

Sutti Appeal of Stop Work Order

Case No. 06APL-00000-00015



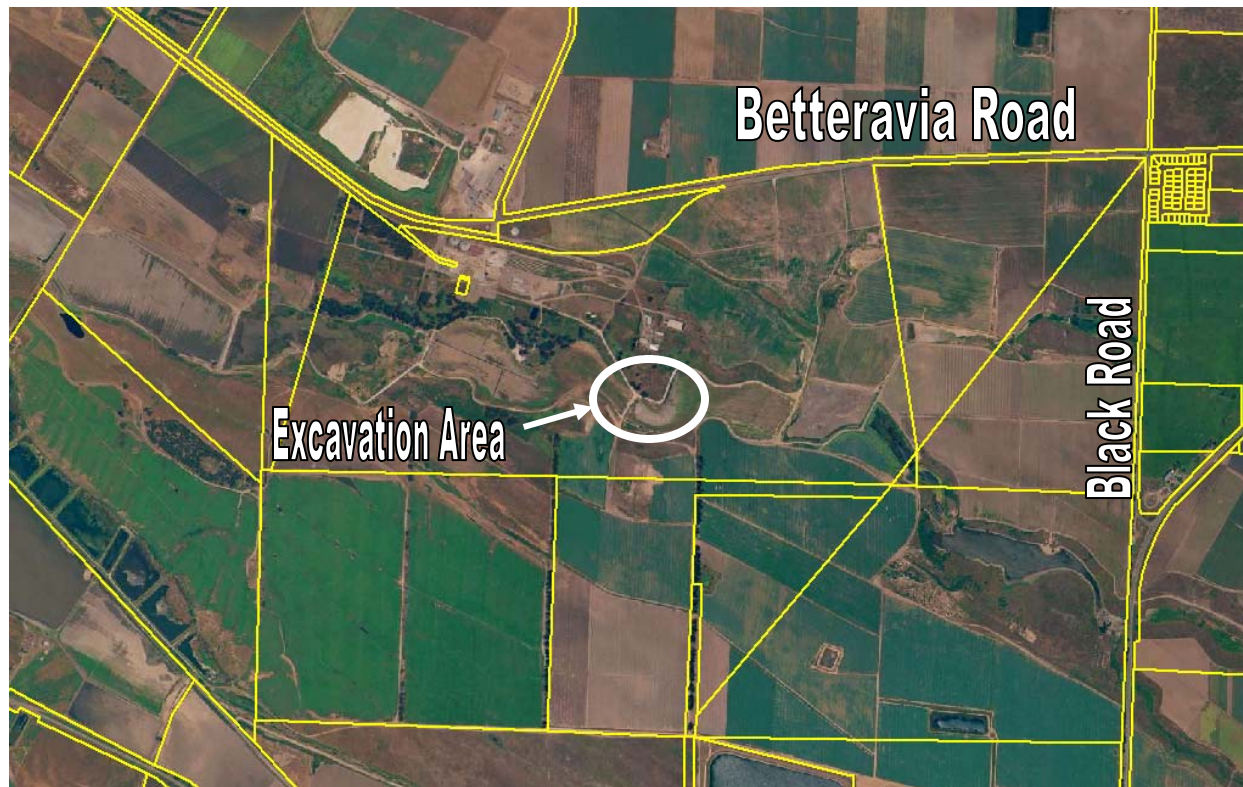
Santa Barbara County
Board of Supervisors
May 16, 2006



Site Information

- Several hundred acres in multiple parcels
- Zoned AG-II-100, 100-AG, and M-2
- Historically farmed along with sugar beet plant
- Site is surrounded by active agricultural production

Aerial Photo – Sutti Property



Surface Mining Exemptions

- Art. III, Sec. 35-320.4 - Mining Exemptions
 - Agricultural Grading (if consistent with Ord.)
 - Soil Remains on Site
 - Cut and Fill less than 3 feet
 - Extraction of minerals < 1000 cu. yds.
 - Excavations < 1 acre in total area

Stop Work Order

- Posted April 7, 2006
- Justification:
 - Inconsistent with County and State SMARA regulations
 - Removal of ~ 20-25,000 cu. yds. with the intent to remove >300,000 cu. Yds.
 - Area of removal exceeds 1 acre of disturbance
 - State Office of Mine Reclamation concurs

State Office of Mine Reclamation – Concurrence via e-mail

“I've discussed the issue voiced in your email (as attached) with OMR staff. We concur that the Lead Agency has correctly quoted SMARA with regards to exemption thresholds under Public Resources Code (PRC) Section 2714 ... Therefore, any excavation of material that is greater than 1,000 cubic yards covered over an area greater than one acre is considered "mined lands" (PRC Section 2729) under SMARA and must be regulated as such.

“OMR appreciates the opportunity to answer Lead Agency questions and assist in their compliance issues.”

Kim A. Schwab, Supervisor, Compliance Section
Office of Mine Reclamation

State SMARA Regulations

- Sec. 2714 exempts various activities:
 - Excavations or grading for farming or onsite construction where:
 - all required permits for construction have been approved by a public agency
 - Construction project considered the onsite excavation
 - Construction project is consistent with General Plan and zoning ordinance
 - Surplus materials shall not be exported from the site unless construction work has commenced (w/ permit)

County Article III Regulations

- Section 35-320.4 as follows:
- *Exemptions. No Conditional Use Permit or Reclamation Plan shall be required for any of the following activities:*
 - *Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster (SMARA Sec. 2714(a))*
 - *Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards (SMARA, Sec. 2714 (b)) in one or more locations or parcels under the control of one operator that do not exceed a total of one acre.*

Activity adjacent to active Ag.



Midfield operations



Truck loading area



Truck obscured due to depth of excavation



Truck loading area



Excavating uphill from blue-line stream



Partial Resolution

- Under “enforcement discretion”, County would allow 1000 cu. yds. for export with issuance of grading and land use permits.
- Letter to appellant’s agent with offer of partial resolution based on “enforcement discretion, ” dated May 4, 2006



Staff's response to appeal

- Staff's response to each of the 20 points are contained in the Board letter, dated May 4, 2006 and summarized below:
 - SMARA Regulations / Article III
 - Grading Ordinance
 - Other issue areas

Response to Appeal Issues

#3,4,9 – SMARA /Art. III

State and local regulations provide specific exemptions to surface mining. This operation is not exempt, and therefore is subject to SMARA.

Response to Appeal Issues

#11, 12 – SMARA /Art. III

Art. III requires the processing of a major CUP as well as a Reclamation Plan for mining, extraction and quarrying of natural resources. Soil being removed from site is a natural resource.

Response to Appeal Issues

#13, 15 – SMARA /Art. III

- Response to 3,4,9 explains why the project is subject to SMARA regulations
- All SMARA projects require the posting of financial assurances after discretionary approval.

Response to Appeal Issues

1,2,5 – Grading Ordinance

- Grading is not exempt under the SMARA statutory exemption for Ag grading since it is in excess of 1,000 cu. yds.
- Grading onsite without export is not subject to SMARA.

Response to Appeal Issues

6,7,8 – Grading Ordinance

- The export of soil from the site is a SMARA issue, not a Grading Ordinance issue.
- The soils currently being removed have become part of the “natural contour” having been farmed in that location for +/- 35 years.

Response to Appeal Issues

10,14, 18 – Grading Ordinance

- Since the project is subject to SMARA, discretionary processing is required (CUP and Rec. Plan) in addition to a Land Use Permit.
- No grading permit needed since project is subject to SMARA
- If subject to Grading Ord. stockpiling requires permits per Sec. 14-7.

Response to Appeal Issues

16 – Other Issues

The County will diligently and expeditiously process any permit application that Mr. Sutti chooses to submit.

Response to Appeal Issues

17 – Other Issues

- Mr. Sutti is being treated consistent with other similar permits.
- Absent a statutory exemption, Mr. Sutti's project is subject to Art. III, Sec. 35-320.4. requiring a major CUP and Rec. Plan.



Recommendation

1. Deny the appeal of Mr. Sutti to the Director's decision to issue a Stop Work Order placed on the property on April 7, 2006 for mining without permits.
2. Direct Mr. Sutti to submit an application for a major Conditional Use Permit and Reclamation Plan for processing and approval prior to additional mining of minerals on the property.