

Developer wins ruling

Court upholds city's approval of north Fresno project.

By Russell Clemings

The Fresno Bee, Wednesday, October 26, 2005

A judge has ruled in favor of a Fresno developer whose plans for a prominent tract on the city's northern fringe had been challenged by a nearby homeowners group.

The decision by Fresno County Superior Court Judge Wayne R. Ellison upholds the city's approval last December of a mixed-use project on the 39-acre "Fresno 40" tract, bounded by Friant Road, Audubon Drive, Cole Avenue and Fresno Street, near the interchange of Friant and Freeway 41.

Attorney Richard Harriman, who filed the lawsuit on behalf of the Woodward Park Homeowners Association and Valley Advocates, said that an appeal is possible.

But James McKelvey, attorney for developer DeWayne Zinkin, said construction may proceed anyway once final plans are reviewed and approved by the city.

"There's nothing in this decision that would restrict Zinkin from building the project, and the ruling's so strong that I suspect he will," he said.

The plans approved by the City Council in December call for about 16 acres of shopping, with offices and apartments on the rest of the site.

Opponents charged that the city's review of the project paid too little attention to its environmental effects, especially traffic and air quality. But in its ruling, issued Monday, the court said that the city did not abuse its discretion.

California law "does not require that an EIR [environmental impact report] be exhaustive, and the absence of information in an EIR does not, per se, constitute a prejudicial abuse of discretion," Ellison wrote.

Harriman had argued, unsuccessfully, that the report should have included an analysis weighing the project's likely environmental costs against its expected benefits.

He indicated that an appeal is possible, but only if his clients approve.

"It had been my intention, if we lost, to appeal on behalf of the Woodward Park Homeowners Association, but obviously I've got to talk to them and their board," he said.

Early city plans earmarked the Fresno 40 site for homes, but it was rezoned in 1990 when the former Valley Children's Hospital was planning to build its new facility there.

The hospital subsequently moved to southern Madera County and changed its name to Children's Hospital Central California. After two other potential buyers backed out, Zinkin bought the property.

Hilmar Cheese to settle

Water control board still must sign off on \$3 million settlement

By Michael G. Mooney

The Modesto Bee and Merced Sun-Star, October 26, 2005, 05:22:04 AM PDT

Hilmar Cheese Co. would pay \$3 million under a proposed settlement with the Central Valley Regional Water Control Board, which earlier this year cited the Merced County cheese-making giant for multiple water pollution violations.

The Hilmar Cheese Co. processing complex is located about a half-mile north of Hilmar on Lander Avenue. The case against the company stemmed from the discharge of 821 million gallons of wastewater on land adjacent to the facility.

Those discharges, state regulators claim, exceeded permit levels for salt and caused waste to be released into state waterways.

Under the terms of the tentative agreement announced Tuesday -- which still must be approved by members of the water board before it can take effect -- a third of the \$3 million would help pay for a study of salinity in Central Valley groundwater.

Another \$1.85 million would be paid to the State Water Resources Control Board's Waste Discharge Permit Fund for clean-up and abatement purposes.

The remaining \$150,000 would reimburse the state Attorney General's office for fees and costs associated with a separate probe of Hilmar Cheese that found no evidence of any criminal wrongdoing on the part of the company.

Catherine George, senior staff counsel, for the State Water Resources Control Board, said Tuesday the \$1.85 million would be among the largest amounts ever paid to the board's Discharge Permit Fund resulting from state water law violations.

Hilmar officials, in a statement released Tuesday, said the tentative agreement "expressly acknowledges that the terms of the settlement in no way are to be interpreted as any admission of liability by Hilmar Cheese."

That point was underscored by John Jeter, president and chief operating officer of Hilmar Cheese.

"We have always been confident of the merits of our case before the (regional water board) but wanted very much to move beyond the litigation and really address the underlying issues of the wastewater and salinity challenges facing the Central Valley," Jeter said. "We are embracing this settlement because it sets the foundation for solutions to the issues that plague the (Valley's) food processing industry."

Earlier this year, the water board's executive officer recommended Hilmar Cheese pay a fine of \$4 million for repeated violation of state water laws dating back 16 years.

[The recommended \\$4 million complaint against Hilmar Cheese came in the wake of a Sacramento Bee probe that revealed the company's long record of air and water pollution violations. The Bee's stories also showed that the water board had failed to fine or otherwise sanction the company for the repeated transgressions.](#)

Hilmar Cheese officials finally signed off on the proposed settlement Tuesday. It will be discussed publicly by members of the water board at their next meeting, scheduled for Dec. 1 and Dec. 2 in Rancho Cordova.

Should board members reject the proposal, the case likely would move into the courtroom.

Tracy's bigger big-box debate

Rick Brewer

Stockton Record, Wednesday, Oct 26, 2005

TRACY -- Turning Tracy's Wal-Mart into a bigger big-box is one step closer, but opponents may be poised again to marshal their forces against another proposed Supercenter in San Joaquin County.

The draft version of an environmental review of the project is open for public comment through Nov. 19. More than two years have been spent preparing the report since Wal-Mart executives conceived an 82,000-square-foot expansion of the low-cost retailer on Grant Line Road. If approved, the store could expand to more than 208,000 square feet and become one of the nearly 1,500 Wal-Marts to include a grocery store and bakery. A similar Wal-Mart Supercenter is on Hammer Lane in Stockton.

Tracy senior planner Victoria Lombardo said no formal written protests have been filed against the 307-page review of the project's potential impacts on traffic and utilities, noise pollution, and air and water quality.

"It may be that people are taking their time to go through the report," she said. "It's pretty extensive."

Lombardo said Tracy officials did not require the environmental review of the property, because a sufficient report exists based on Wal-Mart's original 1993 construction. But company executives paid for it, she said, because similar expansion projects throughout California have led to dozens of lawsuits.

"Generally speaking, with the lawsuits that have been filed in other cities, we wanted to ensure thoroughness," said Kevin Loscotoff, a Wal-Mart spokesman. "The courts have simply required further environmental analyses, and those projects all continue to go forward."

Stockton and Lodi are among more than 30 cities that have been sued after approving Wal-Mart Supercenters.

Lawyers universally have argued that local officials miscalculate the environmental consequences of the behemoth stores.

In Stockton, three residents and a group called Stockton Citizens for Sensible Planning filed suit in 2004 against a proposed Supercenter in Spanos Park West. A San Joaquin County Superior Court judge ordered construction to cease on the site at Interstate 5 and Eight Mile Road pending further environmental review.

Lodi First is a group that filed suit in March to stop an approved Wal-Mart Supercenter from being built at Lower Sacramento Road and Kettleman Lane.

And Ripon residents have gathered 300 signatures on a petition to fight a proposed Supercenter at Jack Tone Road and Canal Boulevard, on the west side of Highway 99.

Lombardo said she expects a similar fight in Tracy, with grocers and unions teaming up to sue over the megaretailer.

Sam Rosas is president of Teamsters Local 439. He did not speculate whether union members would sue Tracy if Wal-Mart's expansion is ultimately approved but called the company an anti-union corporation that pays low wages and provides substandard benefits. That disparity is particularly pronounced among grocery workers, who are unionized throughout Northern California, he said.

Rosas led several summertime pickets in front of Stockton's Wal-Mart to protest the company's employment practices, which he said lead to an unfair competitive edge in grocery costs.

"We will continue to tell Wal-Mart to do the right thing and provide better wages and a decent health-care plan to their employees," Rosas said.

Loscotoff said Wal-Mart is trying to provide choice in the marketplace.

"We've seen competitors, unions and special interests announce that they have been opposed to some of our locations," he said. "But we've heard consumers want the ability to choose where they spend their hard-earned money, and we'll stand up for them."

Oil technology studied

Fresno State works with firm creating a less-polluting way to reach deposits.

By Jim Steinberg

The Fresno Bee, Tuesday, October 25, 2005

Fresno State is working with an oil-technology firm on a new system the company says will help reduce air pollution in the San Joaquin Valley and worldwide even as it extracts more oil from the ground.

The new technology could become more valuable as the world consumes remaining supplies of light oil. Oil will remain a key in energy production for decades before alternative energy sources become more economically feasible, says the firm's top official.

The company, EDSG Systems LLC of Newport Beach, is operating its equipment on campus. EDSG stands for Electric Downhole Steam Generation, which summarizes what is happening inside a gray, metal, cylindrical casing sitting outdoors near the engineering buildings at California State University, Fresno. John Donohue, the company's chief executive and a retired president of Unocal's North American operations, says the new system heats heavy oil - sludge that's too thick to flow through extraction pipes.

In oil fields around Coalinga and elsewhere, companies use natural gas to heat boilers above ground to create steam. They send the steam through pipes to heat heavy oil below, says geology professor Robert Merrill at Fresno State. The university is cooperating with Donohue's tests of electricity-generated steam. The idea is to generate the steam at the level of subterranean oil deposits.

In either system, heating subsurface deposits of heavy oil renders it fluid enough to flow through pipes.

The present process is inefficient because much of the generated heat escapes on the way to heavy oil deposits 500 to 5,000 feet below ground. The process also pollutes, because natural gas, the fuel used to produce steam in boilers, adds pollutants to the air as it burns, officials said.

The growing importance of heavy oil to the industrial West is made clear in figures reported two years ago by the Interstate Oil and Gas Compact Commission. The commission is the voice for 37 oil- and gas-producing states, including California.

Commission spokeswoman Alesha Leemaster reports that heavy oil accounts for 65% of California's oil production. That translates to 475,000 barrels per day.

From one-fourth to more than one-third of the oil's energy value is spent on steam-generating costs in extracting oil from the ground.

Donohue's company and Fresno State seek to demonstrate that the EDSG system will cut that expense drastically.

Inside the model oil casing at Fresno State, EDSG generates steam as it would if implanted farther underground. The casing contains a black pipe 5.5 inches wide by 10 feet in length. Inside the pipe are tubes containing water and electricity that create steam at one end of the pipe.

In the next year, EDSG and Fresno State will refine their engineering and conduct succeeding phases of testing, say Donohue and Andrew Hoff, interim dean of the College of Engineering.

The university and the company have not reached final agreement on terms of a partnership.

"We are looking at providing space," Hoff says. "The company would be here, assembling the device."

Donohue says the Fresno State model "simulates exactly what will be going on down hole," as much as 5,000 feet underground.

Most remaining reserves of light oil lie in the volatile Middle East, Donohue says. Saudi Arabian oil, for instance, is very light and flows easily.

The university says that EDSG's technology "would decrease air pollution." Air pollution is a long-running health, economic and quality-of-life problem for the San Joaquin Valley.

Fresno State's engineering faculty may join the next phase of testing as technical consultants. Students may monitor and record data.

"This is real-world research" for those students, Donohue says.

Use of steam to heat underground oil has "been around a long time" as a way to make heavy oil flow more easily, more like Saudi oil, engineering professor Walter Loscutoff says.

"Here, in Kern County and Canada, the oil is more like tar," Loscutoff says, "and it barely flows."

Loscutoff says of the EDSG concept, "the idea is good. There is less wastewater. It is a more efficient way of bringing heat to the bottom of the hole. That's the big advantage."

A major oil company has tested a similar system, Loscutoff says. He calls the concept "very viable and logical."

Fresno State's involvement in the heavy-oil technology began about 18 months ago, when an EDSG officer approached Karl Longley, Fresno State's dean of engineering who has since retired.

The university has asked Loscutoff to prepare a memorandum of understanding between Fresno State and the EDSG. Agreement will require further discussion.

Donohue says he has discussed his technology with David Crow, executive director of the San Joaquin Valley Air Pollution Control District.

District spokeswoman Kelly Malay said the district is looking at the new technology but has made no decision on whether to endorse it. Said Malay: "We support technology that reduces emissions and haven't done that yet with this technology."

[Modesto Bee, Letter to the Editor, Wednesday, Oct. 26, 2005](#)
Eastward Ho!

I realize the problems our valley is facing due to rapid growth is not a laughing matter, but I had to giggle at "Potholes, [smog](#), few jobs, auto theft" (Letters, Oct.17). I wonder if our foothill neighbors

are going to welcome the VATs (Valley Area Transplants) with open arms as we have welcomed our neighbors from the west (the Bay Area Transplants)?

Upon reading the letter, I got this funny visual of the masses running from their problems, pushing the locals from their homes until the good folk of New England drop off into the Atlantic.

I think I'll stay where I am, be kind to my fellow man, become more active in issues that affect my life and watch with interest the changes in the world (many for the better) as I have for the past 70 years.

JOAN HAYS , Oakdale