

COUNTY OF NEVADA

STATE OF CALIFORNIA

BOARD OF SUPERVISORS



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Clerk of the Board

October 5, 2015

The Honorable Board of Supervisors
950 Maidu Avenue
Nevada City, CA 95959

DATE OF MEETING: October 13, 2015

SUBJECT: Resolution making findings, accepting the appeal filed by Mr. Leroy Bakelmun, et al. from the decision of the Planning Commission approving a Use Permit (U14-009) and Management Plan (MGT14-015) for Newmont USA Ltd. to allow the construction of a groundwater collection, conveyance and treatment system at 12509 Allison Ranch Road, and scheduling a public hearing for November 10, 2015 at 1:30 pm. (Dist. III)

RECOMMENDATION: Adopt Resolution making findings as recommended by staff, accepting the appeal and setting the hearing on the appeal for November 10, 2015, at 1:30 p.m.

FUNDING: Filing fee collected from Appellant for costs.

BACKGROUND: On September 24, 2015, the Nevada County Planning Commission considered the applications by Mr. Bill Lyle, on behalf of Newmont USA Ltd., for a Use Permit for the construction of a groundwater collection, conveyance and treatment system to manage water draining from historical mine features; and a Management Plan to address potential impacts to riparian habitat and wetland habitat near the conveyance and treatment system.

At the conclusion of the hearing, the Planning Commission took the following actions:

1. *Adopted* the project-specific Mitigated Negative Declaration (EIS14-012)
2. *Approved* the Use Permit (U14-009) to allow the construction of a groundwater collection, conveyance and treatment system on APNs 22-120-28, -35; 22-160-27; 29-290-26; 29-350-03, -04, -16;
2. *Approved* the Management Plan (MGT14-015) to address potential impacts on riparian habitat and wetland habitat near the conveyance and treatment system; located at 12509 Allison Ranch Road, Grass Valley, CA.

On October 5, 2015 Mr. Leroy Bakelmun, on behalf of himself and Appellants Sally Ka, Maxwell Ka, Jason Peterson, Zora Biagini, Judith Connolly, Katheryn Connolly, Wils Riley, Ken Robinson, Sabrina Robinson, Susanne Runion, Daren Runion, Tom Hollenbeck, Susan Hollenbeck, Deon Jonutz, Lisa Jonutz and Brandon Jonutz ("Appellants") filed an appeal of the Planning Commission's decisions. The Appellants claim the following:

1. There was inadequate analysis of alternative locations for the project.
2. Alternate treatment solutions were not adequately addressed.
3. Parcel APN 29-290-26 was declared contaminated by the Department of Toxic Substance Control and is therefore unusable; and should have been included in the environmental study done by Worthington.

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4. Potential impact to property values was not adequately addressed.
5. Previous studies done by Newmont Mine and the City of Grass Valley in conjunction with the State of California were not obtained, included or disclosed in the Initial Study.
6. Objection to temporary impacts from noise and dust, permanent visual impact and potential for a breach in the holding tanks.

Table L-II 5.2 of the Nevada County Land Use and Development Code (LUDC) summarizes which County body reviews, recommends and takes final action on land use permits. Only where a body has final permitting authority, are those decisions appealable to the Board of Supervisors.


The Planning Commission is the Permitting Authority for commercial, industrial, and other nonresidential Development Permits of 10,000 square feet or more, and the Board of Supervisors is the Appealing Body for Planning Commission approvals, including the adoption of the required environmental document related to those approvals.

Section L-II 5.12.G of the County's Land Use and Development Code requires the Clerk of the Board to present the appeal to the Board of Supervisors at this regular meeting, so the Board can consider whether to accept this appeal and, if appropriate, schedule it for a public hearing. County Counsel and the Clerk of the Board have reviewed the appeal and recommend that the Board adopt a Resolution finding:

- The Appellants are interested parties who have standing to file the appeal; and,
- The appeal was timely filed; and,
- To the extent the Appellants are appealing the Planning Commission's approval of the Use Permit (U14-009), approval of the Management Plan (MGT14-015) and the adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (EIS14-012) as it relates to those approvals, the appeal as presented satisfies the minimum requirements set forth in Section L-II 5.12 of the County's Land Use and Development Code.

Staff further recommends that the Board accept the appeal of the actions approved by the Planning Commission and set it for public hearing on November 10, 2015, at 1:30 p.m. This date has been approved by both the Planning Director and the Appellants.

Respectfully submitted,



JULIE PATTERSON HUNTER
Clerk of the Board