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To the Nevada County Board of Supervisors

11-7-2023

NEVADA COUNTY  
BOARD OF SUPERVISORS

I have been speaking to you to alert you that the Nevada County General Code Article 7, "Hazardous Vegetation and Combustible Material Abatement" is severely limited and leaves the county open to a major disaster. This code has been the foundation for inspections of very dangerous fire conditions that have been reported at almost every board meeting since April 2023 on the property of the Alta Sierra Country Club (ASCC). Of course, the code, being very limited, does not apply as determined by one of the six "Public Officials" as a hazardous condition. The county needs to re-evaluate other conditions that need to be included to protect not only those who live in Alta Sierra but those who will be affected by wildfire in the communities around the area should a wild fire erupt.

Section GV-Iv 7.1 is supposed to extend state law to ensure defensible space is maintained on:

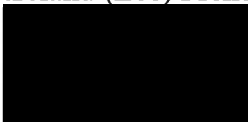
1. Parcels ADJACENT to improved parcels
2. Along emergency access easements/evacuation routes
3. Fire access easements.

"Of paramount importance is the protection of lives and structures and the safety of fire fighters and law enforcement."

"The purpose of this Article is to provide for the removal of hazardous material from around the exterior of improvements-----" ( The code then limits it to homeowners , not businesses like the ASCC ).

I request that a task force be assembled to analyze the code and update it to include improvements to support the many situations ignored in the current code.

Leland (Lee) French



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Good morning Board of Supervisors

My name is Jeanne Franklin and I live in District Two.

Supervisor Scofield and Hook, I have been in direct contact with you both and the other members of the Board of Supervisors via public comment and meetings regarding a Commercial Cannabis proposal on Meyer Ravine.

Discussed at a meeting held in July at the home of Donna Zacamy along with county employees and 30+ residents and published in The Union Newspaper was the following with regards to a proposed Commercial Cannabis grow at 22309 Meyer Ravine on a one lane private road with one means of egress:

We were told that Exclusionary zones were tried in Humboldt county and failed.

Upon research, No evidence of this can be found via phone calls to Humboldt county cannabis division or in their newspapers.

Exclusionary zones need to be addressed and placed within the cannabis ordinance especially in areas where being zoned AG, are considered residential properties.

With regards to NID water and the property in question on Meyer Ravine it was said that:

the NID issue would be looked into, That it could be a big surprise for the applicant too at the end.

A call was made to the NID who advised the following:

The owner does not have access to the pipeline, rather the spring on the property and according to NID, he can pull water out This property has an active intermittent flow account which water can be pumped out of the Myer Ravine. Intermittent flow accounts are not a guaranteed source of water, and if there is water in the natural water way, the customer is allowed to pump out of the canal April 15<sup>th</sup> - October 14<sup>th</sup>

Nevada County Commercial Cannabis Regulation Frequently Asked Questions (FAQ) under

Environmental Health Standards section states that

The Environmental Health Department will need to review any cultivation areas **located near Wolf Creek as per the Central Valley Regional Water Quality Control Board; Wolf Creek is an impacted body of water. Due to the sensitive nature of the current composition of Wolf Creek, each cultivation submittal located near or around Wolf Creek will be evaluated and the setback could be increased to 100ft but no more than 400ft.**

Meyer Ravine is a tributary of Wolf Creek which flows into the Bear River and thence the Feather and Sacramento Rivers. Is this property in compliance with this standard?

At the meeting in July with county officials and Supervisor Scofield and Hook residents on Meyer Ravine pointed out the 20 foot wide right of way onto Meyer Ravine from Gardenbar, that was overlooked. It took an architect to review the submitted plans to advise county officials that the submitted plans had flaws, & were vague regarding road improvements which he outlined with specific details and drawings to county officials and asked how these inconsistencies meet county standard and still stay within the easements. Nevada County Planning Department on August 7th, upon review of the architects email, it was then determined that "because of the 20 foot wide R/W to Gardenbar Road, the Petition for Exceptions that was originally applied for will be an active component of the project for that area of road". We are now awaiting a resubmittal.

At the BOS meeting on 10/24 Court and Megan Worden addressed the board

Supervisor Scofield stated to Mr. Worden that he made his appeal and that his arguments be held until the 5<sup>th</sup> of December. However, if Court and Megan had not utilized this 3 minute public comment, our county residents would not have been privy to their appeal. We are watching this appeal closely as a barometer for how our BOS will vote.

Supervisor Hoek stated in the same meeting that "A lot of work gets done beforehand so we don't need to get to a point" where an appeal is needed. More work needs to be done, questions answered, plans and compliance fully reviewed. County residents should not have to do the work in the trenches in order to provide the county the evidence due to the county's lack of research or knowledge

What <sup>we</sup> I am witnessing whether it is Meyer Ravine, Thoroughbred Loop/ 6B ranch , Golden Oaks or, the expansion of a Commercial cannabis grow on Blue Heron is that there are broken chains within the county departments.

There seems to be a huge disconnect in county officials working together and being well versed in our county ordinances and compliances. It should NOT be up to the Nevada County residences to bring forth what we find by taking our time to review the laws and standards set by our county.

We, the concerned county residents should not need to be the stewards and do the research in our county laws, compliances and ordinances to bring forth to the Board of Supervisors.

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11/07/2023 Good morning. My name is John Vaughan. I live in District 3.

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At the June 27<sup>th</sup> Board Meeting, I spoke of the fact that during the Rise Gold Final EIR process, for any item of substance, Rise Gold and Raney Planning & Management ignored all outside experts claiming it wasn't necessary or the experts were ill-informed, confused or just wrong.

During my career, I was always well served by listening to every expert I could find. I'm hopeful that for the review of Rise Gold's desperate attempt to claim Vested Rights, the Planning Dept, County Counsel and the Board will listen to all the experts.

The specific example I'm talking about today is the Shute, Mihaly & Weinberger, LLC response to Rise Gold's Vested Rights Petition. CEA Foundation has submitted copies to you. I respectfully urge you to read them.

A look at the Shute, Mihaly & Weinberger document regarding the County Land Use Code is a good example:

- Under the Nevada County Land Use and Development Code (*Section L-II 5.19(B)*), any vested right to mine gold expires once the non-conforming use is discontinued for one year.
- In the *Hansen Brothers* case, cited 49 times in the Rise Petition, the Hansen project did not terminate all operations, yet the Court voiced *no doubts* about whether the Land Use Code would terminate vested rights automatically if operations had ceased for the one year period.
- Other cases decided after *Hansen Brothers* indicate that this Board should give the Land Use Code its plain meaning: that any vested right to mine gold has been lost through discontinuance of the original use.

Shute, Mihaly & Weinberger also note:

- In 2006, the California Department of Toxic Substances Control (DTSC) launched a statewide database to better identify and track "inactive or abandoned mines".
- DTSC selected the Idaho Maryland Mine as its single starting example to demonstrate the capabilities of the new database. In other words, the Idaho Maryland Mine is not just *an* abandoned mine; it is the poster child for abandoned mines in California.

I urge you to read the CEA Foundation and Shute, Mihaly & Weinberger responses and Just Say NO to all elements of the Rise project.

And lastly, as your next meeting is not until December 5th, I hope each of you has a happy Thanksgiving.

Thank you.

John Vaughan, 



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## **The Scope of a Vested Right is Limited To Its Component Part**

November 6, 2023

Hopefully you have each received a copy of our legal review of the Rise Vested Rights Petition that was prepared by Shute, Mihaly & Weinberger, LLC. From that legal review, it seems very clear that because the Idaho-Maryland Mine shut down in 1956, followed by liquidation of assets, by 1960 any vested rights that might have existed were lost. Multiple reasons are provided to make that point.

But despite that blatant fact, Rise attempts to develop examples of continuing mining operations, citing a string of various irrelevant activities. These examples do not withstand scrutiny.

For example, there's the Hansen Bros case in which vested rights for an aggregate processing business were retained after a period of non-operation. Rise claims that the aggregate processing on the Centennial site in the 1980s is a similar case.

However, unlike the complete shut down and liquidation of the Idaho-Maryland Mine in the 1950s, the Hansen business did not completely shut down. The plant, equipment, inventory, and utilities were maintained throughout the non-use period. Some business activities were being conducted. Some materials were stockpiled that could be drawn upon.

The vested rights issue was regarding an area of hillside quarrying that was not in continuous use. A key point is that Hansen Brothers relied upon materials from both a hillside quarry and the riverbed to create their products. Thus, because the hillside use was an integral component of the business, the vested right was not lost.

The Hansen ruling goes on to clearly acknowledge that if the hillside operations were an independent part of the business instead of an integral or component part, the vested right may be lost. In other words, the vested right to carry out one type of "mining" does not guarantee a broader right to carry out all other distinct mining uses of a business. Other case law also finds that a vested right to mine is limited to "the particular asset" being mined.\*

Applying this standard to the Rise Vested Rights claim, aggregate processing from waste rock on the Centennial site was a completely independent operation and therefore is not relevant to the gold mine operations.

In summary, the claim of vested rights fails on the outset following the shutdown of the mine in the 1956 time frame. And, even beyond that, the vested petition additionally fails because the mining of aggregates on the Centennial site is irrelevant.

Thank you.

Ralph Silberstein,  
CEA Foundation

\* See "2023-10-27 CEA Foundation Response to Rise Vested Rights Petition.pdf," Shute, Mihaly & Weinberger LLP, submitted to Nevada County Board of Supervisors 10/27/2023.