope of the project means and the whole issue of objective manifestation. Those comments will be given to our consultant.

Donna Duncan states she understands that if vested rights are confirmed, there will be no County permit; however, she believes there will still be CEQA and SMARA requirements. That basically eliminates one level of control that the County has over the operation. If vested rights are not confirmed, then US Copper Corp would have the option to proceed under the normal procedures to get the required permits. Graham responds that with respect to the vested mining rights, the applicant would not have to submit a permit to mine but would still be required to submit a reclamation plan, which, under the laws of SMARA, is very detailed. The reclamation plan would have to be approved, a financial assurance cost estimate (FACE) would have to be calculated and updated each year, and a financial assurance mechanism (FAM) would have to be posted should reclamation not occur according to the Reclamation Plan, or the applicant fails to do something, the County would have enough money to process the reclamation. The reclamation plan is subject to CEQA and requires a public hearing. Duncan questions what legal requirements or actions can be taken if they don't have a County Permit to Mine. Graham responds that the County still has to inspect the operation to make sure they are in compliance with the Reclamation Plan. Duncan adds that it is a long time before they go into reclamation and questions what avenues the County has to make sure that what they are doing out there for years and years and years before reclamation is in compliance because the County itself wouldn't have a mechanism to keep them under control. Rebecca Herrin adds that inspection reports are not just about reclamation, it's also a checklist for meeting other requirements.

Ted Stout questions who administers SMARA. Graham responds that the County is the lead agency for SMARA and the agency with oversight is the Department of Conservation, Division of Mine Reclamation.

Dan Kearns, resident of Taylorsville, comments that every mine in the country has a long list of environmental laws and reporting they have to comply with; however, he has yet to find an example of an open pit mine that is compliant. He knows there are things in place we'd be leaning on should vested rights be determined, but the track record of these things is awful.

Tom Peltier, resident of Greenville, states he has provided written comments about how profoundly different this operation would be from what's there now. They keep hearing reassurances that CEQA will be handled in the reclamation process. CEQA for a reclamation plan is a completely different animal; it's for after they're done with the mining. It won't address traffic, de-watering of the excavation area, re-routing of surface streams, and springs drying up. CEQA starts with an initial study. CEQA requires them to disclose the impacts. The County administrators are responsible to the people who will be affected in a really large way. Peltier cannot fathom in any reality that the County can say this is not so significantly different that it can be grandfathered in.

Mat Fogerty talks to the "no substantial change in operations" criteria. Over the 50 years of operation back in the day they extracted 4 million pounds of copper. That's about 40 tons per year. Now they are talking about 1.3 billion pounds of copper. Over ten years, that's 65,000 tons per year. Fogerty questions how that is not a substantial change in operations. Clearly it is a substantial change in operations. Fogerty questions which hoops they are avoiding and what would happen if they attempted to jump through those hoops. Why are they trying to avoid studies, local permission, and oversight? What are they avoiding?

Carol Viscarra, owner of the Defanti Ranch in the North Arm, states she is concerned because US Copper Corp very clearly states on their website that Plumas County officials are in favor of granting vested rights. Viscarra questions who has signaled to US Copper Corp that Plumas County is in support of this

project. The Defanti Ranch depends on water rights to raise cattle. The disturbance to the aquifers will undoubtedly have a terrible effect. Viscara is asking public officials to try to find the pathway to deny these vested rights. Whatever their intent is, to grant them vested rights on intent seems foolhardy.

Jason, resident on Diamond Mountain Road, comments that the packet provided by US Copper Corp states there will be 30 to 50 jobs for locals when their whole employment force will be 400. He feels that if this somehow goes through all the way, Plumas County deserves better than 30 to 50 jobs that's taking money away from our citizens and County. They are taking a lot of money and putting it in a whole other country.

John Simon, resident on Diamond Mountain Road, states people around here are disturbed and shell-shocked from the Dixie Fire, and now they have another potential tragedy staring them in the face. They were told to keep comments factual and legal, but they are not lawyers. They were not given the time to read the 450-page report. They are very sympathetic to all County employees, understand after the Dixie Fire the devastation that has been wreaked upon all of us by a man-made disaster. Simon feels a third of the people in the County and surrounding counties will take an active interest. A third of the people will say it's good for business, and then a third, for whatever reason, won't be able to get involved. Ask a miner from the 1930s all these terms (leach, heap, processing ponds). Is that something they would be familiar with? Is that a substantial change in what's going on up there? Simon has read on the investor page of US Copper Corp that talks about how they control the copper-belt in Plumas County. Keep in mind they are not a U.S. company. Do they really control it? They're telling their investors they do. They are showing their investors how many millions of ounces and billions of tons of precious metal will come out of that mountain as well as they have the backing of Plumas County. Simon cannot think of a more detrimental industry to put at the headwaters of the California State Water Project. He'd rather have a nuclear power plant or petroleum refinery because that would be regulated and controlled. This is beyond the control of the County and he commends the County for calling in reinforcements. Turner Excavating has a right to pull sand and gravel out of there, and they're supporting the rebuilding of this County. This is a whole different animal and a reclamation permit sounds like "we will allow a giant party to take place with which we have no say-so in what happens at that party." But you will allow input for the trash pickup and damage to roads. That's what reclamation sounds like to him. There is only one open-pit mine in California, in the desert in Southern California, not at the headwaters of the State Water Project. Give the public time to research this so they are able to speak intelligently. Simon suggests the County give a little better opening speech about where you think this is headed and what you're doing so you can alleviate a lot of the anxiety by telling us what's going on. Also, Simon questions where the Maidu Consortium is in all this. Where are Plumas and Lassen National Forests? Have neighboring counties been notified? The citizens are interested, supportive, and need time and legal representation.

Dan Kearns shares that he thinks whoever the consultant or attorney the County hires to work with them through this process and make a determination, it can go either way. There is a lot of evidence in support and against. What's really important here is that the County does everything it can to retain as much control to not find the vested rights. Kearns feels the County needs to come at this with the mindset of how it can prevent them from being granted vested rights. Then if the evidence supports that they have vested rights, we can't deny it. The question is what can we do to protect ourselves and retain as much control as possible.

Dustin Moffet, resident of Genesee Woods, states it is his understanding that vested rights are not based upon "intent" to mine, but is instead set up in a far different fashion; mainly, with how they intend to mine. It's also about whether or not they continued to further their own research in this mining operation and continued their efforts to explore it. From their own data sets, it shows that most of what they are proposing for these sites, if we give them vested rights, they will be able to turn over and apply that to every parcel they have. From what he's seen in their own reports, they admit they're basing most of this

off of theoretic math and results. US Copper Corp are asking for vested rights so they can go in and do exploratory digging with impunity because they will be able to bypass much the permitting process and oversight process that would typically be in place to keep them on track and within regulations. Moffet feels if the County gives them vested rights, then you're allowing them to go in and do pretty well whatever they want. In their own reports they state that the coring and pit test sampling done prior in the 60s and 70s, much of that data was lost or misconstrued. Some of their baseline data they were using as a control was actually mixed into the report they put forth as their findings. Moffet encourages the decision to be based on not just their evidence, but also fact checking and double-checking their references. This is not a light impact for the community. In their proposal they show a certain number of jobs will be created, but they also state that they are planning to use automation and robotics to reduce labor load, so in the end it very likely will be less economically viable for Plumas County to have this operation in affect. In his opinion a water report from Alaska in comparison to what we have here doesn't seem to fit. There's plenty of mining that took place, maybe in Nevada County, where we could check with what the Idaho-Maryland Mine is doing and see what their data sets show and cross compare. Or you could ask US Copper Corp to cross-compare with something a little more local than Alaska that has totally different mining laws than we have in California. Moffet strongly encourages the Board and community to stay on top of this because if they are granted vested mining rights, they are being given a free pass to do quite a bit more than what would normally have taken place with all the permitting processes in place. Strip mining and leachfield mining are significantly different than tunneling. The impacts are far different. The controls for safety are much different. The number of personnel and equipment is also a consideration. Within their own reports they state that a lot more exploration is necessary to verify their own findings. What is most alarming is they're basing a lot of this off a 10.2% range of accuracy and most of the math is all theoretics and a lot of other environmental things they are not really stating within their paperwork. There are other minerals, metals, and toxic substances that need to be addressed within their environmental report. It is not clear how they will mitigate risk of arsenic, cadmium, lead, antimonies and everything else that are supposed to be processed through this chemical process. Moffet feels the County should request US Copper Corp be transparent in what their objective is and be transparent in what their idea is for making sure those other toxic substances are also handled in a proper way.

Ryan Kelley, Indian Valley resident, reads an article by the Community Environmental Advocates Foundation in reference to the Idaho-Maryland mine in Nevada County. Graham requests Kelley provide the link to the article, noting he is aware of this project taking place. Kelly comments that every single other zoning commission has been completely against it, and you guys are for it. Graham clarifies that Planning Department staff has made a recommendation for approval of vested rights and that he, as the Interim Zoning Administrator, reviews the information and makes the determination. Continuing, Graham states it's inappropriate for the US Copper Corp website to state the County is in favor, and that should be taken down.

Carol Viscarra comments that the area up there is our Maidu people's ancestral land. Viscarra states she will get a hold of the Maidu Consortium because she feels they should have a voice in this process as well.

Ann Newberg comments that we've been down this road with the Calgon-Royal Gold mining operation in Canyon Dam. She never saw anyone overseeing anything at that mine from the County or any ecological bunch that she can remember. There was not any oversight.

Liz Ramsey, commenting as a private citizen, questions if the Moonlight claim and additional property owned by US Copper Corp are open for activity if vested rights are granted for the Engels-Superior Mines. Graham responds that the Moonlight and Lambs Ridge are on Forest Service land and are not subject to the vested mining rights determination. They would have to go through the normal process for

those claims. The item before us is strictly the claims that are wholly on private land. Vesting mining rights apply to private lands. Graham also clarifies that the area in question is 735 acres, which is 1.15 sq. miles, not 13 sq. miles. If US Copper Corp received permits for all the other operations, some of which are on Forest Service land, those operations would be subject to a permit to mine and have to go through the entire process that US Copper Corp is intending to bypass with the vested rights determination process. Continuing, Ramsey states that during the previous meeting in October, the staff recommendation was for a finding of vested rights. Today, Director Ferguson stated the County plans to hire folks to review the documentation provided by US Copper Corp, which is leading Ramsey to believe that the documents were not adequately reviewed prior to the staff recommendation made on October 11, 2023. Ramsey requests the County take a close look at the potential for conflict of interest, financial conflict, and involvement of County staff in this process to date. Lastly, regarding vested rights, Ramsey's next comments are adapted from a letter that was produced by a law firm Shute, Mihaly & Weinberger LLP regarding the Nevada County Idaho-Maryland Mine Board of Supervisors discussion. US Copper's petition for vested rights should be rejected at the outset. The notion that US Copper could retain a legal right to resume a nonconforming use that hasn't been carried out in decades is absurd. Nonetheless, a non-conforming use that has not been a part of the previous scope. Even assuming that there is a vested right to mine that existed at some point and has been long abandoned, I believe that what's currently happening on these properties does not equate the mining that was originally happening nor the mining they are proposing. I believe this petition glosses over volumes of evidence from all the sources showing extraction on this property has been abandoned decades ago and we cannot escape this legal reality that there is no vested right to mine copper on this property.

Gordon Keller talks about the Inca Calgon Mine about 20 to 30 years ago. There were problems with leachate coming out of the tailings after it was finished. There were mercury and cyanide poising kits available in the ER if there were mine accidents. The other big mine is the Walker Mine. Currently, the Forest Service is spending a couple million dollars doing reclamation work trying to stabilize the tailings pile. Previously, the EPA enforcer spent many millions of dollars putting a plug in the tunnel and plumbing Dolly Creek to keep from picking up more of the copper. It was the public and Forest Service and taxpayer dollars that paid for that. It should have been the mining companies and was not, which is so typical of mining history. Keller feels it's important that the County maintain control over anything that happens there and not let it go to something where there's lack of oversight, problems, and the taxpayers pick up the bill.

Devin Cragg states that current mining operations have environmental impacts that are more or less permanent without significant human intervention, which at present has not happened on existing sites throughout the country. Clearly the plan US Copper Corp has for this area is significantly different than historic use and Cragg thinks that may be our strongest counter-point. Current regulations appear to be insufficient to protect the health and safety of the community and country up to this point. Mining operations increase the risk of cancer for the people living in the area. Polluted water supplies, destroyed scenery, generally negative environmental impacts to everyone around, and the environment itself. The language in the Constitution is largely from the pre-Industrial Age. Interpretation of this document is insufficient to protect the health and safety of residents near such operations in lieu of property rights of wealthy individuals. Cragg questions how we can be held to a standard of scope that requires us to ignore the things we do know. The economic benefit is limited to 30-50 local jobs, many others will be outsourced. There appears to only be two avenues to generate a red light on this project: 1) the owners of the property at some point have stated an intent to abandon operations indefinitely; and 2) have a discussion about how the operation will be significantly different than historic operations. Cragg feels that if the project moves to reclamation it is his belief that we need to continue to watch and speak out and demand that any action taken by this company, should they move forward, is leveraged for maximum benefit to the residents and demand innovation in the area of mining to offset the change the

environmental impacts will have. Cragg's concerns go beyond vested rights; that the historical legal interpretation will favor mining rights over health and safety.

Dan Kearns thanks County staff, the community supporting the community, nature, etc., and thanks the Zoning Administrator, Planning Department, and County Counsel for hearing the public's concerns. Kearns acknowledges that our County has been understaffed and overworked since before the Dixie Fire, and he appreciates giving the public time to go over all these things and speak out. In his opinion, Kearns thinks the County needs to exhaust any and all possible resources and approaches to not finding vested rights. It will benefit the County, constituents, and the natural world we live in by ensuring revenue flows to the County through the permitting process, and by ensuring the County retains as much control over the operation as possible through permits. We need to maximize the protections in place for our natural world, air, water, and soil. Kearns feels open pit mines are lethal to the environment by their nature. Should the property be developed to its maximum potential, it would be on the order of one of the largest open pit mines in the country, with tailing ponds, waste disposal sites, and process sites requiring additional lands to be built on. It would be reckless and irresponsible not to retain as much control as possible over such an enterprise that seeks to rape our land for a profit and then move on.

Regarding vested rights and their extension onto adjacent properties, Ted Stout reads from a legal opinion: 'Land use agencies will often argue that a use permit is required when a vested operation seeks to expand operations into areas of the mine property not previously mined. Courts and most jurisdictions have considered the question and rejected this argument.' Stout feels this speaks to US Copper Corp being able to expand into Forest Service claims and being able to assert vested rights. Graham reiterates that vested rights only apply to privately owned lands.

Laura Kearns comments that she's read the staff report, which recommends granting vested mining rights and she agrees with a lot of the supporting documents; however, digging further, we're seeing there's more to it. Kearns states she is sitting directly behind staff to the application and is concerned with her behavior, shaking her head and laughing at the people commenting. Kearns states the comments she is hearing are concerning because it creates a bias. If we're looking for facts, then let us listen to all of it and let it all come out. People can be wrong and that's ok. (Staff apologizes.)

Chris Woods, resident of Indian Valley, comments that he has been researching the Engels Mine as far back as 1976 and can't find any inspection reports, adding that not filing an inspection report on an active mine is against the law. In 2011 Turner Excavation was permitted to mine overburden on 2.8 acres, which was actually in the China Gulch area. The overburden was placed there to divert water away from the mine. The permit was for 100,000 cubic yards of overburden. At that time they paid a \$500 County fee and secured a \$12,000 bond. Woods calculates that they've taken 50 million dollars' worth of gravel out of there. His concern is a bond for \$12,000 doesn't seem equitable for that amount of material. Woods questions if the County has a surface mine inspector right now, because the Department of Conservation says Plumas County doesn't have an inspector. Ferguson responds that the Planning Department has two licensed inspectors, herself and another staff member. Woods states the last inspection of the mine was 2020, and it's supposed to be every year. Woods questions if we have a potential mine of 13 billion dollars' worth of revenue and two licensed inspectors, is the County adequately staffed to manage a mine this size. Woods thinks that needs to be taken into consideration. Woods also feels this determination needs to be taken to the Board of Supervisors to let them deal with it and do a little more legal work. Woods states this is something Indian Valley people on the whole will fight.

Mary Shero questions if there will be another public hearing before the decision is made. Graham responds that there will be. Shero also questions where she can obtain a digital copy of the large binder of information. Ferguson responds the information is posted on the Plumas County website under the Zoning Administrator homepage. Continuing, Shero states she feels it's important that this information be shared with as many stakeholders as possible. The stakeholders are far beyond Plumas County and

Indian Valley. There are a lot of downstream tribes and rancherias, and farmers and their ability to comment will come through that binder and the digital copy of it. Shero feels it's striking that US Copper Corp would say the County is in favor. Shero doesn't know if there are any investors in US Copper listening on Zoom today, but if there are, Shero encourages them to please do their due diligence in the company they're investing in because they are saying things that may not be accurate.

Ron Knoll, resident of North Arm, questions if there is case law or precedent of "implied" abandonment. Brechtel responds that there are a couple of cases, but the holdings have been that there needs to be some sort of active effort, some sort of declaration. Brechtel offers to share the case law and Ferguson states it can also be posted on the County's website.

John Simon states Interim Zoning Administrator Graham made the comment at the meeting in October that they have vested rights and if we don't grant them vested rights we (the County) will get sued. Graham responds that he did not make that comment. Continuing, Simon states if you're worried about getting sued, why not jump on the team for the big win and worry about us and our lawsuit because it's going to come. Why not protect the citizens you represent. Why are you so concerned about a foreign company that's going to come in and put down a 50 million dollar bond saying they'll clean it up when they leave.

Trina Cunningham, a member of the Mountain Maidu community, via Zoom notes that there are other tribal members representing different tribal communities that are Maidu also on Zoom. Cunningham states mining and water rights were set up before any environmental policy and regulation. These policies and regulations have changed and improved, and right now supersede a lot of indigenous rights, religious freedoms, and other environmental issues. Cunningham questions if there is any legal standing for tribal water law and other rights that have changed since the original vestiture in mining. Do these vested rights surpass current legal standing of the destruction of tribal religious freedoms, burials, as well as the effects to statewide water law and water right systems and changes in environmental law since the establishment of vested rights? Also, Cunningham questions if the lack of previous complaints, inspections, and reclamations affect a claim of vested rights. In the original EIS (Environmental Impact Statement) or EIR (Environmental Impact Report), given the intent is to begin on private lands, were there findings to CEQA or NEPA at that time of the possibility of additional structures or infrastructure to be built in the future and if they were likely to cause the possibility of byproducts of water and mineral extraction facilities that further evaluation would be needed? Found that in other tribal court cases around the nation that that has created a legal standing for tribes, counties, and states on development. Cunningham feels vested rights should not have precedent over healthy water affecting residents of Plumas County flowing to Lake Oroville and to 27 million water users throughout the State of California. Cunningham feels this has the possibility of being a bigger than Plumas County issue and it should be considered a State issue.

Nan Taylor of Genesee thanks everyone for their patience, and comments that she really appreciates the time and patience shown to residents expressing concern and fear about what's going to possibly happen. Taylor states she actually feels reassured from hearing from the community and taking it into account before a decision is made.

Tom Peltier questions when the public will have the opportunity to raise concerns about the operation of the mine, not about reclamation. Graham responds that if vested rights are granted, there are next steps that will need to occur. Ferguson adds that there are other state and federal regulatory agencies that would have permitting authority. For example, the Central Valley Regional Water Quality Control Board has a comment letter into Plumas County that they want to put on record that they want to know about the operations and inform interested parties of potential Central Valley Water Board permitting requirements should future mining operations be initiated at the site. Continuing, Peltier questions if there will be an opportunity to raise operational issues when the time comes for the reclamation plan. Graham replies yes, as the comments pertain to reclamation. The mine operator is still bound by certain state and federal

laws and will need to obtain permits. That's the concerning thing about not having the applicant apply for a Permit to Mine because the County loses some control.

Graham restates County Planning staff is in the process of securing the services of a consultant with vested mining rights expertise, which means the County will be taking a professional services contract to the Board of Supervisors for approval probably sometime in January 2024. The County will want to give the consultant an adequate amount of time to review and analyze the information and then give the public enough time to review the entirety of the record. Graham requests Planning staff to provide at least three or four weeks for the review of the information and analysis provided by the consultant once it's prepared.

Dan Kearns questions if the public will have an opportunity to be informed as to who the consultant is and check their qualifications, interests, and biases before the decision is made to hire them or not. Graham responds that when the contract goes before the Board of Supervisors, the public will have the opportunity to comment. Ferguson adds that the staff report for the Board item will be part of the agenda packet for public review that is released by the Board Clerk with the 72-hour Brown Act noticing requirement. Kearns states they would appreciate the opportunity to look into the applicants and do the homework as well, and support County staff.

John Simon questions what the next step is procedurally should vested mining rights be granted. Ferguson responds that there is a 10-day appeal period to the Board of Supervisors, filed with the Board Clerk, following any decision of the Zoning Administrator. Continuing, Ferguson states there is a filing fee of \$770 and a statement of reasons must be made for the appeal and must be based upon the evidence presented in the record. Under the appeal, the Board of Supervisors would hear and weigh the evidence and either uphold or reverse the Zoning Administrator determination. Continuing, Ferguson recommends the next public hearing be May 8, 2024, to give the public time to review the whole of the record and the information the consultant provides, stating the release of the consultant analysis is likely to occur in mid-April.

Graham states the public hearing is not closed and Planning staff will continue to collect public comments after today and up and until and during the May 8, 2023, Zoning Administrator meeting. Graham thanks everyone for their time and acknowledges the public cares deeply about their community. Graham invites the public to reach out if they have any questions or information they'd like to share.

A five-minute break is called at 12:20 p.m.

The meeting reconvenes at 12:31 p.m.

### **III. CERTIFICATE OF COMPLIANCE: SCHNEIDER, CAROLINE; APN 002-443-002; T.25N/R.8E/S.22 MDM**

The request for a Certificate of Compliance for Lot 18 of the Old Mill Ranch Subdivision Unit No. 1, located at 126 Riverview Lane, Twain, is presented. Planning Director, Tracey Ferguson, gives a presentation as reflected in the Staff Report.

Caroline Schneider, applicant, states she was told that the lots were originally merged for tax purposes. David Windle, from Cal-Sierra Title Company, explains that the buyer (Schneider) was not represented by a real estate agent, and the merger was overlooked when the parcel was sold. Windle goes on to state that one of the reasons he believes the merger took place was due to a well on Lot 18 that was being used by the properties across the street. Continuing, Windle explains that the water company now supplies water to all the lots down there, so there's no need for the wells. Windle adds that he doesn't think there's one lot in the Old Mill Ranch Subdivision that complies with the S-3 zoning. Jim Graham, Interim Zoning Administrator, explains that the zoning that was applied to existing parcels had more to do with the level of services that are required for that parcel, than it had to do with the minimum lot size requirement.

There are a lot of less than 1 acre lots created out there that have minimal services, and the zoning designation that was more appropriate was assigned based on the level of service required by those lots, rather than minimum lot size requirements.

Continuing, Graham states he has read the letter from Cal-Sierra Title Company to Planning Director, Tracey Ferguson, requesting County Counsel review whether the merger was done improperly and if there's any way it can be undone because Lot 18 is across the street from Lots 4 and 5. Graham questions the definition of contiguous under the Subdivision Map Act and feels that it is worth looking into because the condition on the Conditional Certificate of Compliance for a general plan amendment and zone change, he believes, cannot realistically ever be satisfied because the parcel doesn't meet the requirements for the S-3 zoning designation. Ferguson clarifies that the condition reads a general plan amendment and zone change must be obtained for Lots 4, 5, and 18 to change the general plan land use designation and zoning to a land use and zone compatible with the size of Lot 18 at 0.36 acres, which, she explains, would be a single-family residential zone.

Graham questions if Windle has any other suggested remedies. Windle responds, regarding the Conditional Certificate of Compliance, that there is absolutely no reason to file a new map because there is not one thing that has changed since the survey was done of Old Mill Ranch. The legal boundaries are already established, so it would be superfluous to do a new map. Ferguson clarifies that the condition to prepare a tentative parcel map is to legally separate Lot 18 from Lots 4 and 5.

Windle goes on to state that Schneider has been approached by a buyer who might be exempt from the Subdivision Map Act, so that may be the way to cure this. Becky Herrin, Assistant Planning Director, retired, states conveyances to and from a public agency are exempt from the Subdivision Map Act. Graham states he believes this should be reviewed by County Counsel and questions if Schneider has the legal right to sell the parcel. In addition, Graham recommends looking into whether there's cause to rescind the merger because it merged a lot that wasn't contiguous. Both of those things should be examined.

Graham questions selling the parcel back to the previous owners. Windle responds that has been attempted and is not possible.

The public hearing is closed at 12:57 p.m.

Graham states he will continue this matter so that County staff has time to confer with County Counsel on two specific questions: 1) whether the recorded merger was legal as to the definition of contiguous parcels, and 2) whether the conveyance of a parcel to and from a public agency is exempt from the Subdivision Map Act. This item is continued to the February 14, 2024, Zoning Administrator meeting.

#### **IV. REVIEW OF PERMIT TO MINE & RECLAMATION PLAN & SPECIAL USE PERMIT: ROBERTI RANCH, INC.; APN 010-070-046; T.22N/R.15E/S.11 MDM**

The review of the Permit to Mine & Reclamation Plan and Special Use Permit, pursuant to Condition #1 of the Special Use Permit, for the Roberti Ranch Wildlife Refuge located at 7411 Dyson Lane, Vinton, is presented. Planning Director, Tracey Ferguson, gives a presentation as reflected in the staff report. Condition No. 1 requires a public hearing be held every five years for the duration of the permit to review all aspects of the operation for conformance with the conditions of approval and any unanticipated issues that may arise which may adversely affect the environmental, social, and economic compatibility with the surrounding area.

Permittee/owner, Jane Roberti, of Roberti Ranch, Inc. is present, along with mine operator, Tony Folchi, of Folchi Logging and Construction, Inc. No issues affecting the environmental, social, or economic compatibility with the surrounding area over the past five years are reported by the permittee/owner or operator.

Interim Zoning Administrator, Jim Graham, opens the public hearing at 1:05 p.m. There being no public comments, the hearing is closed at 1:05 p.m.

Interim Zoning Administrator, Jim Graham, takes the following actions:

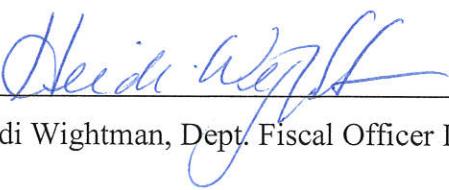
1. Finds the project is exempt from the California Environmental Quality Act under CEQA Guidelines Section 15268 as the 5-year review of the Permit to Mine/Reclamation Plan and Special Use Permit pursuant to Special Use permit Condition No. 1 is a ministerial action and not a project subject to CEQA.
2. Finds there are no unanticipated issues due to the mining operations that have affected the environmental, social, or economic compatibility with the surrounding area.
3. Finds that the mining operation, based on the 2022 mining inspection conducted on November 30, 2023, is in conformance with the Permit to Mine & Reclamation Plan Condition #2 and Condition #5, and that based on the evidence in the record Condition #3 and Condition #4 require review to ensure conformance.

**Zoning Administrator Notation:** Any decision made as a result of this meeting may be appealed to the Board of Supervisors within ten (10) calendar days of the decision. If the tenth day lands on a Saturday, Sunday, or County holiday, the end of the appeal period will be the next working day. The appeal shall be based on relevant information stated or submitted at or prior to this meeting by (a) the applicant; (b) any owner of real property within 300 feet of the exterior boundaries of the property involved who was present at the hearing or who presented written testimony before the Zoning Administrator, or who may be adversely affected by the decision of the Zoning Administrator; (c) such other person whom the Board determines to have been adversely affected by the decision; or (d) any County department head whose department has an interest in the decision (Plumas County Code, Title 9, Chapter 2, Article 10, Section 9-2.1001). Appeals shall be filed with the Clerk of the Board of Supervisors, paying the fee according to the Planning & Building Services Fee Schedule.

#### ADJOURN

There being no further business, the meeting adjourns at 11:44 a.m. The next regularly scheduled Zoning Administrator meeting is set for January 10, 2024, at 10:00 a.m. at the Planning & Building Services Conference Room located at 555 Main Street in Quincy.

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Heidi Wightman, Dept. Fiscal Officer II

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Jim Graham, Interim Zoning Administrator