

ATTACHMENT C



Notice of Appeal of Planning Commission Decision

Appeal Fee: \$555.11

effective FY 2025-26

Due at Time of Appeal Filing

Appellant Instructions – Complete all sections below. Print or type, this side only.

Project Site Address

350-041-12, 332-071-52/53, 333-061-04/05, 333-160-01, 360-020-20

14684 E. Goodfellow Avenue Sanger 93657-9551
Number Street City Zip Code Assessor's Parcel Number (APN)

Appellant Information

Applicant Information

Name: Riverbend Sand and Gravel, LLC
Mailing Address: 14962 E. Fantz Avenue
Parlier, CA 93648-9734
Phone Number: (559) 875-6565

Name:
Mailing Address:
Phone Number: ()

Is the Appellant also the project Applicant? Yes No
If no, complete Applicant Information section.

Subject of Appeal

Date of Planning Commission Decision: February 11, 2026 (Appeal of Director Determination Pursuant to Fresno County Zoning Ordinance 876.6.020(B)).

I wish to appeal the Planning Commission's decision to: Approve Deny

- Amendment Application, Director Review and Approval Application, Tentative Tract Map Application, Amendment to Text Application, General Plan Amendment Application, *Variance Application, Conditional Use Permit, Tentative Parcel Map Application, Other: Director Determination

Reason(s) for Appeal: (Attach additional pages if necessary) See Attached Document titled, "Appeal of Director's Determination - Rejection of Grading Permit Application No. 25 000206 - 3677 S. Riverbend Avenue. Applicant contends that CUP 3390 is valid and effective, and Applicant requests that the Board reverse the Director's Determination to the contrary.

Appellant Signature

February 26, 2026
Date

Return completed form and fee to the Clerk of the Board of Supervisors, 2281 Tulare Street, Room 301, Fresno, CA 93721

*Fresno County Ordinance §876.6.020(B)(2) requires that any appellant, other than the applicant, County Department Director, or Board of Supervisors member, must be a property owner within a certain distance from the Variance Application property. The Department of Public Works & Planning will verify that the ordinance requirements are met. If the requirements are not met, the appeal fee will be returned and no date for appeal hearing before the Board of Supervisors will be set.

For Office Use Only

Copy sent to: Date copy sent: Hearing set for:



**MITCHELL
CHADWICK**

Patrick G. Mitchell
pmitchell@mitchellchadwick.com
916-462-8887
916-788-0290 Fax

February 26, 2026

VIA ELECTRONIC MAIL AND PERSONAL DELIVERY

Bernice E. Seidel, Clerk of the Fresno County Board of Supervisors
Fresno County Board of Supervisors
2281 Tulare Street, Suite 301
Fresno, California 93721
ClerkBOS@FresnoCountyCA.gov

**Re: Appeal to Fresno County Board of Supervisors
of Director's Determination - Rejection of Grading Permit Application
No. 25-000206 – 3677 S. Riverbend Ave.**

Dear Ms. Seidel:

Pursuant to section 876.6.020, subd. (B) of the Fresno County Zoning Ordinance, Riverbend Sand and Gravel, LLC¹ (“Riverbend”) hereby submits this appeal of the Fresno County Department of Public Works and Planning’s (“County”) February 11, 2026 “Riverbend Sand & Gravel – Director’s Determination” (“February 11, 2026 Director Denial”), including the County’s determination as stated in the February 11, 2026 Director Denial that Riverbend’s Conditional Use Permit No. 3390 (“CUP 3390”) has expired.

The February 11, 2026 Director Denial asserts that “substantial development has not occurred and . . . CUP [3390] expired [under its own terms]² and also improperly rejects Riverbend’s claim to a vested right in CUP 3390. Riverbend respectfully submits this appeal to the Board of Supervisors (“Board”), and requests that the Board consider the facts and law contained in this appeal of the County’s February 11, 2026, Director Denial, reverse the Director Denial, and find CUP 3390 to be still valid.

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¹ The owner of the real property subject to CUP 3390 is Running Luck Ranch, LLC. This appeal is submitted on behalf of both Riverbend and Running Luck Ranch, LLC.

² See enclosed “Index of Documents, Appeal to Fresno County Board of Supervisors of Director’s Determination - Rejection of Grading Permit Application No. 25 000206 – 3677 Riverbend Ave., Submitted February 26, 2026.” (“Index of Documents”), Document No. 330 (February 11, 2026 Director Denial), at p. 5.

I. Introduction.

The February 11, 2026 Director Denial which is the subject of this appeal is the County's response to Riverbend's November 20, 2025 appeal to the Fresno County Director of Public Works and Planning, Steven E. White ("November 20, 2025 Appeal to Director"), which appeal Riverbend submitted in response the County's November 5, 2025 "Staff Determination - Rejection of Grading Permit Application No. 25-000206³ – 3677 S. Riverbend" ("November 5, 2025 Staff Denial").

The County's November 5, 2025 Staff Denial was a response to Riverbend's April 21, 2025 Letter, sent in response to the County's Preliminary Response Dated January 22, 2025 ("January 22, 2025 Staff Letter"), regarding Riverbend's Grading Permit Application No. 25-000206 ("Grading Permit Application"), which Riverbend submitted on January 2, 2025. The Grading Permit Application was submitted as part of Riverbend's ongoing efforts to mine the property in connection with CUP 3390, with the understanding that Riverbend possesses a vested right under CUP 3390. The County contends that CUP 3390 expired in 2017 because no substantial development had occurred within two years of the May 19, 2015 approval of CUP 3990. Riverbend disputes this contention and has submitted documents for the County to consider detailing the history of development of the property.⁴

Accordingly, this appeal incorporates by this reference the following documents, as if submitted in their entirety with this appeal:

- Riverbend's April 23, 2024, letter to the County regarding Riverbend's "Vested Property Right Under CUP 3390," and all attached exhibits;
- Riverbend's June 13, 2024, appeal to the County regarding "Notice of Appeal – Conditional Use Permit No. 3390 (CA Mine ID # 91-10-0031)," and all attached exhibits;
- Riverbend's April 21, 2025 letter to the County responding to the County's January 22, 2025, Preliminary Response regarding Grading Permit Application No. 2025-000081 (the "April 21, 2025 Letter"), and

³ Riverbend's Grading Permit Application was initially assigned number 2025-000081 and this reference number was used in prior letters relating to the application, including the January 22, 2025 Staff Letter. The November 5, 2025 Staff Denial, however, refers to "Grading Permit Application No. 25-000206," indicating that a new reference number was used. For clarity, this letter will refer to Grading Permit Application No. 25-000206, with the understanding that both reference numbers (No. 2025-000081 and No. 25-000206) apply to the same Grading Permit Application that is the subject of this appeal.

⁴ The years-long history of this dispute is laid out in detail in Riverbend's prior letters and submissions to the County, all of which are included in the Index of Documents. See also, Riverbend's prior submissions, dated April 23, 2024, with exhibits (Index, Nos. 7–68), dated June 13, 2024, with exhibits (Index, Nos. 69-99), dated April 21, 2025 (Index, No. 1), and dated November 20, 2025 (Index, No. 329).

- Riverbend’s November 20, 2025 “Appeal of Staff Determination – Rejection of Grading Permit Application No. 25 000206 – 3677 S. Riverbend Ave.” (the “November 20, 2025 Appeal”) and all attached exhibits.

The documents are also listed on the enclosed Index of Documents submitted concurrently with this appeal.

The incorporation of these documents by reference is made in accordance with Chapter 876.6 of the Fresno County Code, and as confirmed through discussions between Riverbend’s counsel and Fresno County Counsel, with the understanding that these documents were submitted previously to the Department of Public Works and Planning and to the Board of Supervisors and thus are part of the administrative record for this appeal.⁵

II. Factual Background.

A. CUP 3390 is Approved and Substantial Development Occurs (2015 – 2017)

On February 26, 2015, the Fresno County Planning Commission approved CUP 3390. This decision was appealed, but then the late afternoon prior to the May 19, 2015, Board of Supervisors appeal hearing, the Appellant suddenly withdrew the appeal.⁶ The Board of Supervisors unanimously dismissed the appeal, thus confirming the Planning Commission approval.

In a September 14, 2015 letter from the County Department of Public Works and Planning, Development Services Division Staff Analyst Hector Luna to Mr. Buada, it was stated that “Conditional Use Permit No. 3390 will become void, unless there has been substantial development within two years of the effective date of this approval” and “This Site Plan Review [No. 7946] approval shall expire concurrently with Conditional Use Permit No. 3390.” (Exhibit 74.) The corresponding Site Plan (SPR 7946) and Site Plan Map was approved on September 14, 2015. (Index, No. 165.)

The County Board of Supervisors’ Draft Internal Agenda Report from May 24, 2016, item 16-0056 proposed to approve an Indemnification Agreement with Riverbend, as required by CUP 3390.⁷ (Index, No. 181.) The final County Board of Supervisors’ Internal Agenda Report included item 33, which was to approve the Indemnification Agreement with Riverbend, as required by CUP 3390,⁸ which also shows the continued development of the Riverbend site and continued participation by the County in the process. (Index, No. 182.)

⁵ See email chain, dated February 23, 2026 (Index of Documents, No. 331.)

⁶ The two-year substantial development period set forth in County Zoning Ordinance Section 873(I) would have run from the May 19, 2015, Board of Supervisors hearing at which time Riverbend was informed the appeal had been dismissed, as Riverbend had not been permitted to commence work while the CUP appeal was pending. This timing was confirmed in Chris Motta’s letter to Riverbend’s counsel dated March 21, 2017 (Index, No. 12.)

⁷ County Board of Supervisors Draft Internal Agenda Report, May 24, 2016, at p. 9 (Index, No. 181.)

⁸ Final County Board of Supervisors Internal Agenda Report, May 24, 2016, at p. 8 (Index, No. 182.)

Almost two years after the Planning Commission's approval of CUP 3390, on February 23, 2017, my office sent a letter on Riverbend's behalf to Chris Motta to inform the County that Riverbend's rights under CUP 3390 had vested and that substantial development had occurred. (See Index, No. 8.) That February 23, 2017, letter recounted Riverbend's good faith efforts to implement CUP 3390 over the two years following the May 19, 2015, final determination, including spending over \$294,000 on permitting efforts, site work, fencing installation, project design, PG&E pole installation, and electrical engineering work to implement CUP 3390, all of which constituted substantial development. My February 23, 2017, letter included two attachments. The first was a table of project development costs of \$294,001 incurred through January 2017. (Index, No. 9.) The second attachment was two letters from John Buada regarding Riverbend's filed Notice of Intent and payment of the requisite fee for construction of the aggregate stockpile area in anticipation of construction pursuant to stormwater plan SWPPP requirements. (Index, No. 10.)

Also on February 23, 2017, I emailed to then Deputy County Counsel for land use matters, Mr. Art Wille, and Mr. Motta a draft traffic mitigation agreement for Riverbend, proposing to resolve the prior discussion with the Department of Public Works related to estimated costs by a proposed bonding concept. (Index, No. 181.)

Additionally, the February 23, 2017 email from John Wheat, an attorney with my office at the time, to Mr. Motta included a letter regarding the status of Riverbend's implementation of CUP 3390, which shows receipt of the email to Mr. Motta apprising him of the status. (Index, No. 194.) On February 24, 2017, Mr. Motta emailed me in response to John Wheat's email regarding the letter on the status of Riverbend's implementation of CUP 3390, citing the issue of substantial development and scheduling a meeting with County Counsel for the following Monday. (*Ibid.*)

On February 27, 2017, I sent an email on behalf of Riverbend, responding to the County's February 24, 2017 email in which I reiterated that Riverbend already had a vested property right under CUP 3390 because of its good faith efforts to substantially develop (e.g., expenditures over \$294,000), and therefore did not require and was not requesting a formal determination from the County. (Index, No. 11.) My February 27, 2017, email explained that Section 873(I)(1) of the County Zoning Ordinance was inapplicable because substantial development had already occurred within two years of the May 19, 2017, approval; thus, there was no need for a formal determination nor an extension regarding CUP 3390.

A construction permit for electrical installation, including a plan review, for the Riverbend site was approved by the County on March 13, 2017.⁹ This included an invoice from the County for \$2,328.16, and the permit application checklist included a handwritten note stating, "CUP 3390 – Allowed Mining operation."¹⁰ (Exhibit 105.)

By letter dated March 21, 2017, Chris Motta at the County responded to my February 23, 2017, letter and February 27, 2017 email (see Index, No. 12.) In that letter (which was sent by email and

⁹ Fresno County Development Services Division Construction Permit # 17-100917-FC (March 13, 2017) at p. 1.

¹⁰ *Id.* at p. 4-5.

included now former Deputy Land Use County Counsel Arthur Wille on the email (Index, No. 200), the County agreed that Riverbend had expended substantial efforts to initiate its long-term project and further agreed that May 19, 2015, was the CUP 3390 approval date. However, the County incorrectly asserted that Riverbend must request a formal determination of substantial development¹¹ from the County (ignoring Riverbend's vested property right in CUP 3390), which would then go through public noticing with the ability of neighboring property owners to request a hearing before the Board of Supervisors. The County further asserted that Riverbend's substantial work and incurred liabilities, all of which were done in good-faith reliance on CUP 3390, "is not equivalent to the County making a determination that substantial development for the project has been achieved, as that process is set forth in Section 873(J) of the Fresno County Zoning Ordinance." Finally, the County stated that Riverbend may request an extension to CUP 3390, disregarding Riverbend's prior statements that no extensions are needed as Riverbend already had a vested property right in CUP 3390 because substantial development had already occurred.

The next day, on March 22, 2017, Mr. Motta emailed his colleagues Ms. Kooner and Mr. Daniele asking who should receive the Riverbend Traffic Mitigation Agreement for review. (Index, No. 201.)

Emails within the Department of Public Works and Planning in early to mid-May 2017 reference Riverbend's Traffic Mitigation Agreement with the County, including whether or not Riverbend would have to pay to relocate the PG&E towers or if the County would have to front the cost. (Index, No. 202.) As of September 2017, the Agreement had still not been signed and was in an ongoing process of redline revisions with the County. (Index, No. 204.)

B. The County Treats CUP 3390 as Active Over the Next Six Years (2018 – 2024)

As of April 2, 2018, Mr. Motta added comments in a PDF document of Riverbend's Operational Statement, including pointing out reference to CUP 3052, which was the Conditional Use Permit for Calaveras Materials, Inc. (Index, No. 209.) Inter-County emails from April 2, 2018 through April 9, 2018, discussed scheduling meetings and phone calls regarding CUP 3052, CUP 3390, and "CMI"¹² possibly mining the Riverbend site. (See Index, Nos. 209-210.)

On June 28, 2018 Mr. Buada emailed Senior Engineering Technician Jennifer Parks a copy of the 2017 Riverbend SMARA Annual Report that was also mailed that day to the Division of Mine Reclamation. Ms. Parks forward the email to Water & Natural Resources Manager Glenn Allen, who forwarded the email to Roy Jiminez, Jr. (Index, Nos. 211-212.)

Emails between Anne Badasci from my office and Deputy County Counsel Kyle Roberson from August 16, 2018 through August 22, 2018 occurred regarding the Riverbend Traffic Mitigation Agreement. (Index, No. 214.)

¹¹ The Zoning Ordinance in effect in 2017, at section 873(J)(1), contained no requirement that an Applicant must request a determination of substantial development, as explained further below.

¹² CMI is a reference to the aggregate mining operation adjacent to the east and southeast to Riverbend site. The CMI site is now owned by Martin Marietta.

On August 26, 2018, Mr. Roberson responded to Ms. Badasci's email with others included, saying, "I receive [*sic*] your draft agreement. I expect to provide you with my comments within the next 3 weeks." Nearly two months later, on October 15, 2018, Ms. Badasci emailed Mr. Roberson following up on his review of the Traffic Mitigation Agreement in anticipation of moving forward with the Riverbend project. (Index, No. 217.)

In a November 2, 2018 email to me, Mr. Roberson attached his redlines of the Traffic Mitigation Agreement (see Index, No. 218.) and mentioned concerns regarding the timing of the bonds within the Agreement but noted "We are close." (*Ibid.*) **[Mr. Roberson's County email occurred 1 ½ years after the County now claims CUP 3390 had expired.]**

In response to Mr. Roberson's November 2, 2018 email to me, on December 6, 2018, I emailed Mr. Roberson my redlined version of the Traffic Mitigation Agreement, which I had revised based on Mr. Roberson's comments. (Index, Nos. 218-219.)

On December 12, 2018, Glenn Allen, Division Manager in the County Department of Public Works and Planning, emailed Mr. Jiminez, Jr. in County Planning, stating that they had received a voicemail from Mr. Lang regarding invoices that he had received from the County. (Index, No. 226.)

On March 12, 2019, I emailed Mr. Roberson to follow up on the Riverbend Traffic Mitigation Agreement, with a redlined version of the Agreement comparing the 2016 and 2017 versions, which differences mainly revolved around the bonding issue. (Index, No. 234.) Andrea Abergel, with my office at the time, emailed Mr. Roberson on May 6, 2019 regarding further revisions to the Traffic Mitigation Agreement but stating that Riverbend was ready to sign that current, revised version of the Agreement. (Index, No. 238.)

The March 13, 2019 Riverbend Traffic Mitigation Fees document included internal edits by the County. (Index, No. 235.) Emails from March 20, 2019 between Senior Planner Marianne Mollring and Mr. Motta discuss consultant selection and recent EIRs, including Riverbend. (Index, No. 236.) Even at this time, Mr. Motta treated CUP 3390 as active, referring to it as having "since been approved" and referencing consultants used in connection with the Mitigation Monitoring and Reporting Program, as required under the conditions of approval. (*Ibid.*)

On April 12, 2019, Mr. Roberson emailed me the revised Traffic Mitigation Agreement, also noting that, "staff recalculated Riverbend's total traffic mitigation obligation to be \$5,505,722, which is lower than the current total of \$5,603,558 listed in the agreement." (Index, No. 237.)

In a June 11, 2019 email from Mr. Daniele to other County employees, Mr. Daniele included an Excel Sheet of items to be considered, dated June 6, 2019 and including the Riverbend Traffic Mitigation Agreement to be reviewed, regarding CUP 3390. (Index, Nos. 239-240.) **[This email occurred more than two years after the date that County staff now claims CUP 3390 had expired.]**

Other relevant documents from July 2019 relate to the Irrevocable Standby Letter of Credit for Riverbend's reclamation plan and mitigation measures, which then had an expiration date of July 5, 2020. (Index, Nos. 244-246.)

Multiple emails amongst Mr. Lang and County employees, including Mr. Motta, in early to mid-July 2019 dealt with the financial assurance cost estimate and letter of credit for the Riverbend mine. (Index, Nos. 247-248.) An email dated August 27, 2019 from Senior Planner Brian Spaunhurst to Design Division Manager Mohammad Alimi also shows that still at that time the Department of Public Works and Planning was aware that the Riverbend project was ongoing. (Index, No. 250.)

Emails from September and October 2019 between Ms. Abergel and Mr. Roberson discuss the status of the County's further review of and possible changes to the Riverbend Traffic Mitigation Agreement, with a delay due to the County's admitted miscalculation of the appropriate fee amount. (Index, No. 251.)

Similarly, emails from December 2019 amongst County employees discuss the breakdown of the Riverbend Traffic Mitigation Fees, and included an Excel Sheet showing the amount of money expected by the County to be spent regarding the Riverbend Traffic Mitigation project as over \$7,300,000 as of December 9, 2019. (Index, Nos. 254-255.)

Emails dating from January 2020 to March 2020 between Deputy County Counsel Bryan Rome and Andrea Abergel continued to discuss the Riverbend Traffic Mitigation Agreement with the County and the County's cost estimates, including 2019 amounts. (Index, No. 257.)

Emails from December 19 and 20, 2022 between Mr. Motta and other County employees discuss Public Records Act Request 22-567 related to the Riverbend project, which was information requested by Martin Marietta Materials, Inc. as that company investigated the site for a potential mining lease. Specifically, Mr. Motta's December 19, 2022 email to David Randall and Staff Analyst Raymond Martin states that mining had not commenced at the site but makes no mention of any belief by anyone at the County that CUP 3390 had expired or was not valid. (Index, No. 291.)

Between 2017 and 2024, Riverbend was in negotiations at various times over those years with five different major aggregate mining companies to mine the site, and as of 2024 and 2025, continues to be in communication with Martin Marietta, the second largest USA-based aggregate company, to mine the site. In fact, Martin Marrietta supports Riverbend's current appeal.

C. In March 2024, the County Unexpectedly Changes Its Position on CUP 3390

On March 8, 2024, Deputy Director of Planning William Kettler emailed Supervisor Buddy Mendes a letter addressed to me and dated March 21, 2017 regarding the status of CUP 3390. (Index, Nos. 12 and 311.) In the email to Supervisor Mendes, Mr. Kettler referenced a previous discussion with the Supervisor and stated that the March 21, 2017 letter had been prepared in consultation with County Counsel and that "Action by the applicant team was not taken and the approval expired," though the County had not referenced the possibility of the invalidity of CUP 3390 in communications with representatives of Riverbend or my office in the then last 7 years since 2017 and to the contrary the ongoing communications with the County, especially in relation to the Traffic Mitigation Agreement, very strongly suggested otherwise. (Index, No. 311.)

On March 13, 2024, County Staff on a call with Erin Delman in my office stated that County staff thought that CUP 3390 may have expired.

On April 23, 2024, I submitted a letter to Chris Motta, with a copy to the Board of Supervisors, setting forth the reasons why Riverbend possesses a vested right in CUP 3390 and requesting confirmation from the County that the CUP is still valid for the reasons stated in the letter.

On April 29, 2024, Mr. Motta emailed Mr. Anders, Principal Planner at the County, regarding a Site Plan Review (“SPR”) in connection with CUP 3390. In an email time-stamped as 1:35 PM, Mr. Anders confirmed the SPR for CUP 3390 had been approved. (Index, No. 314.) The submittal of the SPR at issue in these emails is also shown in the July 2015 emails between Mr. Buada and Mr. Luna. (Index, Nos. 137-138.)

An April 30, 2024 email from Mr. Motta to James Garcia, Design Engineer at the County, inquired to check, “if any encroachment permits or road improvement plans” were submitted or approved for a certain section of the road within the Riverbend project area. (Index, No. 316.)

On May 1, 2024 Mr. Roy Jiminez, Jr. sent an Excel Sheet that he had prepared to send in an email listing mines in the County and the mines’ statuses to Erik Conaghan, a Commercial Geologist at the Australian company, MCi Carbon. (Index, Nos. 317-318.) For Riverbend, the status was listed as “UC” and defined in the legend as “Under Construction.” The other status types listed in the legend were “AC=Active” and “I=Idle.” (Index, No. 318.)

In an email dated May 9, 2024, from Mr. Kettler to the Assistant for Supervisor Mendes, Katy Boganwright, Mr. Kettler stated that though Mr. Lang had called in concern to the CUP being revoked, it was the Department of Public Works and Planning’s position that the Riverbend CUP had expired. (Index, No. 319.)

By letter dated May 31, 2024, Mr. Motta sent a letter in response to my April 23, 2024, letter, stating that “Staff with the Department of Public Works and Planning does not approve [Riverbend]’s request for a determination that Conditional Use Permit No. 3390 is still valid.”¹³ And that “Staff concludes that [Riverbend]’s CUP expired in 2017 under section 873, subd. (I)(1).” (Index, No. 91.)

D. Riverbend Appeals the Planning Department’s Decision to the Board of Supervisors and to the Fresno County Superior Court

On June 5, 2024, I notified Mr. Rome by email that Riverbend intended to appeal the Staff’s written decision, stated in Mr. Motta’s May 31, 2024 letter. (Index, No. 91.) I requested that attorney Rome advise whether the County’s May 31, 2024 letter intended to communicate the decision of Staff or the decision of the Director, as this would determine the appeal procedure. Mr. Rome responded by email that day and said he would consult with his client (the County) and get back to me.

On June 6, 2024, Mr. Rome responded to my email, and requested that I provide the basis on which Riverbend would be seeking an appeal. (Index, No. 94.) I responded to Mr. Rome on June 7, 2024,

¹³ See Index, No. 91 (May 31, 2024 Letter), p. 1.

and explained that the Fresno County Zoning Ordinance provides two possible bases, under Zoning Ordinance section 876.6.020, subs. (A) and (B). (Index, No. 72.)

On June 11, 2024, Mr. Rome responded to my June 7, 2024 email, and stated that “Chris Motta’s May 31, 2024 letter to you, reflecting the automatic termination of your client’s conditional use permit, is not an appealable matter” and that “[y]our reference to the County’s procedural ordinance governing the appeals process does not create an appeal right.” (Index, No. 97.)

Riverbend disagreed, and on June 13, 2024, Riverbend submitted an appeal to the Director, with a copy to the Board of Supervisors, pursuant to Zoning Ordinance, section 876.6.020, subs. (A) and (B), which was received by Fresno County Department of Public Works and Planning. (Index, No. 69.)

On July 23, 2024, I sent a letter to Mr. Rome regarding Riverbend’s Notice of Intent to sue the County if Riverbend’s appeal regarding CUP 3390 was not accepted. (Index, Nos. 100-101.)

On August 22, 2024, Riverbend filed a Complaint for a Writ of Mandamus against the County in the Fresno County Superior Court (“Writ”). (Index, No. 102.) The Writ explains the timeline of events up to that date, including the County’s abrupt change of position concerning the CUP. The Writ alleges causes of action for administrative mandamus, declaratory relief, violation of the right to due process, and unlawful taking. (*Ibid.*)

Also during this time, the County continued to acknowledge CUP 3390. On September 23, 2024, Senior Planner Roy Jiminez, Jr. sent Mr. Lang a notice for the 2024 annual SMARA inspection, citing the annual surface mining administrative fee of \$2,257 that would need to be received by the County before the County would perform the required annual SMARA mine inspection. (Index, No. 325.)

E. Riverbend Submits This Grading Permit, Application No. 2025-000081

After conferring with County Counsel, and in a good faith effort to resolve the Writ litigation with the County, Riverbend agreed to hold off on prosecuting the Writ action against the County to submit the Grading Permit Application for the County’s consideration. (Index, No. 2.) This Grading Permit Application has now been denied and is the subject of this Appeal.

As the above correspondences and documents show, Riverbend’s CUP 3390 is a valid and active permit, and Riverbend’s December 30, 2024 Grading Application should be granted based on the valid CUP, and CUP 3390 held to be valid.

III. Riverbend Possesses a Vested Right Under CUP 3990

In California, vested property rights to a use permit are obtained under the common law “if a property owner has performed substantial work and incurred substantial liabilities (such as

incurring material expense¹⁴ or substantial costs¹⁵) in good faith reliance on a permit issued by the government.”¹⁶

Riverbend has performed substantial work and incurred substantial liabilities totaling over **\$988,173** in good faith reliance on CUP 3390 issued by the County. (See **Table 1** below.) As Riverbend recounts in its April 23, 2024 letter (Index, No. 7.), it has conducted a substantial amount of work in good faith reliance on CUP 3390. Riverbend’s expenditures in reliance on CUP 3390, by year, are detailed in the following table:

TABLE 1
(CUP 3390 Expenses: 02/26/2015 to 04/07/2025)

Date	Amount
02/26/2015 to 02/23/2017	\$510,353 ¹⁷
02/28/2017 to 12/31/2017	\$128,287
01/01/2018 to 12/31/2018	\$23,022
01/01/2019 to 12/31/2019	\$25,534
01/01/2020 to 12/31/2020	\$43,304
01/01/2021 to 12/31/2021	\$6,285
01/01/2022 to 12/31/2022	\$13,134
01/01/2023 to 12/31/2023	\$15,651
01/01/2024 to 12/31/2024	\$135,122
01/01/2025 to 04/07/2025	\$87,481
Total	\$988,173

Riverbend continues to perform substantial work and incur substantial liabilities in good faith reliance on its CUP 3390. Further, the County’s March 21, 2017, letter acknowledged Riverbend’s substantial work and incurred substantial liabilities by stating:

¹⁴ *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530.

¹⁵ See *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 393 at FN 5.

¹⁶ *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 791.

¹⁷ The difference between the \$294,001 set forth on page 3 of this letter and the \$510,353 amount in this letter is for consultant and attorney fees to prepare for the Board of Supervisors appeal hearing that was set for May 19, 2015.

Staff does not dispute the efforts the Applicant and its team has expended to initiate this long-term project; those efforts are outlined in your February 23rd letter.

(Index, No. 12.)

California case law supports Riverbend's vested property right in CUP 3390. In *Trans-Oceanic Oil Corp. v. City of Santa Barbara* (1948) 85 Cal.App.2d 776 the Permittee acquired a vested property right to proceed under its use permit when the Permittee, in good faith, commenced preparatory work for drilling, constructed concrete foundations, erected a powerhouse, dug a sump hole, laid pipelines, moved boilers into place, and erected an oil derrick at the cost of approximately \$4,500. Likewise, in *Community Development Com. v. City of Fort Bragg* (1988) 204 Cal.App.3d 1124 the Permittee proceeded with a good faith intent to commence upon the proposed use of the permit, when during the term of the permit, the Permittee purchased the land (\$95,000), hired architects and engineers for requisite studies (\$85,000), and continued to actively pursue the project. In *Morgan v. County of San Diego* (1971) 19 Cal.App.3d 636 the court held that Permittee proceeded with a good faith intent to complete the project by only constructing plumbing, footings, and a concrete slab for a laundry facility in a mobile home park for \$2,000, where the total project value was estimated at \$800,000 (i.e., had expended less than 1% of the project's value). For these reasons, and as previously explained in Riverbend's February 23, 2017, letter and February 27, 2017 email, Riverbend has a vested property right in CUP 3390.

IV. The Director Denial Mischaracterizes Riverbend's Claim for Vested Rights.

Throughout the February 11, 2026 Director Denial, cherry-picked language along with omissions of pertinent arguments are used to argue that the Riverbend mischaracterized black letter law and their rights under CUP 3390.

A. Riverbend Accurately Presented and Applied the Law of Vested Rights.

The Director Denial states that "to allow [Riverbend] to define [vested rights] so broadly as simple 'good faith reliance' would allow [Riverbend] to create a nearly unlimited scope permit, dependent solely on [Riverbend's] unilaterally declared perception of its own permit."¹⁸ This cherry-picked language omits Riverbend's full restatement of the law of vested rights, which reads as follows:

[T]he right to develop real property vests where (1) **a valid building permit, or its functional equivalent, has been issued, and** (2) **the developer has performed substantial work and incurred substantial liabilities** in good faith

¹⁸ Index, No. 331 (February 11, 2026 Director Denial), p. 2.

reliance on the permit.¹⁹ California law holds that a vested right to a Use Permit is obtained “if a property owner has performed substantial work and incurred substantial liabilities (such as incurring material expense²⁰ or substantial costs²¹) in good faith reliance on a permit issued by the government.”²²

(November 5, 2025 Appeal to Director at p. 2, **emphasis added.**)

As recounted above, Riverbend never claimed that vested rights accrue upon simply good faith reliance of an issued permit. Rather, Riverbend claims that their rights under CUP 3390 vested due to the substantial work and substantial liabilities that were incurred pursuant to the validly issued CUP 3390, that was the functional equivalent of a building permit. For a complete discussion of the actions that Riverbend took that vested their rights under CUP 3390, see Sections II and III above of this appeal and the November 20, 2025 Appeal to Director, at pages 10-13.²³

The February 11, 2026 Director Denial continues on to say that “[Riverbend’s] interpretation of the vested rights doctrine . . . would lead projects to languish in ‘development hell.’”²⁴ As recounted previously, however, from March 2017 through March 2024, Riverbend and the County repeatedly communicated about ongoing permits and development that were taking place as part of CUP 3390.²⁵ During this time, Riverbend pursued development under CUP 3390 and undertook substantial work to develop the site, spending nearly \$1,000,000.²⁶ During this time period COVID occurred and slowed things down and Riverbend was in sequential negotiations with five major mining companies to reach a deal to mine the site. But then, on March 8, 2024, the County, for the first time, took the position that CUP 3390 had expired in 2017.²⁷ Since that March 8, 2024 email, Riverbend has been diligently communicating with the County with the express purpose of continuing development under CUP 3390, and it has been the County’s own actions that led this project to languish in “development hell.” Riverbend has a top national mining company, Martin Marrietta, wanting to mine the site. It is County staff that is preventing that from occurring, thus this appeal.

¹⁹ *Avco Community Developers Inc. v. South Coast Regional Comm’n* (1976) 17 Cal.3d 785, 791 (emphasis added).

²⁰ *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530.

²¹ See *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 393 at FN 5.

²² *Avco Community Developers Inc. v. South Coast Regional Comm’n* (1976) 17 Cal.3d 785, 791.

²³ Index, No. 329 (November 20, 2025 Appeal to Director), pp. 10-13.

²⁴ Index, No. 331 (February 11, 2026 Director Denial), p. 2.

²⁵ Index, No. 1 (April 21, 2025 Letter), pp. 4-7.

²⁶ *Id.* at pp. 10 to 13.

²⁷ *Id.* at p. 7.

B. CUP 3390 and Site Plan Review No. 7946 (“SPR”) Meet the “Functional Equivalent” of a Building Permit as Required by *Avco*.

A central holding of the *Avco* court stated that a Conditional Use Permit (“CUP”) and site Plan Review can meet the functional requirements of a building permit.²⁸ The February 11, 2026 Director Denial contradicts this holding, and states that a CUP and Site Plan Review, in general, cannot meet the “functional equivalent of a building permit” requirement from *Avco* because a CUP and Site Plan Review are “general . . . and provide a general bird’s eye view of the landscape [rather than] the necessary condition of a vested right [to] mak[e] improvements to land.”²⁹

The County misses the point. Riverbend makes no attempt to claim that all CUP’s and Site Plan Reviews are “synonymous” with a building permit. Rather, Riverbend claims that CUP 3390 and SPR for a mine do meet the functional equivalent requirement because they *do* allow physical construction of a surface mining operation. CUP 3390 and the SPR were all that was needed to commence the mining operations and any subsequent building permits would be ancillary to CUP 3390, i.e., excavating a mine is not a building.

The February 11, 2026 Director Denial continues on to state that:

[T]he CUP [3390 is] the first stage of the development of the mine . . . [,] additional permits, which [Riverbend] did not seek for a decade, might have bridged the divide between the generality of the CUP [3390] and SPR and the specificity necessary to support a vested right.”³⁰

Claiming that Riverbend did not seek any additional permits for a decade is a blatant mischaracterization of the record. In fact, the record clearly shows Riverbend had been continually communicating with the County and pursuing development of CUP 3390 from its issuance on February 26, 2015, until on March 8, 2024, when the County (for the first time) unexpectedly to Riverbend claimed that CUP 3390 had expired more than 7 years prior.³¹ It was that County staff’s position that caused Martin Marrietta to not sign a mining lease on the property in 2024. Following this reversal by the County, Riverbend has been in ongoing talks, negotiations, and litigation with the County, including the correspondence listed in Section I above, in attempts to continue development under CUP 3390.

²⁸ *Avco Community Developers Inc. v. South Coast Regional Comm’n* (1976) 17 Cal.3d 785, 794.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ See Index, No. 1 (April 21, 2025 Letter) at pp. 3-7, 10-13.

V. **The February 11, 2026 Director Denial Improperly Discards the Legal Last Discretionary Permit Test by Citing to Irrelevant Authorities.**

A. **The *South Central* Case Applies Only to Vested Rights Determinations Involving the California Coastal Act.**

The February 11, 2026 Director Denial conveniently omits any in-depth discussion of the factual circumstances of *South Central* and instead conclusively states that, “In the same way that ‘tentative map approval without more does not entitle a subdivider to a final map,’ the CUP and SPR do not entitle [Riverbend] to building and construction permits without more, especially given the unfulfilled conditions of approval.”³² This interpretation attempts to extend the central holding of *South Central*, that “a vested right to an exemption from the permit requirements of the Coastal Act ... arises only when the subdivider is entitled to final map approval according to the requirements of the California Subdivision Map Act.”³³

The point is irrelevant and inapplicable here, however, because the Court in *South Central* was interpreting Section 30608 of the California Coastal Act as applied to tentative subdivision maps for a residential project.³⁴ None of these facts apply here, we are not in the Coastal Zone and the project is not a residential subdivision. In reaching its holding, the *South Central* court weighed the relative public policy goals of the Coastal Act against those of the Subdivision Map Act, finding that:

[a]lthough approval of the tentative map may be the last discretionary act by the local governing agency under the Subdivision Map Act (citations omitted), we believe the overriding environmental policies of the Coastal Act . . . support our holding that more is required to obtain a vested right than mere tentative map approval.³⁵

As Riverbend stated in its November 20, 2025 Appeal to the Director:³⁶

Riverbend’s claim to vested rights in this matter do not involve the Coastal Act, and thus the County’s reliance on *South Central* is unsupported because *South Central*’s holding that “abandon[s the] earlier ‘last discretionary permit test’” does not apply to the facts at hand. Here, there is no “overriding environmental polic[y]” in consideration.³⁷

³² Index, No. 331 (Director Denial), p. 2.

³³ *South Central Coast Regional Commission v. Charles A. Pratt Construction Company, Inc.* (1982) 128 Cal.App.3d 830, 834.

³⁴ *South Central*, *supra*, 128 Cal.App.3d 830 at p. 842.

³⁵ *Id.* at pp. 844-845.

³⁶ Index, No. 331 (November 20, 2025 Appeal), p. 4.

³⁷ *South Central*, *supra*, 128 Cal.App.3d 830 at p. 846.

The Director Denial fails to respond to Riverbend's argument that *South Central* is inapplicable³⁸, and instead merely conclusively and inaccurately states that the Last Discretionary Permit Test has been abandoned.

B. *LeRoy Land Development Corp.* is Neither Binding Law, Nor Are the Facts of That Case Relevant to the Question of the Mining CUP 3390 Vesting.

Further reinforcing the notion that the County understands that *South Central* is not applicable law in the instant case, the Director Denial continues on to reference *LeRoy Land Development Corp.*,³⁹ which is a federal court case, not a state court case, and thus not even binding law on California land use issues.⁴⁰

In *LeRoy Land Development Corp.*, the developers of a phased residential condominium development were attempting to use the doctrine of vested rights to circumvent compliance with project review requirements that had been enacted between initial permit approvals and later phases of the development.⁴¹ In reaching their holding, the Court emphasized that relying on the Last Discretionary Permit test would result in "serious impairment of the government's right to control land use policy."⁴² In the case at hand, Riverbend has not sought to circumvent any County policies or oversight. As discussed in the November 20, 2025 Appeal at page 4:⁴³

In fact, Riverbend has **continuously worked closely with the County** following the initial approval of CUP 3390 on February 26, 2015, **to ensure that the project meets the requirements set forth in CUP 3390.**⁴⁴ Further, as the County details in its Staff Denial, **CUP 3390 contains numerous Conditions of Approval that serve to ensure that the development under CUP 3390 will comply with applicable County regulations.**⁴⁵

Because the holding in *LeRoy Land Development Corp.* is persuasive authority, the reasoning behind the holding should also be considered. The Court in *LeRoy Land Development Corp.* explicitly acknowledged that a "final discretionary approval test might provide a fairer and more logical basis to determine vested rights[.]"⁴⁶ Further, the holding in the 1982 *LeRoy Land Development Corp.* case was subsequently curtailed via subsequent caselaw in Nevada, specifically rejecting the proposition that only a final ministerial permit could afford vested

³⁸ See Index, No. 331 (November 20, 2025 Appeal) at pp. 3-5.

³⁹ *LeRoy Land Development Corp. v. Tahoe Regional Planning Agency* (1982) 543 F. Supp. 277, 279.

⁴⁰ Federal District Court and Federal Appellate Court decisions, even when interpreting state law, are not binding on State Court interpretations of State issues. See Which Court is Binding? Binding vs. Persuasive Cases, Georgetown University Law Center (2017) <<https://www.law.georgetown.edu/wp-content/uploads/2018/07/Which-Court-is-Binding-HandoutFinal.pdf>>.

⁴¹ *LeRoy Land Development Corp. v. Tahoe Regional Planning Agency*, *supra*, F. Supp. at p. 279.

⁴² *Id.* at p. 281.

⁴³ Index, No. 331 (November 20, 2025 Appeal), p. 4 (emphasis added).

⁴⁴ See Index, No. 2 (December 30, 2024 Grading Permit Application), pp. 2-7.

⁴⁵ See Index, No. 327 (November 5, 2025 Staff Denial), pp. 2-4.

⁴⁶ *LeRoy Land Development Corp.*, *supra*, 543 F. Supp. 277, 281.

rights.⁴⁷ Importantly, both the *South Central* and *LeRoy* cases involved residential projects which required more permits to build the units. Here the mine could be built given the already approved Riverbend CUP 3390 and SPR. The facts are not the same.

VI. The County’s Invalid Claim that Soft Costs Do Not Count Toward Vesting Ignores Longstanding Caselaw and the Current Fresno Zoning Ordinance.

The February 11, 2026 Director Denial states that “[Riverbend’s] Appeal focuses heavily on the amount spent by [Riverbend] and the inflation adjusted figures spent by other developers in published cases, but... [Riverbend] has ignored the hard costs requirement from case law.⁴⁸ The County only focuses on the dollar amount expended and claims the amount is insufficient.⁴⁹ But this County position ignores the directly relevant discussion from *Morgan v. County of San Diego*, which held that a developer’s failure to commence “actual construction” during the permit period did not call for termination of the permit where the county knew the developers “were not sitting idly upon the land, but were proceeding diligently” to prepare the necessary design plans and obtain the required approvals for the project at issue.⁵⁰ The *Morgan* Court continued: “the extent of construction alone does not invariably show whether a permittee is ready to proceed” and “[i]n a complex and expensive project...much work must be done on the drawing board, in governmental and banking offices before the pick and shovel may be wielded and mortar poured.”⁵¹ That is precisely the scenario here, where Riverbend has spent more than \$988,000 in costs in reliance on CUP 3390 as part of its development of mining operations.

Moreover, while the former Fresno County Zoning Ordinance did not draw a hard costs/soft costs distinction, the new “substantial development” definition in the County’s own two year old February 2024 Zoning Ordinance, at section 868.6.030(E), explicitly provides that “Substantial Development” *can include* soft costs:

Consideration of “Substantial Development” includes the degree of physical on-site development accomplished, ***but can also include the amount of “soft costs”*** (i.e., costs associated with establishing the approved use before the expiration date) including financial expenditures for preparatory actions (e.g., invoices documenting expenditures related to permits and fees for Site Plan Review, drainage, grading, storm water, and Encroachment Permits, engineering studies, testing and plans, construction costs including grading, staking, and temporary power, insurance and attorney fees, etc.), ***which show a “good faith effort” to establish a particular use. As a point of information,***

⁴⁷ See *Wal-Mart Stores, Inc. v. County of Clark* (1999) 125 F.Supp.2d 420, 425, citing *Board of County Comm’rs of the County of Clark v. CMC of Nevada, Inc.* (1983) 99 Nev. 739.

⁴⁸ Index, No. 331 (February 11, 2026 Director Denial), p. 3.

⁴⁹ *Id.* at p. 3.

⁵⁰ *Morgan v. County of San Diego*, *supra*, 19 Cal.App.3d at p. 642.

⁵¹ *Id.* at p. 641.

“good faith effort” can be defined as time and effort to establish a use, regardless of financial expense.⁵²

As the record makes clear, Riverbend has incurred virtually every soft cost item listed in the County’s current ordinance. The stated list of soft costs in the current county Zoning Ordinance, moreover, is nothing new as that section merely recites what case law had already established years ago in California. The last sentence of the new code section defining “good faith effort” as “time and effort to establish a use, regardless of financial expense” was clearly met here with the many hours of effort dedicated over several years to negotiating and obtaining a mining lease with major mining companies. These good faith efforts included consistent communication from 2017 through 2024 with the County and third-party consultants to develop the properties use as a mine, as recounted in Section II and III above of this appeal.

VII. The County’s Own Actions Prove that CUP 3390 Did Not Expire Due to Lack of Substantial Development Within the Applicable Two-Year Window.

CUP 3390 did not automatically expire due to a lack of substantial development within the two-year window following February 26, 2015. Indeed, the County itself clearly acted as though CUP 3390 was valid for more than 6 years following February 26, 2017 (the date on which substantial development was required to have been completed). On March 8, 2024, the County for the first time, claimed that CUP 3390 had expired more than 6 years prior, when in stark contrast, all of the County’s actions regarding development during the previous years assumed CUP 3390 was valid.

The County misreads Riverbend’s statements surrounding the language of the County Planning Commission’s February 26, 2015 Resolution. While the County resolution *states* that expiration of CUP 3390 is automatic without a substantial development determination, that resolution cannot override established California law regarding vested rights.⁵³ Additionally, the County ignores the fact that the County resolution language requiring a substantial development determination is at odds with both the Conditions of Approval associated with the Riverbend project, and the County Zoning Ordinance that was in place at project approval. The Conditions of Approval associated with the Riverbend project do not contain a requirement to affirmatively seek substantial development⁵⁴, and County Zoning Ordinance Section 873(I)(1) that was in effect at the time of the CUP approval, also did not require a formal determination of substantial development.

⁵² Zoning Ordinance, section 868.6.030(E)(4), emphasis added.

⁵³ Index, No. 331 (November 20, 2025 Appeal), p. 6; see *Cohen v. Board of Supervisors* (1985) 40 Cal. 3d 277, 290 (Local legislation that conflicts with state law is void).

⁵⁴ Index, No. 331 (November 20, 2025 Appeal), p. 6; see also, Deputy County Counsels statements to Mitchell Chadwick 2024 explicitly agreeing with that point.

County Counsel was sending redlines of and negotiating the traffic mitigation agreement with Riverbend in 2018, 2019, and 2020. How can County staff take the position that CUP 3390 expired on May 19, 2017, when that same County staff were still actively negotiating CUP related traffic agreements three years later in 2020? This fact alone entirely undermines County staff's position that CUP 3390 expired in 2017.

Contrary to the statements of the February 11, 2026 Director Denial, Riverbend does not exclusively rely on communications with a former Deputy County Counsel.⁵⁵ Rather, Riverbend argues that the continuous six years of communications between Riverbend and the County, and the \$988,173 in substantial development efforts show that the County **never held CUP 3390 invalid until, at the earliest, March 2024**, which defeats the County staff's claim that CUP 3390 expired as of May 19, 2017, due to a lack of substantial development.

The Director Denial continues on to quote, at length, County Zoning Ordinance Section 873(I), (J), and (K), and claims that Riverbend engages in “at best, a half-truth”⁵⁶ when Riverbend argues that it is an **optional** process to receive a determination of substantial development. **However, the County, in its own November 5, 2025 Staff Denial, stated that Riverbend “is correct to suggest that the procedures in Zoning Ordinance section 873-J [regarding receiving a determination of substantial development] are optional.”**⁵⁷ It is unclear how a statement that the County expressly agreed with could be construed as, “at best, a half-truth” when the November 5, 2025 Staff Denial confirmed that the process was “optional.”⁵⁸ The February 11, 2026 Director Denial becomes even more perplexing when it states that “the onus is on [Riverbend] to timely initiate a process and to demonstrate substantial development.”⁵⁹ As previously stated, Riverbend did not engage in the optional process because it had both substantially developed the property and acquired vested rights under CUP 3390 within two years of approval, thus there was no need to initiate the process.

The quoted County Zoning Ordinance 873(J)(1) also contains a relevant passage that is seemingly ignored in the Director Denial:

“Where a determination is caused to be made by the Director of Public Works & Development Services that there either **has or has not** been substantial development within two years after the approval of said Conditional Use Permit, a notice of such determination shall be mailed to the applicant[.]”⁶⁰

⁵⁵ If applicants cannot rely on the Deputy County Counsel for land use for the County to confirm the interpretation of County land use codes, who else in the County would know that?

⁵⁶ Index, No. 331 (February 11, 2026 Director Denial), p. 4.

⁵⁷ Index, No. 327 (November 5, 2025 Staff Denial), p. 11 (emphasis added).

⁵⁸ Index, No. 331 (February 11, 2026 Director Denial), p. 5.

⁵⁹ *Id.* at p. 5.

⁶⁰ County Zoning Ordinance, Section 873(J)(1).

As discussed above, the first notice Riverbend received that the County had determined CUP 3390 to be invalid was in March of 2024, more than 6 years after the close of the two-year window following CUP 3390's issuance. Before this, the County had never stated that substantial development had not occurred during that two-year window.

VIII. Because CUP 3390 Did Not Automatically Expire in 2017, Subsequent Revocation of CUP 3390 Required a Hearing.

The February 11, 2026 Director Denial claims that Riverbend is not entitled to a hearing on the validity of CUP 3390 because “the County never revoked the CUP and... it automatically expired under its own terms and the requirements of County ordinances.”⁶¹ Under the express language of CUP 3390 Conditions of Approval, the only requirement regarding substantial development is that it occurs, which has taken place as the record here confirms. There is no requirement (as the County staff itself agreed in the November 5, 2025 Staff Denial) that a determination regarding substantial development be made.⁶²

Thus, the County staff should not be allowed to retroactively revoke CUP 3390 with no hearing and hold that a determination was made more than six years prior, when none of the County's actions during that six-year period adhere to that reality. Therefore, the holding in *Fort Bragg*⁶³ that “notice and hearing must be afforded a permittee prior to revocation of a use permit” applies in this case – because the permit did not automatically expire due to lack of substantial development. No notice and hearing to invalidate a mine permit worth tens of millions of dollars? Not only does that violate the law, it violates basic common sense and fairness principles. In sum, the County staff process violated legal due process protections and principles of fundamental fairness.

IX. This Grading Permit Application Must Be Approved, and CUP 3390 Must Be Recognized as Valid.

For the reasons outlined above, and as set forth in the four prior letters, CUP 3390 remains a valid and active permit. Therefore, Grading Permit Application No. 25-000206, submitted by Riverbend in reliance upon CUP 3390 should be approved, and CUP 3390 should be upheld as valid and still in effect. Riverbend requests that the County issue a letter to Riverbend confirming that CUP 3390 remains valid and effective.

Had County staff not taken the incorrect position in the Spring of 2024 that CUP 3390 had expired, Martin Marrietta would be mining the site by now. We respectfully request that the

⁶¹ Index, No. 331 (February 11, 2026 Director Denial), p. 5.

⁶² Index, No. 331 (February 11, 2026 Director Denial), p. 4; No. 327 (November 5, 2025 Staff Denial), p. 11.

⁶³ *Community Development Com. v. City of Fort Bragg* (1988) 204 Cal.App.3d 1124, 1131.

Board of Supervisors confirm the continued validity of CUP 3390 so that Riverbend and Martin Marrietta can bring the economic benefits of mining the site to the County.

Respectfully,

MITCHELL CHADWICK LLP



Patrick G. Mitchell

Enclosures: Index of Documents

Cc: Garry Bredefeld, Chairman, Fresno County Board of Supervisors
Luis Chavez, Chairman, Fresno County Board of Supervisors
Supervisor Mendes
Supervisor Magsig
Supervisor Pacheco
William Kettler, Deputy Director of Planning
Douglas T. Sloan, County Counsel
Peter J. Wall, Chief Deputy County Counsel
Bryan D. Rome, Deputy County Counsel
Michelle Leffel (Running Luck Ranch)
Herb Lang (Riverbend)
John Gillan (Martin Murrieta)
Bryan Forgey (Martin Murrieta)
J. Scott Miller (Mitchell Chadwick)

(all cc via email)

INDEX OF DOCUMENTS

Appeal to Fresno County Board of Supervisors

of Director's Determination – Rejection of Grading Permit Application No. 25 000206 – 3677 S. Riverbend Ave.

Appeal Submitted February 26, 2026

Number:	Document Date:	Document Title:	Document Type:
1	April 21, 2025	Riverbend Grading Permit Appeal Response Letter to County	Response Letter
2	December 30, 2024	<u>Exhibit 1.</u> Cover Letter with Grading Permit Application from Consultant John Buada to Chris Motta	Exhibit 1 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
3	January 3, 2025	<u>Exhibit 2.</u> Email from Program Technician Rhonda Finney to Consultant John Buada with Scott Miller Included Regarding Grading Permit Application	Exhibit 2 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
4	January 3, 2025	<u>Exhibit 3.</u> Email from Program Technician Rhonda Finney to Consultant John Buada with Scott Miller Included Regarding Grading Permit Application and Email from Consultant John Buada to County Development Engineering	Exhibit 3 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
5	January 22, 2025	<u>Exhibit 4.</u> Email from Division Manager Chris Motta to Consultant John Buada with cc to County Counsel and Mitchell Chadwick LLP Included Regarding Grading Permit Application With Preliminary Denial Letter Attached	Exhibit 4 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
6	March 24, 2025	<u>Exhibit 5.</u> Email from Deputy County Counsel Cavan Cox II to Scott Miller Regarding Status of Response to Preliminary Denial of Grading Permit Application	Exhibit 5 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
7	April 23, 2024	<u>Exhibit 6.</u> Letter from Mitchell Chadwick LLP to Chris Motta Regarding Vested Property Right Under CUP 3390	Exhibit 6 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
8	February 23, 2017	<u>Exhibit 6-1.</u> February 23, 2017, Riverbend Letter to County	Exhibit 6-1 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
9	[Undated]	<u>Exhibit 6-2</u> . Table of Project development costs of \$294,001 incurred through January 2017	Exhibit 6-2 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
10	February 20, 2017	<u>Exhibit 6-3</u> . Notice of Intent and Payment of Requisite Fee for Construction of Aggregate Stockpile Area	Exhibit 6-3 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
11	February 27, 2017	<u>Exhibit 6-4</u> . February 27, 2017, Riverbend email	Exhibit 6-4 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
12	March 21, 2017	<u>Exhibit 6-5</u> . March 21, 2017, County Letter	Exhibit 6-5 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
13	March 14, 2024	<u>Exhibit 6-6</u> . Table of substantial work and incurred substantial liabilities from 2017 to 2023	Exhibit 6-6 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
14	[Undated]	<u>Exhibit 6-7</u> . Attorney's and Consultant's Fees from 2015 to 2024	Exhibit 6-7 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
15	September 1, 2015	<u>Exhibit 6-8</u> . Third Party Monitoring Agreement, September 1, 2015	Exhibit 6-8 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
16	July 23, 2015	<u>Exhibit 6-9</u> . Monitoring Agreement with the County, July 23, 2015	Exhibit 6-9 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
17	January 29, 2016	<u>Exhibit 6-10</u> . Indemnification Agreement signed by Riverbend and Mitchell Chadwick, January 29, 2016	Exhibit 6-10 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
18	April 17, 2019	<u>Exhibit 6-11</u> . Email from County re 2018 FACE Approval and FAM Submittal Instructions	Exhibit 6-11 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
19	September 14, 2015	<u>Exhibit 6-12</u> . Site Plan Review No. 7946 approved by County, September 14, 2015	Exhibit 6-12 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
20		<u>Exhibit 6-13</u> . Annual County SMARA Inspection Fees Paid from 2017 to 2023	Exhibit 6-13 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
21	December 22, 2016	<u>Exhibit 6-14</u> . Completed County SMARA Annual Inspection, December 22, 2016	Exhibit 6-14 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
22	December 22, 2017	<u>Exhibit 6-15</u> . Completed County SMARA Annual Inspection, December 22, 2017	Exhibit 6-15 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
23	October 2, 2018	<u>Exhibit 6-16</u> . Completed County SMARA Annual Inspection, October 2, 2018	Exhibit 6-16 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
24	January 24, 2020	<u>Exhibit 6-17</u> . Completed County SMARA Annual Inspection, January 24, 2020	Exhibit 6-17 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
25	January 26, 2021	<u>Exhibit 6-18</u> . Completed County SMARA Annual Inspection, January 26, 2021	Exhibit 6-18 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
26	May 12, 2021	<u>Exhibit 6-19</u> . Completed County SMARA Annual Inspection, May 12, 2021	Exhibit 6-19 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
27	December 17, 2021	<u>Exhibit 6-20</u> . Completed County SMARA Annual Inspection, December 17, 2021	Exhibit 6-20 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
28	May 3, 2022	<u>Exhibit 6-21</u> . Completed County SMARA Annual Inspection, May 3, 2022	Exhibit 6-21 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
29	September 22, 2022	<u>Exhibit 6-22</u> . Completed County SMARA Annual Inspection, September 22, 2022	Exhibit 6-22 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
30	May 30, 2023	<u>Exhibit 6-23</u> . Completed County SMARA Annual Inspection, May 30, 2023	Exhibit 6-23 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
31	December 17, 2021	<u>Exhibit 6-24</u> . Completed County SMARA Annual Inspection, December 17, 2021	Exhibit 6-24 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
32	[Undated]	<u>Exhibit 6-25</u> . Annual SMARA Report Fees, 2015 to 2023	Exhibit 6-25 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
33	June 11, 2015	<u>Exhibit 6-26</u> . New Mining Operation Report June 11, 2015	Exhibit 6-26 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
34	June 30, 2016	<u>Exhibit 6-27</u> . Annual SMARA Report to the DOC 2015	Exhibit 6-27 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
35	June 29, 2017	<u>Exhibit 6-28</u> . Annual SMARA Report to the DOC 2016	Exhibit 6-28 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
36	June 28, 2018	<u>Exhibit 6-29</u> . Annual SMARA Report to the DOC 2017	Exhibit 6-29 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
37	June 27, 2019	<u>Exhibit 6-30</u> . Annual SMARA Report to the DOC 2018	Exhibit 6-30 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
38	June 24, 2020	<u>Exhibit 6-31</u> . Annual SMARA Report to the DOC 2019	Exhibit 6-31 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
39	June 24, 2020	<u>Exhibit 6-32</u> . Annual SMARA Report to the DOC 2019 *This Exhibit was mislabeled in the April 21, 2025 Grading Permit Appeal Response Letter to County	Exhibit 6-32 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
40	June 20, 2022	<u>Exhibit 6-33</u> . Annual SMARA Report to the DOC 2021	Exhibit 6-33 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
41	June 29, 2023	<u>Exhibit 6-34</u> . Annual SMARA Report to the DOC 2022-2023	Exhibit 6-34 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
42	[Undated]	<u>Exhibit 6-35</u> . State Water Resources Control Board Construction Stormwater Fees, 2017 to 2023	Exhibit 6-35 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
43	August 29, 2017	<u>Exhibit 6-36</u> . Stormwater Discharges with Construction Report, 2016-2017	Exhibit 6-36 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
44	August 27, 2018	<u>Exhibit 6-37</u> . Stormwater Discharges with Construction Report, 2017-2018	Exhibit 6-37 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
45	January 20, 2017	<u>Exhibit 6-38</u> . Stormwater Pollution Prevention Plan, January 20, 2017	Exhibit 6-38 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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46	April 1, 2017	<u>Exhibit 6-39</u> . RSJ Civil Engineering and Regional Water Quality Control Board Invoices April 1, 2017, to February 17, 2023	Exhibit 6-39 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
47	August 27, 2018	<u>Exhibit 6-40</u> . Stormwater Discharges with Construction Report, 2017-2018	Exhibit 6-40 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
48	August 30, 2019	<u>Exhibit 6-41</u> . Stormwater Discharges with Construction Report, 2018-2019	Exhibit 6-41 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
49	June 29, 2020	<u>Exhibit 6-42</u> . Stormwater Discharges with Construction Report, 2019-2020	Exhibit 6-42 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
50	June 28, 2021	<u>Exhibit 6-43</u> . Stormwater Discharges with Construction Report, 2020-2021	Exhibit 6-43 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
51	January 19, 2022	<u>Exhibit 6-44</u> . SWRCB Annual Permit Fee Invoice for 2022 *This Exhibit was mislabeled in the April 21, 2025 Grading Permit Appeal Response Letter to County	Exhibit 6-44 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
52	April 6, 2022	<u>Exhibit 6-45</u> . SWRCB Annual Permit Fee Invoice for 2022 *This Exhibit was mislabeled in the April 21, 2025 Grading Permit Appeal Response Letter to County	Exhibit 6-45 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
53	June 2015	<u>Exhibit 6-46</u> . Financial Assurances Cost Estimate, June 2015	Exhibit 6-46 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
54	October 17, 2018	<u>Exhibit 6-47</u> . Financial Assurances Cost Estimate, 2018	Exhibit 6-47 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
55	June 18, 2019	<u>Exhibit 6-48</u> . Application for Irrevocable Standby Letter of Credit, June 18, 2019	Exhibit 6-48 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
56	July 16, 2019	<u>Exhibit 6-49</u> . Irrevocable Letter of Credit, July 16, 2019	Exhibit 6-49 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
57	March 29, 2022	<u>Exhibit 6-50</u> . Financial Assurances Cost Estimate, 2021-2022	Exhibit 6-50 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
58	June 15, 2022	<u>Exhibit 6-51</u> . Email from County re Updated FACE, June 15, 2022	Exhibit 6-51 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
59	June 15, 2022	<u>Exhibit 6-52</u> . Financial Assurances Cost Estimate, 2022-2023	Exhibit 6-52 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
60	June 29, 2023	<u>Exhibit 6-53</u> . Financial Assurances Cost Estimate, 2023-2024	Exhibit 6-53 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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61	[Undated]	<u>Exhibit 6-54</u> . Annual County SMARA Inspection Fees, 2017 to 2024	Exhibit 6-54 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
62	2016-2024	<u>Exhibit 6-55</u> . Industrial Stormwater Invoice Fees 2016 to 2024	Exhibit 6-55 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
63	July 9, 2018	<u>Exhibit 6-56</u> . Stormwater Discharges with Industrial Activities Report, 2017-2018	Exhibit 6-56 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
64	July 12, 2019	<u>Exhibit 6-57</u> . Stormwater Discharges with Industrial Activities Report, 2018-2019	Exhibit 6-57 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
65	June 28, 2021	<u>Exhibit 6-58</u> . Stormwater Discharges with Industrial Activities Report, 2020-2021	Exhibit 6-58 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
66	June 27, 2022	<u>Exhibit 6-59</u> . Stormwater Discharges with Industrial Activities Report, 2021-2022	Exhibit 6-59 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
67	July 14, 2023	<u>Exhibit 6-60</u> . Stormwater Discharges with Industrial Activities Report, 2022-2023	Exhibit 6-60 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
68	2015-2018	<u>Exhibit 6-61</u> . Engineering, Electrical, and Equipment Receipts, 2015 to 2018	Exhibit 6-61 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
69	June 13, 2024	<u>Exhibit 7</u> . Letter from Mitchell Chadwick LLP to Director Steven White Regarding Notice of Appeal for Conditional Use Permit No. 3390 (June 13, 2024)	Exhibit 7 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
70	[Undated]	<u>Exhibit 7-1</u> . Former County Ordinance Section 873	Exhibit 7-1 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
71	[Undated]	<u>Exhibit 7-2</u> . New Fresno County Ordinance Chapter 868.6 – Permit Implementation, Time Limits, Extensions, and Revocation (February 2024)	Exhibit 7-2 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
72	[Undated]	<u>Exhibit 7-3</u> . New Fresno County Ordinance Chapter 876.6 – Appeals (February 2024)	Exhibit 7-3 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
73	April 23, 2024	<u>Exhibit 7-4</u> . Email to County re: Riverbend Sand and Gravel Letter re CUP 3390 is vested [transmitting April 23, 2024 Letter from Mitchell Chadwick LLP to County] (April 23, 2024)	Exhibit 7-4 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
74	April 24, 2024	<u>Exhibit 7-5</u> . Email from County re: Riverbend Sand and Gravel Letter re CUP 3390 is vested [Confirming County’s receipt of April 23, 2024 Letter] (April 24, 2024)	Exhibit 7-5 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
75	April 24, 2024	<u>Exhibit 7-6</u> . Email to County re: Riverbend Sand and Gravel Letter re CUP 3390 is vested (April 23, 2024)	Exhibit 7-6 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
76	May 10, 2024	<u>Exhibit 7-7</u> . Email to County re: Riverbend Traffic Agreement revisited in 2020 (May 10, 2024)	Exhibit 7-7 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
77	June 14, 2019	<u>Exhibit 7-8</u> . Email to County re: Riverbend Sand and Gravel Project - Traffic Mitigation Agreement (June 14, 2019)	Exhibit 7-8 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
78	January 17, 2020	<u>Exhibit 7-9</u> . Riverbend Traffic Agreement (Redlined) (January 17, 2020)	Exhibit 7-9 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
79	May 13, 2024	<u>Exhibit 7-10</u> . Email to County re: Key Riverbend 2017 email with county counsel (May 13, 2024)	Exhibit 7-10 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
80	March 22, 2017	<u>Exhibit 7-11</u> . Email to County re: Call with Art Wille re Riverbend (March 22, 2017)	Exhibit 7-11 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
81	May 14, 2024	<u>Exhibit 7-12</u> . Emails to and from County re: Key Riverbend 2017 email with county counsel (May 14, 2024)	Exhibit 7-12 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
82	May 14, 2024	<u>Exhibit 7-13</u> . Email from County re: Key Riverbend 2017 email with county counsel (May 14, 2024)	Exhibit 7-13 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
83	May 20, 2024	<u>Exhibit 7-14</u> . Email to County re: Hard Costs Soft Costs Letter (May 20, 2024)	Exhibit 7-14 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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84	May 20, 2024	<u>Exhibit 7-15</u> . Email from County re: Hard Costs Soft Costs Letter (May 20, 2024)	Exhibit 7-15 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
85	May 20, 2024	<u>Exhibit 7-16</u> . Email to County re: Hard and Soft Costs re CUP 3390 (May 20, 2024)	Exhibit 7-16 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
86	May 20, 2024	<u>Exhibit 7-17</u> . Hard and Soft Costs letter to County re CUP 3390 (May 20, 2024)	Exhibit 7-17 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
87	May 21, 2024	<u>Exhibit 7-18</u> . Email from County re: Hard and Soft Costs re CUP 3390 [confirming receipt] (May 21, 2024)	Exhibit 7-18 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
88	May 21, 2024	<u>Exhibit 7-19</u> . Email to County re: Hard and Soft Costs re CUP 3390 [acknowledging County's confirmation of receipt of Hard and Soft costs letter] (May 21, 2024)	Exhibit 7-19 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
89	May 21, 2024	<u>Exhibit 7-20</u> . Email from County re: Hard and Soft Costs re CUP 3390 [confirming receipt of report] (May 21, 2024)	Exhibit 7-20 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
90	May 31, 2024	<u>Exhibit 7-21</u> . Email from County re: County Response - Riverbend Sand and Gravel – Vested Property Right under Unclassified Conditional Use Permit No. 3390 [transmitting May 31, 2024 Letter from C. Motta] (May 31, 2024)	Exhibit 7-21 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
91	May 31, 2024	<u>Exhibit 7-22</u> . Riverbend Substantial Development County Response Letter (May 31, 2024)	Exhibit 7-22 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
92	June 5, 2024	<u>Exhibit 7-23</u> . Email to County re: County Response - Riverbend Sand and Gravel – Vested Property Right under Unclassified Conditional Use Permit No. 3390 [regarding appeal] (June 5, 2024)	Exhibit 7-23 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
93	June 5, 2024	<u>Exhibit 7-24</u> . Email from County re: County Response - Riverbend Sand and Gravel – Vested Property Right under Unclassified Conditional Use Permit No. 3390 [regarding appeal] (June 5, 2024)	Exhibit 7-24 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
94	June 6, 2024	<u>Exhibit 7-25</u> . Email from County re: County Response - Riverbend Sand and Gravel – Vested Property Right under Unclassified Conditional Use Permit No. 3390 [regarding appeal] (June 6, 2024)	Exhibit 7-25 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
95	June 7, 2024	<u>Exhibit 7-26</u> . Email to County re: Conditional Use Permit No. 3390 [regarding appeal] (June 7, 2024)	Exhibit 7-26 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
96	June 7, 2024	<u>Exhibit 7-27</u> . Email from County re: Riverbend Sand and Gravel – Unclassified Conditional Use Permit No. 3390 [regarding appeal] (June 7, 2024)	Exhibit 7-27 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
97	June 11, 2024	<u>Exhibit 7-28</u> . Email from County re: Riverbend Sand and Gravel – Unclassified Conditional Use Permit No. 3390 [Communicating County’s position regarding appealability] (June 11, 2024)	Exhibit 7-28 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
98	May 30, 2023	<u>Exhibit 7-29</u> . Notice of Completion of SMARA Inspection, Inspection Conducted December 12, 2022	Exhibit 7-29 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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99	November 28, 2023	<u>Exhibit 7-30</u> . Surface Mining Inspection Report, Inspection Conducted November 28, 2023	Exhibit 7-30 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
100	July 23, 2024	<u>Exhibit 8</u> . Mitchell Chadwick Notice of Intent to Sue to Deputy County Counsel Bryan Rome (July 23, 2024)	Exhibit 8 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
101	August 7, 2024	<u>Exhibit 9</u> . Email from Deputy County Counsel Cavan Cox II to Patrick Mitchell With Other County Employees Included, Regarding Receipt of Intent to Sue (August 7, 2024)	Exhibit 9 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
102	August 27, 2024	<u>Exhibit 10</u> . Riverbend Complaint for Writ of Mandamus (August 27, 2024)	Exhibit 10 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
103	September 10, 2024	<u>Exhibit 11</u> . Email from Deputy County Counsel Cavan Cox II to John Kinsey with Scott Miller Included, Regarding Scheduling Meet and Confer (September 10, 2024)	Exhibit 11 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
104	July 15, 2024	<u>Exhibit 12</u> . Public Records Act Request from Mitchell Chadwick LLP to Steven White and Bernard Jiminez (July 15, 2024)	Exhibit 12 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
105	[Undated]	<u>Exhibit 13</u> . Written Confirmation from Staff Analyst Jiovanni Ruiz That Public Records Act Request Was Received on July 15, 2024	Exhibit 13 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
106	October 7 and 8, 2024	<u>Exhibit 14</u> . Emails Regarding Public Records Act Request Between Division Manager Chris Motta and Austin Turner (October 7, 2024 and October 8, 2024)	Exhibit 14 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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107	April 7, 2025	<u>Exhibit 15.</u> Website Confirmation That Public Records Act Request No. 24-870 Was Closed (October 8, 2024)	Exhibit 15 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
108	February 10, 2015	<u>Exhibit 16.</u> County Staff Emails Regarding Preliminary Agenda for February 26, 2015 Planning Commission Meeting (February 10, 2015)	Exhibit 16 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
109	February 18, 2015	<u>Exhibit 17.</u> Inter-County Employee Emails Regarding Revised Agenda and Which Item Number That Riverbend Would Be on the February 26, 2015 Agenda (February 18, 2015)	Exhibit 17 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
110	February 23, 2015	<u>Exhibit 18.</u> Emails Between Briza Sholars and Nancy Goertzen with Kay Vang and Mark Warren Included Regarding Fees and Check for Fish and Wildlife for Riverbend's EIR (February 23, 2015)	Exhibit 18 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
111	February 26, 2015	<u>Exhibit 19.</u> Planning Commission Hearing Roll Sheet for Record of Votes on Resolutions 12491 and 12492 (February 26, 2015)	Exhibit 19 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
112	February 26, 2015	<u>Exhibit 20.</u> County's Planning Commission Staff Report for Agenda Item No. 3, Regarding CUP and EIR (February 26, 2015)	Exhibit 20 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
113	February 26, 2015	<u>Exhibit 21.</u> County's Inter Office Memo Regarding Resolution No. 12492 – EIR and CUP (February 26, 2015)	Exhibit 21 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
114	February 26, 2015	<u>Exhibit 22.</u> County Planning Commission Agenda (February 26, 2015)	Exhibit 22 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
115	April 14, 2015	<u>Exhibit 23</u> . Emails Between Carol Pratt and Briza Sholars Regarding Checks and Low on Money (April 14, 2015)	Exhibit 23 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
116	April 29, 2015	<u>Exhibit 24</u> . Email from Briza Sholars to County Staff Regarding Request for Publication for Riverbend at Board of Supervisors May 19, 2015 Hearing (April 29, 2015)	Exhibit 24 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
117	May 13, 2015	<u>Exhibit 25</u> . Letter from Caltrans Division 6 to County Supervisor Debbie Poochigan (May 13, 2015)	Exhibit 25 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
118	May 14, 2015	<u>Exhibit 26</u> . Inter-County Employee Emails Regarding Agenda for May 19, 2015 Board of Supervisors Meeting (May 14, 2015)	Exhibit 26 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
119	May 15, 2015	<u>Exhibit 27</u> . Riverbend Traffic Mitigation Fees (May 15, 2015)	Exhibit 27 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
120	May 18, 2015	<u>Exhibit 28</u> . Email from Janet Morrison to County Staff Regarding Revised Agenda for May 15, 2015 Board of Supervisors Hearing (May 18, 2015)	Exhibit 28 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
121	May 19, 2015	<u>Exhibit 29</u> . Board of Supervisors Final Agenda (May 19, 2015)	Exhibit 29 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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122	May 19, 2015	<u>Exhibit 30.</u> Email from Deputy Director of Planning Bernard Jiminez to Augustine Ramirez Regarding Attachment from the Department of Transportation (May 19, 2015)	Exhibit 3 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
123	May 19, 2015	<u>Exhibit 31.</u> Final Revised Board of Supervisors Agenda (May 19, 2015)	Exhibit 31 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
124	May 19, 2015	<u>Exhibit 32.</u> Email from Capital Projects Staff Analyst Linda Guerra to N. Roger Davidson Regarding Agenda (May 19, 2015)	Exhibit 32 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
125	May 24, 2015	<u>Exhibit 33.</u> Expense Report Workbook for Riverbend EIR (May 24, 2015)	Exhibit 33 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
126	May 28, 2015	<u>Exhibit 34.</u> Recorded Notice of Reclamation Plan Approval (May 28, 2015)	Exhibit 34 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
127	May 28, 2015	<u>Exhibit 35.</u> Emails Between Division Secretary Janet Morrison and Briza Sholars Regarding Board of Supervisors Minute Order for Riverbend EIR and UCUP Appeal (May 28, 2015)	Exhibit 35 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
128	June 2, 2015	<u>Exhibit 36.</u> Notice of Public Hearing Regarding Tranquility Staff Time Reimbursement Agreement (June 2, 2015)	Exhibit 36 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
129	June 11, 2015	<u>Exhibit 37.</u> Letter from Augustine Ramirez, Senior Engineer at the County Department of Public Works and Planning to John Parrish, Acting Assistant Director of the Reclamation Unit for the Office	Exhibit 37 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
		of Mine Reclamation Regarding Final Response to Director's Comments for Approval of Reclamation Plan (June 11, 2015)	
130	June 24, 2015	<u>Exhibit 38</u> . Emails Between Briza Sholars and Carol Pratt with Kay Vang Included Regarding Check to Consultant SESPE (June 24, 2015)	Exhibit 38 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
131	July 13, 2015	<u>Exhibit 39</u> . Board of Supervisors Scheduled Projects with Briza Sholars Assigned as Staff for Riverbend (July 13, 2015)	Exhibit 39 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
132	July 21, 2015	<u>Exhibit 40</u> . Email from Briza Sholars to Janet Morrison Regarding Printing the Riverbend Conditions of Approval in a Smaller Size (July 21, 2015)	Exhibit 40 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
133	July 13, 2015	<u>Exhibit 41</u> . Email from Staff Analyst Hector Luna to Consultant John Buada Regarding SPR Submittal Information and Fee Schedule (July 13, 2015)	Exhibit 41 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
134	July 14, 2015	<u>Exhibit 42</u> . Emails Between Carol Pratt and Mohammad Alimi with Other County Staff Included Regarding Processing the Credit Entry for EIR 6606 (July 14, 2015)	Exhibit 42 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
135	July 15, 2015	<u>Exhibit 43</u> . Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding SPR Package Submittal (July 15, 2015)	Exhibit 43 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
136	July 15, 2015	<u>Exhibit 44</u> . Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding SPR Package Submittal (July 15, 2015)	Exhibit 44 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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137	July 17, 2015	<u>Exhibit 45.</u> Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding SPR Package Submittal (July 17, 2015)	Exhibit 45 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
138	July 17, 2015	<u>Exhibit 46.</u> Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding Site Plan Review Package Submittal (July 17, 2015)	Exhibit 46 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
139	July 23, 2015	<u>Exhibit 47.</u> Mitigation Monitoring Reimbursement Agreement (County Staff Time) for Riverbend (Agreement No. 15-422) (July 23, 2015)	Exhibit 47 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
140	July 23, 2015	<u>Exhibit 48.</u> Email from Assistant Business Manager Carol Pratt to Mohammad Alimi and Robert Palacios with Other County Staff Included Regarding Hours and Costs for EIR 6606 (July 23, 2015)	Exhibit 48 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
141	July 23, 2015	<u>Exhibit 49.</u> County Department of Works and Planning Project Cost Source Report with Dates November 2013 Through May 2015 (July 23, 2015)	Exhibit 49 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
142	July 23, 2015	<u>Exhibit 50.</u> Emails Between Assistant Business Manager Carol Pratt to Mohammad Alimi and with Other County Staff Included Regarding Herb Lang's Concerned About Hours Charged by the County After July 2014 (July 23, 2015)	Exhibit 5 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
143	July 23, 2015	<u>Exhibit 51.</u> Email Forwarded by Staff Analyst Hector Luna Regarding Request to Review and Comment on Riverbend's SPR Submittal (July 23, 2015)	Exhibit 51 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
144	July 23, 2015	<u>Exhibit 52.</u> Site Plan Review Application Processing Routing Work Sheet (July 23, 2015)	Exhibit 52 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
145	July 24, 2015	<u>Exhibit 53</u> . Email from Carol Pratt to Herb Lang with County Staff Included and with Letters Regarding County Expense Reports Attached (July 24, 2015)	Exhibit 53 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
146	July 27, 2015	<u>Exhibit 54</u> . Inter-County Emails Regarding Expense Reports for Riverbend (July 27, 2015)	Exhibit 54 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
147	July 28, 2015	<u>Exhibit 55</u> . Email from Suzie Novak to Janet Morrison Regarding Board of Supervisors Project Schedule (July 28, 2015)	Exhibit 55 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
148	August 4, 2015	<u>Exhibit 56</u> . Email from Carol Pratt to Briza Sholars with Other County Staff Included Regarding Herb Lang's Request for Further Breakdowns of Expense Report Letters for the Riverbend EIR (August 4, 2015)	Exhibit 56 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
149	August 6, 2015	<u>Exhibit 57</u> . Email from Planner Briza Sholars to Callie Martin of <i>The Business Journal</i> with Janet Morrison Included, Regarding Request to Publish Notice of Public Hearing for Proposed Resolution in the Business Journal (August 6, 2015)	Exhibit 57 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
150	August 6, 2015	<u>Exhibit 58</u> . Email from District Engineer Betsy Lichti to Staff Analyst Hector Luna with Philip Dutton of the Waterboard Included, Regarding Riverbend SPR 7946 (August 6, 2015)	Exhibit 58 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
151	August 24, 2015	<u>Exhibit 59</u> . Emails Between Staff Analyst Hector Luna and Ramona Banks Regarding Revised Site Plan for Riverbend (August 24, 2015)	Exhibit 59 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
152	August 25, 2015	<u>Exhibit 60.</u> Email from Staff Analyst Hector Luna to Consultant John Buada with Herb Lang Included (August 25, 2015)	Exhibit 60 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
153	August 26, 2015	<u>Exhibit 61.</u> Email from Administrative Secretary Linda Brosi to County Staff Regarding Agenda Items for September 1, 2015 for Review for the Manager’s Meeting on August 31, 2015 (August 26, 2015)	Exhibit 61 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
154	August 28, 2015	<u>Exhibit 62.</u> Inter-County Staff Emails Regarding Agenda for September 1, 2015 Board of Supervisors Meeting (August 28, 2015)	Exhibit 62 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
155	August 31, 2015	<u>Exhibit 63.</u> Email from Eva Frias to Craig Nickel Forwarding the Correct Agenda for September 1, 2015 (August 31, 2015)	Exhibit 63 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
156	September 1, 2015	<u>Exhibit 64.</u> Third Party Administrator Consultant Agreement (Agreement No. 15-423) (September 1, 2015)	Exhibit 64 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
157	September 1, 2015	<u>Exhibit 65.</u> Board of Supervisors Summary Agenda, Including Board Agenda Items 8, 9, 29, 30, and 31 (September 1, 2015)	Exhibit 65 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
158	September 1, 2015	<u>Exhibit 66.</u> Board of Supervisors Agenda Items 29 and 30 (September 1, 2015)	Exhibit 66 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
159	September 2015	<u>Exhibit 67.</u> Draft Copy of Letter from Staff Analyst Hector Luna to Consultant John Buada Site Plan Review (SPR) 7946 for Riverbend (September 2015)	Exhibit 67 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
160	September 2, 2015	<u>Exhibit 68</u> . Email from Staff Analyst Hector Luna to Engineering Tech Jennifer Parks (September 2, 2015)	Exhibit 68 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
161	September 8 and 9, 2015	<u>Exhibit 69</u> . Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding Review of Riverbend SPR 7946 Approval Letter (September 8, 2015 and September 9, 2015)	Exhibit 69 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
162	September 11, 2015	<u>Exhibit 70</u> . Emails Between Kay Vang and Carol Pratt Regarding Herb Lang and Tax Forms (September 11, 2015)	Exhibit 70 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
163	September 11, 2015	<u>Exhibit 71</u> . 2015 W-9 for Riverbend (September 11, 2015)	Exhibit 71 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
164	September 14, 2015	<u>Exhibit 72</u> . Letter from Hector Luna from County Development Services Division to Buada Associates Regarding Site Plan Review No. 7946 (September 14, 2015)	Exhibit 72 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
165	September 14, 2015	<u>Exhibit 73</u> . Approved Site Plan Map (September 14, 2015)	Exhibit 73 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
166	September 14, 2015	<u>Exhibit 74</u> . Email from Staff Analyst Hector Luna to Consultant John Buada Regarding Riverbend SPR 7946 Approval (September 14, 2015)	Exhibit 74 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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167	September 15, 2015	<u>Exhibit 75.</u> Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding Riverbend SPR 7946 Approval (September 15, 2015)	Exhibit 75 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
168	September 21, 2015	<u>Exhibit 76.</u> Emails Between Amina Flores Becker and Staff Analyst Julie Zimmer Regarding TMR Language and Division Managers Meeting (September 21, 2015)	Exhibit 76 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
169	September 28, 2015	<u>Exhibit 77.</u> Emails Between Staff Analyst Hector Luna and Consultant John Buada Regarding SPR Package (September 28, 2015)	Exhibit 77 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
170	October 29, 2015	<u>Exhibit 78.</u> Email from Assistant Business Manager Carol Pratt to County Staff Regarding Herb Lang and Riverbend W-9 (October 29, 2015)	Exhibit 78 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
171	October 30, 2015	<u>Exhibit 79.</u> Email from Becky Reyes to Assistant Business Manager Carol Pratt with Other County Staff Included Regarding Process of Payment (October 30, 2015)	Exhibit 79 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
172	November 3, 2015	<u>Exhibit 80.</u> Letters from Financial Services Manager Lemuel Aspreco to Riverbend Regarding Expense Reports for EIR 6606 (November 3, 2015)	Exhibit 80 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
173	November 3, 2015	<u>Exhibit 81.</u> Monthly Expense Reports Memos Regarding Riverbend EIR (November 3, 2015)	Exhibit 81 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
174	November 4, 2015	<u>Exhibit 82.</u> Inter-County Staff Emails Regarding Expense Report Memos for Riverbend EIR 6606 (November 4, 2015)	Exhibit 82 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
175	November 30, 2015	<u>Exhibit 83</u> . Letter from Financial Services Manager Lemuel Aspreco to Riverbend Regarding Expense Report for June-September 2015 (November 30, 2015)	Exhibit 83 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
176	December 1, 2015	<u>Exhibit 84</u> . Email from Jacqueline Juarez to Herb Lang with County Staff Included Regarding Expense Report for EIR 6606 Through September 2015 (December 1, 2015)	Exhibit 84 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
177	April 22, 2016	<u>Exhibit 85</u> . Email from Ejaz Ahmad to John Adams Regarding CUP 3297 and with October 8, 2015 Planning Commission Staff Report Consent Agenda Item No. 2 Attached (April 22, 2016)	Exhibit 85 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
178	May 10, 2016	<u>Exhibit 86</u> . Inter-County Staff Emails Regarding Internal Agenda Report – Draft for May 24, 2016 Board of Supervisors Meeting (May 10, 2016)	Exhibit 86 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
179	May 19, 2016	<u>Exhibit 87</u> . Inter-County Staff Emails May 24, 2016 Board of Supervisors Meeting Agenda (May 19, 2016)	Exhibit 87 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
180	May 23, 2016	<u>Exhibit 88</u> . Email from Capital Projects Division Manager Stuart Seiden to County Staff Forwarding Board of Supervisors Agenda for May 24, 2016 Meeting (May 23, 2016)	Exhibit 88 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
181	May 24, 2016	<u>Exhibit 89</u> . Board of Supervisors Draft Internal Agenda Report (May 24, 2016)	Exhibit 89 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

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182	May 24, 2016	<u>Exhibit 90.</u> Board of Supervisors Final Internal Agenda Report (May 24, 2016)	Exhibit 90 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
183	July 25, 2016	<u>Exhibit 91.</u> Emails Between Engineering Tech Jennifer Parks and Sheri Graham Regarding Need for Edited Invoice for Riverbend (July 25, 2016)	Exhibit 91 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
184	August 22, 2016	<u>Exhibit 92.</u> Emails Between Planner Derek Chambers to Al Solis with County Staff Included Regarding County Zoning Ordinance on CUP Substantial Development (August 22, 2016)	Exhibit 92 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
185	August 25, 2016	<u>Exhibit 93.</u> County Department of Public Works and Planning Expense Reports (August 25, 2016)	Exhibit 93 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
186	September 1 and November 29, 2016	<u>Exhibit 94.</u> Emails Amongst County Staff Regarding Budget Changes (September 1, 2016 and November 29, 2016)	Exhibit 94 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
187	November 28, 2016	<u>Exhibit 95.</u> Expense Report Memo for Riverbend (November 28, 2016)	Exhibit 95 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
188	December 7, 2016	<u>Exhibit 96.</u> Emails Amongst County Staff Regarding Expense Reports Through June 19, 2016 (December 7, 2016)	Exhibit 96 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
189	December 12, 2016	<u>Exhibit 97.</u> Fehr Engineering Company Pole Line and Substation Project Plans (December 12, 2016)	Exhibit 97 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
190	December 13, 2016	<u>Exhibit 98.</u> Emails Between Assistant Business Manager Carol Pratt and Division Manager William Kettler with Other County Staff Included, Regarding Expense Reports Through June 19, 2016 (December 13, 2016)	Exhibit 98 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
191	December 19, 2016	<u>Exhibit 99.</u> Email from Staff Analyst Hector Luna to Augustine Ramirez Regarding Riverbend SPR Completed in 2015 (December 19, 2016)	Exhibit 99 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
192	December 22, 2016	<u>Exhibit 100.</u> December 2016 Surface Mining Inspection Report (December 22, 2016)	Exhibit 100 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
193	June 29, 2017	<u>Exhibit 101.</u> 2016 Mining Operation Annual Report (June 29, 2017)	Exhibit 101 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
194	February 23, and 24, 2017	<u>Exhibit 102.</u> Emails Amongst Patrick Mitchell, John Wheat, and Chris Motta Regarding the Status of CUP 3390 (February 23, 2017 and February 24, 2017)	Exhibit 102 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
195	February 23, 2017	<u>Exhibit 103.</u> Email from Patrick Mitchell to Former County Counsel Arthur Wille and Chris Motta With Herb Lang and Consultant John Buada Included, Regarding Proposed Draft Traffic Mitigation Agreement for the Riverbend (February 23, 2017)	Exhibit 103 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
196	March 13, 2017	<u>Exhibit 104.</u> Email from Development Services Division Planner Anthony Lee to Mohammad Khorsand Regarding Agenda and Minutes from the May 24, 2016 Board of Supervisors Hearing (March 13, 2017)	Exhibit 104 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
197	March 13, 2017	<u>Exhibit 105.</u> Riverbend County Construction Permit (March 13, 2017)	Exhibit 105 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
198	March 21, 2017	<u>Exhibit 106.</u> Email from Chris Motta to Suzie Novak with Last Known Address for Herb Lang (March 21, 2017)	Exhibit 106 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
199	March 21, 2017	<u>Exhibit 107.</u> Email from Planning Commission Clerk Suzie Novak to Chris Motta Regarding Letter from Patrick Mitchell (March 21, 2017)	Exhibit 107 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
200	February 27 and March 21, 2017	<u>Exhibit 108.</u> Emails Between Patrick Mitchell and Chris Motta With Former County Counsel Arthur Wille Included, Regarding Response From the County on the County's Process (February 27, 2017 and March 21, 2017)	Exhibit 108 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
201	March 22, 2017	<u>Exhibit 109.</u> Email from Chris Motta to Harpreet Kooner and Frank Daniele Regarding Traffic Mitigation Agreement and Comment Sent by Patrick Mitchell for Review (March 22, 2017)	Exhibit 109 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
202	May 17, 2017	<u>Exhibit 110.</u> Email from Mohammad Alimi to Other County Staff Including Frank Daniele, Chris Motta, and Harpreet Kooner Regarding Riverbend Traffic Mitigation Agreement and Possible Relocation of PG&E Utility (May 17, 2017)	Exhibit 110 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
203	June 28, 2017	<u>Exhibit 111.</u> Cover Letter for 2017 Riverbend Mining Operation Annual Report from Consultant John Buada to Jennifer Parks (June 28, 2017)	Exhibit 111 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
204	September 2017	<u>Exhibit 112.</u> Redlines of Traffic Mitigation Agreement (County Fair Share) for Riverbend (September 2017)	Exhibit 112 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
205	November 14, 2017	<u>Exhibit 113</u> . Email from Christine Monfette to Chris Motta Regarding UCUP 339, Riverbend RP, DEIR, and FEIR (November 14, 2017)	Exhibit 113 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
206	March 19, 2018	<u>Exhibit 114</u> . Inter-County Staff Emails and Emails with Herb Lang Regarding Lead Agency Inspection Notice and County's Certification That Riverbend is in Compliance with SMARA (March 19, 2018)	Exhibit 114 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
207	March 21, 2018	<u>Exhibit 115</u> . Emails Between Water & Natural Resources Manager Glen Allen and DOC DMR Reporting Analyst Kirsten Byrnes Regarding SMARA Inspection Report Submitted (March 21, 2018)	Exhibit 115 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
208	April 2, 2018	<u>Exhibit 116</u> . Pages from Final Riverbend Staff Report with Chris Motta's Comments (April 2, 2018)	Exhibit 116 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
209	April 2 and April 9, 2018	<u>Exhibit 117</u> . Inter-County Staff Emails Regarding CUPs 3052 and 3390 (April 2, 2018 and April 9, 2018)	Exhibit 117 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
210	April 2, 2018	<u>Exhibit 118</u> . Inter-County Staff Emails Regarding "TI" (April 2, 2018)	Exhibit 118 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
211	June 28, 2018	<u>Exhibit 119</u> . Letter from Consultant John Buada to Department of Conservation, Division of Mine Reclamation Regarding 2017 Mining Operation Annual Report for Riverbend with Check and 2017 Mining Operation Annual Report (June 28, 2018)	Exhibit 119 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
212	June 29, 2018	<u>Exhibit 120</u> . Inter-County Staff Emails and Emails with Herb Lang Regarding Riverbend SMARA Annual Report 2017 (June 29, 2018)	Exhibit 120 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
213	July 25, 2018	<u>Exhibit 121</u> . Emails Between Malek Syed to Senior Planner Marianne Mollring Regarding Scheduling (July 25, 2018)	Exhibit 121 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
214	August 22, 2018	<u>Exhibit 122</u> . Emails Between the County and Mitchell Chadwick Regarding the Riverbend Traffic Mitigation Agreement (August 22, 2018)	Exhibit 122 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
215	August 31, 2018	<u>Exhibit 123</u> . Email from Chris Motta to Marianne Mollring Regarding Example of Inter Office Memo (August 31, 2018)	Exhibit 123 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
216	October 2, 2018	<u>Exhibit 124</u> . October 2018 Surface Mining Inspection Report (October 2, 2018)	Exhibit 124 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
217	October 15, 2018	<u>Exhibit 125</u> . Emails Between the County and Mitchell Chadwick Regarding the Riverbend Traffic Mitigation Agreement (October 15, 2018)	Exhibit 125 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
218	November 2, 2018	<u>Exhibit 126</u> . Emails Between the County and Mitchell Chadwick Regarding the Riverbend Traffic Mitigation Agreement (November 2, 2018)	Exhibit 126 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
219	November 2, 2018	<u>Exhibit 127</u> . County's Redlined Draft of Traffic Mitigation Agreement (County Fair Share) for Riverbend (November 2, 2018)	Exhibit 127 to Riverbend Grading Permit Appeal Response Letter to

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			County, Submitted to County on April 21, 2025
220	November 28, 2018	<u>Exhibit 128</u> . Emails Between Planner Roy Jiminez, Jr. and Terry Marshall Regarding FACE Form and Contact Person for Riverbend Site (November 28, 2018)	Exhibit 128 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
221	November 29, 2018	<u>Exhibit 129</u> . Emails Between Senior Staff Analyst Hector Luna and Augustine Ramirez Regarding Consultant John Buada's Request for Approved RP (November 29, 2018)	Exhibit 129 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
222	December 6, 2018	<u>Exhibit 130</u> . Emails Between Planner Roy Jiminez, Jr. and Consultant John Buada Regarding Annual Inspection Report (December 6, 2018)	Exhibit 130 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
223	December 6, 2018	<u>Exhibit 131</u> . Email from Patrick Mitchell to Kyle Roberson Regarding Riverbend Traffic Mitigation Agreement (December 6, 2018)	Exhibit 131 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
224	December 6, 2018	<u>Exhibit 132</u> . Patrick Mitchell's Redlined Draft of Traffic Mitigation Agreement (County Fair Share) for Riverbend (December 6, 2018)	Exhibit 132 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
225	December 10, 2018	<u>Exhibit 133</u> . Emails Between Consultant John Buada and Senior Staff Analyst Hector Luna Regarding Approved RP (December 10, 2018)	Exhibit 133 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
226	December 12, 2018	<u>Exhibit 134</u> . Emails Between Division Manager Glen Allen and Roy Jiminez Regarding Voicemail from Herb Lang Regarding Receiving Invoices from the County for Riverbend (December 12, 2018)	Exhibit 134 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
227	December 17, 2018	<u>Exhibit 135</u> . Emails Between Consultant John Buada and Planner Roy Jiminez, Jr. Regarding FACE for Riverbend (December 17, 2018)	Exhibit 135 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
228	December 17, 2018	<u>Exhibit 136</u> . FACE for Riverbend - Annual Inspection Performed on October 17, 2018 (December 17, 2018)	Exhibit 136 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
229	December 17, 2018	<u>Exhibit 137</u> . Cover Letter from Consultant John Buada to Roy Jiminez Regarding 2018 FACE for Riverbend (December 17, 2018)	Exhibit 137 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
230	December 18, 2018	<u>Exhibit 138</u> . Emails Between Consultant John Buada and Planner Roy Jiminez, Jr. Regarding 2018 FACE for Riverbend (December 18, 2018)	Exhibit 138 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
231	February 27, 2019	<u>Exhibit 139</u> . Email from Planner Roy Jiminez, Jr. to Rhonda Law from the Department of Conservation Regarding Annual Surface Mining Inspection Report and 45-day FACE Director Review (February 27, 2019)	Exhibit 139 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
232	February 27, 2019	<u>Exhibit 140</u> . Letter from Planner Roy Jiminez, Jr. to Rhonda Law, Analyst from Department of Conservation, Division of Mine Reclamation, Regarding Riverbend 45-Day Financial Assurance Estimate Director Review (February 27, 2019)	Exhibit 140 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
233	February 27, 2019	<u>Exhibit 141</u> . Letter from Planner Roy Jiminez, Jr. to Rhonda Law, Analyst from Department of Conservation, Division of Mine Reclamation, Regarding Lead Agency Inspection Notice (February 27, 2019)	Exhibit 141 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
234	March 12, 2019	<u>Exhibit 142</u> . Email from Patrick Mitchell to County Counsel Kyle Roberson With Andrea Abergel Included, Regarding Redline	Exhibit 142 to Riverbend Grading Permit Appeal Response Letter to

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		Comparison of 2016 and 2017 Version of the Riverbend Traffic Mitigation Agreement (March 12, 2019)	County, Submitted to County on April 21, 2025
235	March 13, 2019	<u>Exhibit 143</u> . Riverbend Traffic Mitigation Fees with Comments by B. Spaunhurst (March 13, 2019)	Exhibit 143 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
236	March 20, 2019	<u>Exhibit 144</u> . Emails Between Marianne Mollring and Planner Christina (Chrissy) Monfette Regarding Consultant Selection List and Recent EIRs (March 20, 2019)	Exhibit 144 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
237	April 12, 2019	<u>Exhibit 145</u> . Emails Between Mitchell Chadwick and the County Regarding revised Traffic Mitigation Agreement (April 12, 2019)	Exhibit 145 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
238	May 6, 2019	<u>Exhibit 146</u> . Email from Andrea Abergel to County Counsel Kyle Roberson With Patrick Mitchell Included, Regarding County's Proposed Changes to the Riverbend Traffic Mitigation Agreement (May 6, 2019)	Exhibit 146 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
239	June 6, 2019	<u>Exhibit 147</u> . Excel Sheet with List of Frank Daniele's Outstanding Items (June 6, 2019)	Exhibit 147 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
240	June 11, 2019	<u>Exhibit 148</u> . Email from Frank Daniele to John Thompson and Wendy Nakagawa Regarding List of Outstanding Items (June 11, 2019)	Exhibit 148 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
241	June 27, 2019	<u>Exhibit 149</u> . Emails Between Planner Roy Jiminez, Jr. and Consultant John Buada with Glen Allen and Herb Lang Included, Regarding 2018 Annual Inspection Report for Riverbend (June 27, 2019)	Exhibit 149 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
242	July 3, 2019	<u>Exhibit 150</u> . Email from Marianne Mollring to Suzie Novak with Other County Staff Included, Regarding Zoning Ordinance Binder Updates (July 3, 2019)	Exhibit 150 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
243	July 5, 2019	<u>Exhibit 151</u> . Pages from Irrevocable Standby Letter of Credit (July 5, 2019)	Exhibit 151 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
244	July 10, 2019	<u>Exhibit 152</u> . Email from Planner Roy Jiminez, Jr. to Glen Allen Regarding Riverbend Letter of Credit (July 10, 2019)	Exhibit 152 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
245	July 10 and July 11, 2019	<u>Exhibit 153</u> . Emails Amongst Planner Roy Jiminez, Jr., Glen Allen, and Herb Lang Regarding Riverbend Letter of Credit (July 10, 2019 and July 11, 2019)	Exhibit 153 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
246	July 17, 2019	<u>Exhibit 154</u> . Wells Fargo Irrevocable Standby Letter of Credit for Riverbend (July 17, 2019)	Exhibit 154 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
247	July 24, 2019	<u>Exhibit 155</u> . Inter-County Staff Emails, Including Augustine Ramirez, Chris Motta, Lemuel Asprec, and Glen Allen Regarding Herb Lang and Riverbend Letter of Credit (July 24, 2019)	Exhibit 155 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
248	July 24, 2019	<u>Exhibit 156</u> . Email from Herb Lang to County and DOC Employees, Forwarding Email from Wells Fargo Regarding Riverbend Letter of Credit (July 24, 2019)	Exhibit 156 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
249	August 13, 2019	<u>Exhibit 157</u> . Redlined Draft of Traffic Mitigation Agreement (County Fair Share) for Riverbend (August 13, 2019)	Exhibit 157 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
250	August 27, 2019	<u>Exhibit 158</u> . Email from Senior Planner Brian Spaunhurst to Mohammad Alimi Regarding Ongoing Riverbend Project (August 27, 2019)	Exhibit 158 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
251	October 16, 2019	<u>Exhibit 159</u> . Emails Between Andrea Abergel of Mitchell Chadwick and Deputy County Counsel Kyle Roberson Regarding Riverbend Traffic Mitigation Agreement (October 16, 2019)	Exhibit 159 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
252	November 8 and 12, 2019	<u>Exhibit 160</u> . Inter-County Staff Emails Herb Lang’s Noise Complaints About Neighboring Mine, CMI (November 8, 2019 and November 12, 2019)	Exhibit 160 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
253	November 22, 2019	<u>Exhibit 161</u> . County Excel Sheets of Bids for Projects (November 22, 2019)	Exhibit 161 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
254	December 19, 2019	<u>Exhibit 162</u> . Inter-County Staff Emails Regarding Breakdown of Riverbend Traffic Mitigation Fees (December 19, 2019)	Exhibit 162 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
255	December 9, 2019	<u>Exhibit 163</u> . Riverbend Traffic Mitigation Fees (December 9, 2019)	Exhibit 163 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
256	January 24, 2020	<u>Exhibit 164</u> . January 2020 Surface Mining Inspection Report (January 24, 2020)	Exhibit 164 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
257	March 5, 2020	<u>Exhibit 165</u> . Emails Between Mitchell Chadwick and the County Regarding Riverbend Traffic Mitigation Agreement and Increased Costs Since the 2015 Estimate (March 5, 2020)	Exhibit 165 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
258	April 22, 2020	<u>Exhibit 166</u> . Emails Between Planner Roy Jiminez, Jr. and Consultant John Buada Regarding 2019 Draft Annual Report (April 22, 2020)	Exhibit 166 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
259	April 30, 2020	<u>Exhibit 167</u> . Letter from Consultant John Buada to Roy Jiminez with 2019 FACE (April 30, 2020)	Exhibit 167 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
260	May 4, 2020	<u>Exhibit 168</u> . Emails Between Planner Roy Jiminez, Jr. and Consultant John Buada Regarding 2019 Riverbend FACE (May 4, 2020)	Exhibit 168 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
261	May 5, 2020	<u>Exhibit 169</u> . Notice of Completion of Inspection (NOCI) (May 5, 2020)	Exhibit 169 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
262	May 5, 2020	<u>Exhibit 170</u> . Emails Between Planner Roy Jiminez, Jr. and DMR Submittals Regarding Confirmation That the NOCI, Annual Surface Mining Inspection Report, SOA, and FACE Had Been Submitted (May 5, 2020)	Exhibit 170 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
263	May 5, 2020	<u>Exhibit 171</u> . Letter from Planner Roy Jiminez, Jr. to DOC, OMR Regarding 45-Day Financial Assurance Estimate Director Review (May 5, 2020)	Exhibit 171 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
264	June 19, 2020	<u>Exhibit 172</u> . Emails Between Deputy County Counsel Bryan Rome and Andrea Abergel of Mitchell Chadwick Regarding the	Exhibit 172 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
		Riverbend Traffic Mitigation Agreement and Increased Costs Since the 2015 Estimate (June 19, 2020)	County, Submitted to County on April 21, 2025
265	June 25, 2020	<u>Exhibit 173</u> . Email from Planner Roy Jiminez, Jr. to Herb Lang and Consultant John Buada with Glen Allen Included, Regarding FACE Approval (June 25, 2020)	Exhibit 173 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
266	June 25, 2020	<u>Exhibit 174</u> . Riverbend FACE Approval from Planner Roy Jiminez, Jr. to Herb Lang (June 25, 2020)	Exhibit 174 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
267	July 28, 2020	<u>Exhibit 175</u> . Inter-County Emails from Chris Motta Regarding Herb Lang's Complaint About the Noise at CMI (July 28, 2020)	Exhibit 175 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
268	January 26, 2021	<u>Exhibit 176</u> . January 2021 Surface Mining Inspection Report (January 26, 2021)	Exhibit 176 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
269	May 4, 2021	<u>Exhibit 177</u> . 2020 FACE and Supporting Documents (May 4, 2021)	Exhibit 177 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
270	May 11, 2021	<u>Exhibit 178</u> . Emails Between Planner Roy Jiminez, Jr. and Consultant John Buada with Herb Lang Included, Regarding 2020 FACE (May 11, 2021)	Exhibit 178 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
271	May 12, 2021	<u>Exhibit 179</u> . Emails Between Planner Roy Jiminez, Jr. and DMR Submittals with Consultant John Buada and Herb Lang Included, Regarding Confirmation That the NOCI and FACE Had Been Submitted (May 12, 2021)	Exhibit 179 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
272	May 12, 2021	<u>Exhibit 180</u> . NOCI (May 12, 2021)	Exhibit 180 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
273	May 12, 2021	<u>Exhibit 181</u> . Letter from Planner Roy Jiminez, Jr. to DMR, OCR Regarding Riverbend 45-Day Financial Assurance Estimate Director Review (May 12, 2021)	Exhibit 181 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
274	June 28, 2021	<u>Exhibit 182</u> . Email from DMR Reporting to Roy Jiminez Regarding 2020 Mining Operation Annual Report Acknowledgment for Riverbend (June 28, 2021)	Exhibit 182 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
275	July 8, 2021	<u>Exhibit 183</u> . Letter from Planner Roy Jiminez, Jr. to Herb Lang Regarding Riverbend FACE Approval (July 8, 2021)	Exhibit 183 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
276	July 8, 2021	<u>Exhibit 184</u> . Emails Between Planner Roy Jiminez, Jr. and Consultant John Buada with Herb Lang Included, Regarding FACE Approval Letter for Riverbend (July 8, 2021)	Exhibit 184 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
277	November 3, 2021	<u>Exhibit 185</u> . Email from Kathy Lang to Roy Jiminez Regarding Annual SMARA Inspection and Phone Calls from Herb Lang (November 3, 2021)	Exhibit 185 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
278	January 27, 2022	<u>Exhibit 186</u> . Emails Between Simon & Hower, Inc. Office Manager Christine Shepherd and Senior Planner James Anders, Referencing Substantial Development Ordinance (January 27, 2022)	Exhibit 186 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
279	March 29, 2022	<u>Exhibit 187</u> . Cover Letter and 2021-2022 FACE for Riverbend from Consultant John Buada to Roy Jiminez (March 29, 2022)	Exhibit 187 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
280	March 29, 2022	<u>Exhibit 188.</u> 2021-2022 FACE for Riverbend (March 29, 2022)	Exhibit 188 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
281	March 29, 2022	<u>Exhibit 189.</u> Email from Consultant John Buada to Roy Jiminez and Herb Lang Regarding 2021-2022 FACE for Riverbend (March 29, 2022)	Exhibit 189 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
282	April 26, 2022	<u>Exhibit 190.</u> Emails Between Consultant John Buada and Planner Roy Jiminez, Jr. Regarding Complete 2021-2022 FACE for Riverbend Received (April 26, 2022)	Exhibit 190 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
283	May 3, 2022	<u>Exhibit 191.</u> Letter from Planner Roy Jiminez, Jr. to DMR, OCR Regarding Riverbend 45-Day Financial Assurance Estimate Director Review (May 3, 2022)	Exhibit 191 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
284	May 3, 2022	<u>Exhibit 192.</u> NOCI (May 3, 2022)	Exhibit 192 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
285	May 3, 2022	<u>Exhibit 193.</u> Emails Between Planner Roy Jiminez, Jr. and DMR Submittals Regarding Confirmation That the NOCI, Annual Surface Mining Inspection Report, SOA, and FACE Had Been Submitted (May 3, 2022)	Exhibit 193 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
286	June 15, 2022	<u>Exhibit 194.</u> Letter from DOC DMR Engineering and Geology Unit, Michael Luksic to Planner Roy Jiminez, Jr. Regarding Carmelita Mine FACE (June 15, 2022)	Exhibit 194 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
287	June 15, 2022	<u>Exhibit 195</u> . Letter from DOC DMR Engineering and Geology Unit, Michael Luksic to Planner Roy Jimenez, Jr. Regarding Riverbend Mine FACE (June 15, 2022)	Exhibit 195 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
288	June 15, 2022	<u>Exhibit 196</u> . Email from DOC DMR Engineer Mike Luksic to Roy Jimenez, with Ian Stevenson from DOC Included, Regarding FACE Review Letters for Riverbend Mine and Carmelita Mine (June 15, 2022)	Exhibit 196 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
289	June 15, 2022	<u>Exhibit 197</u> . Email from Planner Roy Jimenez, Jr. to Consultant John Buada with Herb Lang Included, Regarding Review and Approval of FACE for Riverbend (June 15, 2022)	Exhibit 197 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
290	December 2, 2022	<u>Exhibit 198</u> . Emails Between Planner Roy Jimenez, Jr. and Consultant John Buada Regarding Annual SMARA Inspection for Riverbend (December 2, 2022)	Exhibit 198 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
291	December 20, 2022	<u>Exhibit 199</u> . Inter-County Staff Emails Regarding Martin Marietta PRA Request 22-567 (December 20, 2022)	Exhibit 199 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
292	December 21, 2022	<u>Exhibit 200</u> . Letter from Staff Analyst Raymond Martin to George Kenline from Martin Marietta Confirming That PRA Request 22-567 Was Received (December 21, 2022)	Exhibit 200 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
293	December 21, 2022	<u>Exhibit 201</u> . Email from Staff Analyst Raymond Martin to George Kenline from Martin Marietta, Confirming That PRA Request 22-567 Was Received (December 21, 2022)	Exhibit 201 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
294	January 10, 2023	<u>Exhibit 202</u> . Email from George Kenline of Martin Marietta to Staff Analyst Raymond Martin Following Up on PRA Request (January 10, 2023)	Exhibit 202 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
295	January 23, 2023	<u>Exhibit 203</u> . Emails Amongst Public Information Officer Michelle Avalos, Staff Analyst Raymond Martin, and George Kenline of Martin Marietta Regarding Delivery of Documents from PRA Request (January 23, 2023)	Exhibit 203 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
296	January 24, 2023	<u>Exhibit 204</u> . Email from County Public Records Request to Michelle Avalos with Daily Notification Digest (January 24, 2023)	Exhibit 204 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
297	January 26, 2023	<u>Exhibit 205</u> . FACE for Riverbend (January 26, 2023)	Exhibit 205 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
298	May 30, 2023	<u>Exhibit 206</u> . NOCI (May 30, 2023)	Exhibit 206 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
299	May 30, 2023	<u>Exhibit 207</u> . Riverbend 45-Day Financial Assurance Estimate Director Review Letter from Senior Planner Roy Jiminez, Jr. to DOC, OMR (May 30, 2023)	Exhibit 207 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
300	May 30, 2023	<u>Exhibit 208</u> . Email from Senior Planner Roy Jiminez, Jr. to DMR Submittals (May 30, 2023)	Exhibit 208 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
301	May 31, 2023	<u>Exhibit 209</u> . Emails Between Senior Planner Roy Jiminez, Jr. and DMR Submittals Regarding Confirmation That the NOCI, Annual Inspection Report, DOA, and FACE Had Been Submitted (May 31, 2023)	Exhibit 209 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
302	June 29, 2023	<u>Exhibit 210</u> . Emails Between Senior Planner Roy Jiminez, Jr. and Consultant John Buada with Herb Lang Included, Regarding Riverbend Annual SMARA Inspection (June 29, 2023)	Exhibit 21 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
303	June 29, 2023	<u>Exhibit 211</u> . Cover Letter from Senior Planner Roy Jimenez, Jr. to Herb Lang Regarding FACE Approved (June 29, 2023)	Exhibit 212 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
304	September 6, 2023	<u>Exhibit 212</u> . Emails Between Principal Planner and Division Manager Chris Motta, Staff Analyst Raymond Martin, and Daniel Hoffman Regarding Request for Information on the Surface Mines in the County (September 6, 2023)	Exhibit 212 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
305	November 28, 2023	<u>Exhibit 213</u> . Riverbend Surface Mining Inspection Report (November 28, 2023)	Exhibit 213 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
306	December 6, 2023	<u>Exhibit 214</u> . Emails Between Senior Planner Roy Jiminez, Jr. and Consultant John Buada with Herb Lang Included, Regarding Annual Inspection (December 6, 2023)	Exhibit 214 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
307	December 12, 2023	<u>Exhibit 215</u> . Riverbend Surface Mining Inspection Report (December 12, 2023)	Exhibit 215 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
308	December 20, 2023	<u>Exhibit 216</u> . Emails Between Senior Planner Roy Jiminez, Jr. and Consultant John Buada with Herb Lang Included, Regarding 2023-2024 FACE for Riverbend (December 20, 2023)	Exhibit 216 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
309	March 7, 2024	<u>Exhibit 217</u> . NOCI (March 7, 2024)	Exhibit 217 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
			County, Submitted to County on April 21, 2025
310	March 7, 2024	<u>Exhibit 218</u> . Riverbend 45-Day Financial Assurance Estimate Director Review Letter from Senior Planner Roy Jiminez, Jr. to DOC, OMR (March 7, 2024)	Exhibit 218 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
311	March 8, 2024	<u>Exhibit 219</u> . Email from Deputy Director of Planning William Kettler to Supervisor Buddy Mendes Regarding CUP 3390-Riverbend Substantial Development Response (March 8, 2024)	Exhibit 219 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
312	April 24, 2024	<u>Exhibit 220</u> . Emails Between Division Manager Chris Motta and Daniel Gutierrez Regarding Permit Activity with Permit List Attached (April 24, 2024)	Exhibit 220 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
313	April 24, 2024	<u>Exhibit 221</u> . Email from Division Manager Chris Motta to Tawanda Mtunga and David Randall, Forwarding Email from Patrick Mitchell Regarding Riverbend Vested Right Letter (April 24, 2024)	Exhibit 221 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
314	April 29, 2024	<u>Exhibit 222</u> . Emails Between Division Manager Chris Motta and Principal Planner James Anders Regarding SPR 7946 Approved in Connection with UCUP 3390 and Inspector Checklist (April 29, 2024)	Exhibit 222 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
315	April 30, 2024	<u>Exhibit 223</u> . Email from Division Manager Chris Motta to Chairman Nathan Magsig with Bret Rush Included, Regarding Riverbend Vested Right Letter (April 30, 2024)	Exhibit 223 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
316	April 30, 2024	<u>Exhibit 224</u> . Email from Division Manager Chris Motta to James Garcia Regarding Encroachment Permit (April 30, 2024)	Exhibit 224 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025

Number:	Document Date:	Document Title:	Document Type:
317	May 1, 2024	<u>Exhibit 225</u> . Emails Between Senior Planner Roy Jiminez, Jr. and MCi Carbon Commercial Geologist Erik Conaghan Regarding Mine Sites in the County (May 1, 2024)	Exhibit 225 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
318	May 1, 2024	<u>Exhibit 226</u> . Excel Sheet with List of Mine Sites in the County (May 1, 2024)	Exhibit 226 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
319	May 9, 2024	<u>Exhibit 227</u> . Emails Between County Staff and Katy Boganwright, Board Member Assistant to Supervisor Buddy Mendes, Regarding Phone Call from Herb Lang and Revoked v. Expired CUP (May 9, 2024)	Exhibit 227 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
320	May 10, 2024	<u>Exhibit 228</u> . Email from Division Manager Chris Motta to William Kettler, Forwarding Email from Deputy County Counsel Bryan Rome to Patrick Mitchell, Regarding Herb Lang's Conversation with Supervisor Brian Pacheco (May 10, 2024)	Exhibit 228 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
321	May 14, 2024	<u>Exhibit 229</u> . Email from Division Manager Chris Motta to William Kettler, Forwarding Email from Deputy County Counsel Bryan Rome to Patrick Mitchell, Regarding 2017 Email with County Counsel (May 14, 2024)	Exhibit 229 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
322	May 31, 2024	<u>Exhibit 230</u> . Email from Division Manager Chris Motta to Tawanda Mtunga and David Randall, Forwarding Email to Patrick Mitchell Regarding County's Response to April 23, 2024 Letter (May 31, 2024)	Exhibit 230 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
323	June 13, 2024	<u>Exhibit 231</u> . Email from Division Manager Chris Motta to Tawanda Mtunga, Forwarding Email from Scott Miller, Regarding Riverbend Mine Appeal (June 13, 2024)	Exhibit 231 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
324	June 28, 2024	<u>Exhibit 232</u> . Emails Amongst Herb Lang Senior Staff Analyst Jennifer Kish Kirkpatrick, Division Manager Augustine Ramirez,	Exhibit 232 to Riverbend Grading Permit Appeal Response Letter to

Number:	Document Date:	Document Title:	Document Type:
		and Other County Staff Regarding Riverbend Surface Mine Inspection Report (June 28, 2024)	County, Submitted to County on April 21, 2025
325	September 23, 2024	<u>Exhibit 233</u> . Letter from Senior Planner Roy Jiminez, Jr. to Herb Lang Regarding County Administrative Fee for Annual SMARA Inspection (September 23, 2024)	Exhibit 233 to Riverbend Grading Permit Appeal Response Letter to County, Submitted to County on April 21, 2025
326	February 26, 2015	Inter Office Memo – Resolution No. 12492 – Environmental Impact Report No. 6606 (State Clearinghouse No. 2013071097) and Unclassified Conditional Use Permit Application No. 3390	Inter Office Memo at Board of Supervisors
327	November 5, 2025	Staff Determination – Rejection of Grading Permit Application No. 25 000206 – 3677 S. Riverbend Ave	Staff Determination
328	November 14, 2025	Email Chain re Grading Permit Appeal and Table of Documents	Email
329	November 20, 2025	Appeal of Staff Determination – Rejection of Grading Permit Application No. 25 000206 – 3677 S. Riverbend Ave.	Appeal of Staff Determination
330	February 11, 2026	Riverbend Sand & Gravel – Director’s Determination	Director Determination of Appeal of Staff Determination
331	February 23, 2026	Email Re: Question: Appeal of Director Determination re Grading Permit Application No. 25-00206 (Riverbend Sand and Gravel, LLC)	Email

**Index Number 327:
Staff Determination – Rejection of
Grading Permit Application No. 25-
000206 – 3677 S. Riverbend Avenue**



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

November 5, 2025

Sent via email to: pmitchell@mitchellchadwick.com

Riverbend Sand and Gravel, LLC
c/o Pat Mitchell, Partner
Mitchell Chadwick
1420 Rocky Ridge Drive, Suite 260
Roseville, CA 95661

Subject: Staff Determination - Rejection of Grading Permit Application No. 25-000206 –
3677 S. Riverbend

Dear Mr. Mitchell:

This letter responds to Riverbend Sand and Gravel, LLC's (Applicant's) letter, dated April 21, 2025, including Exhibits 1 – 233, which is almost 2,700 pages of attachments (the Letter).

On January 2, 2025, Riverbend representatives submitted to Department of Public Works and Planning (Department), Development Services and Capital Projects Division (Division) for a permit, first as a building permit submitted through our internet portal (Application No. 25-000206) which was cancelled and resubmitted as a grading permit (Application No. 25-000206) (the Application) in connection with a proposed surface mine development approved by Unclassified Conditional Use Permit No. 3390 (CUP), approved by the Fresno County Planning Commission on February 26, 2015. Although staff notes the grading permit as submitted was incomplete as a grading or site plan was not submitted, this rejection is not on that basis.

The effective date of the County's approval of the CUP was May 19, 2015, when a third-party withdrew its appeal of the Planning Commission decision to grant the CUP. Under the express terms of the CUP and the County ordinances in effect at that time, the CUP would expire in two years (i.e., May 19, 2017), unless Applicant had already achieved substantial development within that two-year period.

On January 22, 2025, Division staff responded to the Application via emailed correspondence informing the Applicant that it must explain to staff why the CUP is still valid, even though the mining operation had not begun within the two-year period.

Applicant responded with the Letter, which argues, among other things, that Applicant has a vested right to develop the mine permitted under the CUP. The Letter requests that the County advise you whether it will approve the Application.

Division staff disagrees with Applicant's assertions in the Letter. Due to the Applicant's failure to achieve substantial development within the two-year period, and for the additional reasons stated in this denial, we reject the Application. Staff is not revoking or terminating the CUP because it has already expired by operation of law.

However, because the CUP is expired, Staff must reject the Application. This rejection of the Application is appealable by Applicant under the County's Zoning Ordinance as discussed at the end of this letter.

Because this determination functions as a rejection of the Application, staff will not consider the merits of the Application (i.e., whether the proposed grading activity complies with all applicable codes) and reserves the right to consider the Application more fully if this determination is reversed on appeal.

Background

Staff takes factual contentions (but not legal conclusions) made in the Letter at face value, except where evidence states or suggests to the contrary, which we note explicitly. Staff is under no duty to investigate beyond the Application but is not prohibited from doing so.

Site Status

Currently, the site covered by the CUP consists of multiple agriculturally zoned parcels, many of which were under active cultivation as of July 2025, as confirmed through aerial photographs. Fields that are not under active cultivation appear to be disced and fallow, but otherwise undeveloped. In addition, 2025 aerial imagery (Google Earth) illustrates that multiple residences and agricultural structures remain on the site.

Compliance with Conditions of Approval

Under the Planning Commission's 2015 Resolution approving the CUP, including the mitigation monitoring and reporting plan, the conditions of approval and mitigation measures attached to the Planning Commission's issuance of the CUP included, among other things, the following:

- Applicant must pay its proportionate fair share for road improvements and execute traffic mitigation agreements with the County. (Mitigation Measure No. TRANS-1.)
 - However, Staff understands that the fees have not been paid, and no mitigation agreement has been executed.
- Applicant must construct a driveway and turn lane at Goodfellow Ave. (Mitigation Measure No. TRANS-2.)
 - However, Staff understands that no construction or encroachments permits have been issued, and this work has not commenced.

Additional County Entitlements and Approvals Needed

Additional permits are necessary prior to construction of infrastructure necessary for the mine to operate. The Planning Commission's 2015 Resolution approving the CUP includes a Statement of Overriding Consideration, which put the Applicant on notice as to what additional County approvals are required prior to operation.

For the Project to be implemented (assuming that it may lawfully be implemented), the following County entitlements and permits would need to be obtained in addition to the CUP and Reclamation Plan (DEIR pp. 1-14 - 1-15):

- County Health Department CUP approvals;
- County Fire Department approval;
- County site plan review;
- County building permits.

According to the approved Site Plan Review No. 7946, dated September 14, 2015 (SPR), infrastructure to support mining operations, which is needed, includes, without limitation:

- An Aggregate Plant;
- An "HMA" Plant;
- An "RMC" Plant;
- A "Plant Site" consisting of truck loadout, office, scale, shop building, and stormwater retention basin;
- An "orchard-like" vegetated visual screen along Goodfellow Ave.;
- A 10' high vegetated visual and sound berm along Riverbend Ave.;
- A 50' wide access road from Goodfellow Ave.;
- An underground conveyor tunnel under Goodfellow Ave.; and
- An open ditch for the relocation of the "Hanke" Pipeline.

None of these improvements have been initiated.

The SPR shows that mining operations are to be conducted with a dragline excavator, with numerous dozers and other vehicles providing support. There is no evidence that any of these pieces of equipment has arrived on site, which is confirmed in the Surface Mining Inspection Reports discussed below.

In addition, page 4 of the Planning Commission's 2015 Resolution approving the CUP states:

The approval of this project ***will expire two years from the date of approval*** unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Unclassified Conditional Use Permit. [Emphasis added].

Mine Inspections

Applicant has provided Surface Mining Inspection Reports issued by the Water and Natural Resources Division (WNR) of the Department of Public Works and Planning, indicating that the Applicant has been, from 2015, paying for and receiving inspections of the subject property. The inspections have consistently reported **no operations on site**, including operation of grading, erosion control measures, wetland protection measures, wildlife protection measures, soil management measures, physical structures, or equipment.

WNR reports that it was unaware that the CUP may have expired. It merely conducted inspections at the Applicant's request, because the site has a "Mine ID No.," without further inquiry. WNR understands that it is legally required to inspect sites with a Mine ID No., annually, solely for the purpose of tracking a mine's reclamation progress.

Purported Representations by Former Deputy County Counsel Art Wille

Applicant's Letter suggests that a former attorney of the County Counsel's Office, Art Wille, concluded that the Applicant had substantially developed under the CUP. However, we are informed and believe that, if Mr. Wille were called to testify, he would testify that he has no recollection of making such a statement and that he believes out of character for himself.

Applicant's Claim of a Vested Right

According to the California Supreme Court, the right to develop real property vests where (1) a valid building permit, or its functional equivalent, has been issued, and (2) the developer has performed substantial work and incurred substantial liabilities in good faith reliance on the permit. (*Avco Community Developers Inc. v. South Coast Regional Comm'n* (1976) 17 Cal.3d 785, 791 (*Avco*)). Failure of either of the requirements prevents a vested right from accruing. Here, both have failed.

Building Permit or Functional Equivalent

Applicant has not obtained a building permit for any construction on the site. However, the California Supreme Court in *Avco* determined that other permits may afford substantially the same specificity and definition to a project as a building permit, sometimes **including a conditional use permit**. (*Avco, supra*, 17 Cal.3d at p. 794.)

In multi-phase projects, courts today look to whether the government has issued the final necessary approval, regardless of whether it is discretionary or ministerial. (*South Central Coast Regional Comm'n v. Charles A. Pratt Const. Co.* (1982) 128 Cal.App.3d 830, 845 [abandoning an earlier "last discretionary permit test"].) The CUP was only the first step, not the final necessary approval in what, by its very definition, would have been a multi-phase project. Applicant has failed to seek any of the ministerial grading, plumbing, mechanical, and/or construction approvals that are necessary to define the scope of what physical changes can be made the subject property, with the exception of the permit to bring power onto the property.

The *Avco* court stressed the importance of the "approval of a specific structure" in the vested rights analysis. (*Avco, supra*, 17 Cal.3d at p. 801.) The CUP, to the contrary, does not vest the

right to construct any specific improvements, nor does the SPR. (County's Prior Zoning Ordinance, § 874, subd. (C) [describing the generalized role of site plan review].) According to the SPR, Applicant must construct the following infrastructure to commence the mining operation:

- An Aggregate Plant;
- An "HMA" Plant;
- An "RMC" Plant;
- A "Plant Site" consisting of truck loadout, office, scale, shop building, and stormwater retention basin;
- An "orchard-like" vegetated visual screen along Goodfellow Ave.;
- A 10' high vegetated visual and sound berm along Riverbend Ave.;
- A 50' wide access road from Goodfellow Ave.;
- An underground conveyor tunnel under Goodfellow Ave.; and
- An open ditch for the relocation of the "Hanke" Pipeline.

Most, if not all, of these improvements would require one or more additional permits, which would describe in detail the specific structures to be built and improvements to be made to the site.

Applicant attempts to distinguish the case of *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal. App. 4th 534 (*Hermosa Beach*) by claiming the latter to have involved a multi-phase project involving additional permits. The *Hermosa Beach* Court considered and rejected a vested rights claim as to a mineral extraction operation which had been granted a conditional use permit, but not the building permits required to complete the necessary improvements to the land.

Applicant is wrong when it states that *Hermosa Beach* is distinguishable because "this [project—i.e., the Applicant's project] does not involve additional permits, such as a building permit," and that Applicant "obtained not only the CUP but also the [SPR] from the County which Riverbend needed to commence operations." (Letter, at p. 16.) The Division may not and will not allow the operation of the mine, as described in the CUP, without all appropriate building and other permits for the necessary infrastructure described above. The certified Environmental Impact Report for the CUP stated precisely the same, at pages 1-14–1-15.

Like the Court in *Hermosa Beach*, we find that the CUP and SPR taken together do not amount to the functional equivalent of a building permit, and that no rights have vested under them.

Substantial Work and Substantial Liabilities

Even if we assumed that the CUP were the functional equivalent of a building permit under the *Avco* rule, the law would still require Applicant both to timely perform substantial work and to timely incur substantial liabilities in good faith reliance on the permit. But **neither** of those things has happened here.

Little to no work has commenced on the site, other than the installation of a fence and furnishing power utilities, according to our review of the site. The required 50' wide access road

was not installed. The required construction of the Aggregate Plant, HMA Plant, RMC Plant, and Plant Site were neither begun nor permitted, the required visual and sound screens and underground conveyor have not been installed. Moreover, **mining operations never commenced**. In fact, mining equipment was **never moved onto** the site.

According to 2025 satellite images accessible through Google (as stated above, the most recent images), much of the site, including the entirety of the area designated as the plant site, remained under cultivation, and numerous residential and agricultural structures remained on the project site. Again, we draw similarities to the situation in *Hermosa Beach*, where a Court found no vested rights.

The Applicant claims that its failure to commence operations is excusable because of a laundry list of expenses incurred by the Applicant, likening this matter to the pre-*Avco* case of *Trans-Oceanic Oil Corp. v. City of Santa Barbara* (1948) 85 Cal.App.2d 776 (*Trans-Oceanic*).

This case is nothing like *Trans-Oceanic*, regardless of whether we consider it “good law.” In that case, a permittee, which had not commenced oil drilling under a permit, did however conduct substantial **construction** work in good faith reliance on the use permit, building out much of the facility necessary to extract oil. Even under post-*Avco* case law, we would not dispute that the *Trans-Oceanic* permittee had performed substantial work and incurred substantial liabilities in reliance on its permit.

Applicant also cherry picks language from factually distinguishable cases of *Morgan v. County of San Diego* (1971) 19 Cal.App.3d 636 (*Morgan*) and *Community Development Com. v. City of Fort Bragg* (1988) 204 Cal.App.3d 1124 (*Fort Bragg*), a post-*Avco* case that does not cite *Avco*, relating to “good faith intent to commence upon the proposed use.” (Letter, at pp. 16-17.) This oft-repeated line overly simplifies an established legal test to a catch phrase and ignores the actual requirements from *Avco* detailing how good faith intents are established—i.e., substantial timely work and substantial timely liabilities, and more particularly the “hard costs” requirement from post-*Avco* case law.

Before we address the “hard costs” requirement, we wish to clarify that each of Applicant’s offered cases was decided on different grounds than are applicable to the CUP. In *Morgan*, the respondent county was a cause of the applicant’s construction delay, directly ordering that the applicant stop work. The County has not ordered the Applicant to stop work here. And, in *Fort Bragg*, the court spilt as much ink discussing the city’s incorrect procedure used to revoke the permit and failure of the city to follow its own municipal code, without referencing *Avco*, as it did discussing the permit itself. As stated above, the County has not revoked any permit here. Nor has the County failed to follow its own code here. Thus, neither of these cases is instructive on how we should find good faith reliance here.

When determining whether liabilities incurred in reliance on the approval are substantial, courts distinguish between “soft costs,” inclusive of the costs of land acquisition, planning approvals, and engineering, design, and architectural work, and “hard costs,” namely those for labor and materials necessary for physical improvements to the land. Courts do not permit the consideration of soft costs in the determination. (*Hermosa Beach*, *supra*, 86 Cal.App.4th at pp. 552–553.) Applicant’s argument with respect to its liabilities is misleading, as it does not attempt to distinguish between soft and hard costs.

Examining the 69 expenses (totaling \$998,173) identified in the Letter (at pp. 10–13), which we take at face value, the overwhelming majority of these are obviously soft costs, consisting of the hiring of experts, attorneys, and engineers, and the preparation of planning documents and reports. “Preparatory work will not give rise to a vested right ... when it is done with the knowledge that one or more additional permits will be required for actual construction.” (*Halaco Eng. Co. v. South Central Coast Regional Comm’n* (1986) 42 Cal.3d 52, 73.) Only items 6 through 9 and perhaps 14 appear to connect to physical changes to the project site. However, it is not clear whether **any** of these components are intended to be part of the final buildout of the project or whether, on the other hand, they amount to mere site preparation.

Further, it is unclear from the Letter, including nearly 2,700 pages of attachments, what costs were incurred as a result of items 6 through 9 and 14. Many of Applicant’s costs were not only soft costs, but were not even spent in an effort to develop the property—instead, they were spent in an effort to *sell* the project. (See, Letter, at p. 17.)

What matters most here is not how much Applicant spent, but whether it timely spent a substantial amount on the construction of physical infrastructure in reliance on the permit. Here, the sole pieces of constructed infrastructure are a fence and power connection. In any event, those hard costs appear to be a negligible expenditure compared to the scope of the project, especially given that Applicant had no right to continue construction without further permits, and those further permits were not obtained.

Scope of the Permit – Scope of the Right

Even if rights could vest under the CUP, those rights “which may vest through reliance on a government permit are no greater than those specifically granted by the permit itself.” (*Santa Monica Pines, Ltd. v. Rent Control Bd.* (1984) 35 Cal. 3d 858, 865 (*Santa Monica Pines*).)

In this case, the CUP is only valid, according to its own terms, if Applicant meets all conditions of its approval and mitigation measures. Here, Applicant failed to comply with mitigation measures TRANS-1 and TRANS-2. The Court in *Hermosa Beach* determined that a failure to fulfill all conditions of the approved conditional use permit was relevant in the determination that the permittee had not obtained a vested right to operate a mineral extraction operation by virtue of that permit. (*Hermosa Beach, supra*, 86 Cal.App.4th, at pp. 551–553.)

Applicant, on page 16 of its Letter, again cites *Trans-Oceanic, Morgan*, and *Fort Bragg* to contend that “California law does not require that every condition of approval be met before a right may vest. Rather, to prove a vested right, an applicant needs only to proceed with a good faith intent to commence upon the proposed use of the permit.” As addressed above, those cases do not address the legal analysis that has grown out from *Avco* and were not decided on the same grounds as cases like *Santa Monica Pines* and *Hermosa Beach*. They do not support the Applicant’s contention.

Furthermore, a vested right lasts only as long as the underlying land use permit on which the right vests. (*City of West Hollywood v. 1112 Inv. Co.* (2003) 105 Cal.App.4th 1134, 1138.) Therefore, permit expiration date is relevant in the vested rights determination.

As discussed below, section 873-I.1 of the prior Zoning Ordinance and page 4 of the 2015 Resolution approving the CUP required the use permitted under the CUP to commence within two years, that is May 19, 2017.

The expiration of a limited-life permit is well established as not providing a vested right past its own expiration. (*South Lake Tahoe Property Owners Group v. City of South Lake Tahoe* (2023) 92 Cal. App. 5th 735, 747 (*Lake Tahoe*) [property owners, whose permits terms and conditions limited the life of the permit, did not have a vested right to renewal, were not deprived of due process by the automatic expiration].)

Improper Reliance

Applicant argues, beginning at page 5 of the Letter, that County staff treated the CUP as active. At page 7, Applicant contends that the County “unexpectedly” changed its position in 2024. Applicant would have us conclude that it has a vested right to develop the CUP based upon the earlier staff representations. However, costs expended in reliance on representations of a government official or on permits that are contrary to land use laws and unsupported by the facts of the particular case will not give rise to a vested right. (*Summit Media, LLC v. City of Los Angeles* (2012) 211 Cal.App.4th 921 (*Summit Media*)). So, even if the County staff representations Applicant relies on in support of its argument are interpreted to mean what the Applicant claims them to mean, which we dispute, they do not have the significance that Applicant places on them, because the **ordinance controls, not County staff representations**.

Applicant’s primary argument that the County is essentially estopped from now finding that the CUP has expired is based on the Applicant’s assertion that the County did not clearly notify Applicant, through its March 21, 2017 letter, of the CUP’s expiration. (Letter, at pp. 19–20.)

First, the County’s March 21, 2017 response expressly declined to make any determination as to substantial development or vested right. So that response cannot be such a determination. Second, Applicant suggests that we must conclude that Division staff affirmatively adopted Applicant’s argument (and communicated to Applicant) that the property was substantially developed and that it further made a legal conclusion that Applicant’s rights to develop under the CUP had vested without expiration.

Under *Summit Media*, even if Department staff had issued a determination stating, “Applicant has a vested right without expiration to develop under the CUP and has achieved substantial development,” such a statement, if not made pursuant to a lawful delegation of authority under an official process laid out in section 873-J of the County’s Zoning Ordinance, would not have any legal significance. The absence of such a statement also has no legal significance.

In *Summit Media*, a city executed an agreement with and issued permits to a developer expressly permitting the developer to construct a billboard which violated the city’s zoning ordinances. (See *Summit Media, supra*, 211 Cal.App.4th 921.) Where that city’s contract with the developer did not give rise to a vested right, staff’s representations, to the full extent that any can be implied, similarly cannot. Like the sign ordinance in *Summit Media*, the County has an ordinance prescribing how substantial development determinations are made. That process was never initiated here. Applicant was on actual notice, from the March 21, 2017 letter, that

following that ordinance was the only way it would obtain a substantial development determination. And no such determination was made.

The *Summit Media* principle, that words contrary to ordinances do not create vested rights, holds true for the other evidence which Applicant provides to support its conclusion that Applicant should be excused from its failure to obtain permits and commence construction. Even construing them and any implications in a light most favorable to Applicant, we determine based on the rule from *Summit Media* that any reliance by Applicant on the statements of County staff who were not empowered to make a substantial development or vested rights determination was unjustified by the facts and law, and therefore does not create a vested right.

There are three primary categories of alleged activities, other than the aforementioned correspondence with this Division, which Applicant provides to suggest that the County treated the CUP as active: (1) WNR conducted and continues to conduct annual mine inspections; (2) up until 2020, the County negotiated with the Applicant on a traffic mitigation agreement; and (3) an attorney in the County Counsel's Office allegedly concluded that the Applicant had achieved substantial development. We address these three categories below.

First, the annual mine inspections and negotiations surrounding the traffic mitigation agreement were conducted at the request of Applicant. Second, WNR understood the mine inspections to be a legal obligation once requested by the property owner. Under the Surface Mining and Reclamation Act (Pub. Res. Code, § 2710, et seq.), lead agencies (as defined in that law) are required to annually conduct an inspection of any surface mine until it is deemed "reclaimed." The fact is that neither Road Maintenance and Operations Division, which was responsible for negotiating the proposed but never finished traffic mitigation agreement, nor WNR is responsible for determining whether a CUP is still valid. Applicant did nothing to trigger a formal determination of this Division until the Application.

Finally, Applicant's counsel claims that former Deputy County Counsel Art Wille stated on a phone call with Applicant's counsel that he believed the project to have achieved substantial development. Even taken at face value, Mr. Wille is not a decisionmaker under section 873-J of the Zoning Ordinance. Like all of Applicant's other evidence, Mr. Wille's statement could not bind the County if made. Moreover, the Division is informed and believes that, if Mr. Wille were called to testify, he would testify that he has no recollection of making such a statement and that he believes such a statement would be out of character for himself. We therefore dismiss the representation of Applicant's counsel.

No County employees made any representation that the CUP was still valid or that Applicant was exempted from the provisions of section 873-I.1 of the Zoning Ordinance. But if a formal action of a legislative body, as in *Summit Media*, approving an agreement and issuing permits, cannot override an ordinance, a lesser action by County staff, such as those alleged by Applicant, cannot do so either. Therefore, to the extent any hard costs and liabilities were incurred by Applicant in reliance on the actions of County staff, they cannot form the basis of a vested rights claim.

Governmental Estoppel

To the extent Applicant relies on an estoppel principle in its Letter, “there is no meaningful distinction between an estoppel claim and a vested right claim where land use is at issue. [Citations.]” (*Toigo v. Town of Ross* (1998) 70 Cal.App.4th 309, 321.) Here, like in *Hermosa Beach*, additional analysis of an estoppel argument is not necessary. (*Hermosa Beach, supra*, 86 Cal.App.4th at 551–555.) For the same reason that Applicant lacks a vested right, Applicant has no right to a governmental estoppel preventing the County from making a formal finding that the CUP is expired, as we do here.

Key Issue – Substantial Development

Although, as a constitutional principle, the vested rights doctrine provides the legal floor of protection for the Applicant, the key issue relevant to whether the County may consider the Application is whether the CUP upon which it relies is still valid under the Zoning Ordinance. Section 873-I.1, as it read between 1985 and 2024, stated that “[e]ach Conditional Use Permit approved either before or after the effective date of this amendment shall become void when ... [t]here has not been substantial development within two years after the approval of said Conditional Use Permit or the effective date of this amendment, whichever date is later.” Applicant was also on actual notice of the two-year lifespan of the permit owing to the admonition on page 4 of the Resolution approving the CUP.

Section 873-I.1 is self-executing, per its plain language. Were it not, it would serve little to no purpose. Therefore, with no substantial development, the CUP expired by operation of law on May 19, 2017. ***This does not require a hearing.*** The Court in *Lake Tahoe* concluded that property owners whose permits terms and conditions limited the life of the permit did not have a vested right to renewal and therefore were not deprived of due process by the automatic expiration. (*Lake Tahoe, supra*, 92 Cal.App.5th 748–752, citing *Hobbs v. City of Pacific Grove* (2022) 85 Cal.App.5th 311.)

Furthermore, staff is not required to make the determination that no substantial development occurred. The fact that we declined to make the determination until Applicant initiated a process requiring a determination described by County ordinances does not imply that we ever concluded otherwise.

This leads to the important question: what is substantial development? Although it was not defined by the County ordinance until long after the CUP expired, the fact that it enters into usage by the County shortly after the *Avco* case suggests that it equates to the remarkably similar term “substantial work.” We look to the plain meaning of these words because they are the most reliable indicator of intent. (*Stephens v. County of Tulare* (2006) 38 Cal.4th 793, 802; see also *DiCampili-Mintz v. County of Santa Clara* (2012) 55 Cal.4th 983.) Development, in the context of a land use entitlement like CUP can only mean construction and establishment of the use, which, as more fully discussed above, has not occurred here. Our decision is, therefore, to adopt the plain meaning of the term.

As to whether a separate requirement for substantial liabilities exists under the Zoning Ordinance, we do not read that as a requirement here, because it is not stated directly in the

ordinance. That conclusion benefits the Applicant and makes it easier to achieve substantial development than for a vested right to accrue.

Applicant is correct to suggest that the procedures in Zoning Ordinance section 873-J are optional. (Letter, at pp. 19-20.) However, a process does exist. Had the Applicant availed itself of those procedures, it might have resulted in a different outcome. Where circumstances beyond the control of the permittee prevent establishment of the use within that two-year time period, there are opportunities for extension.

Conclusion

Applicant received a two-year right under a CUP and failed to do what was necessary to prevent that CUP from expiring, namely, to substantially develop the site or file timely time extensions when they were available. Applicant made occasional limited efforts to comply with some the permit conditions, but missed every opportunity to engage with Division staff on the key issue: did the CUP expire or did Applicant timely achieve substantial development?

Instead of actually constructing the infrastructure necessary to support the proposed use, Applicant created a record based on correspondence with staff from various divisions and departments, whose roles did not include analyzing that core issue.

As to the core issue, we find that substantial development did not occur before May of 2017. Applicant further has no vested right to develop under the CUP.

Staff determines that the CUP expired in 2017, and that the Applicant may no longer commence upon the use permitted by the CUP. Accordingly, the Application, which is reliant on the CUP by its own terms, must be rejected without consideration of its merits. Staff rejects the Application and returns Applicant's payment.

This determination is appealable to the Director of Public Works and Planning under section 876.6.020, subd. (A) of the current Zoning Ordinance. Such appeal must be submitted in writing within fifteen (15) days hereof.

Sincerely,

By: _____

Chris Motta, Manager
Development Services and Capital Projects Division
Department of Public Works and Planning
County of Fresno

Riverbend Sand and Gravel, LLC

Re: Staff Determination - Rejection of Grading Permit Application No. 25-000206

November 5, 2025

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cc: Steven E. White, Director of Public Works and Planning
Bernard Jimenez, Planning and Resource Officer
Will Kettler, Deputy Director of Public Works and Planning
Douglas T. Sloan, County Counsel
Peter J. Wall, Chief Deputy County Counsel
Bryan D. Rome, Deputy County Counsel

**Index Number 329:
Appeal of Staff Determination –
Rejection of Grading Permit
Application No 25 000206 – 3677 S.
Riverbend Avenue**



**MITCHELL
CHADWICK**

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November 20, 2025

VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY

Steven E. White, Director
Fresno County Department of Public Works and Planning
2220 Tulare St., 6th Floor
Fresno, California 93721
stwhite@fresnocountyca.gov

**Re: Appeal of Staff Determination - Rejection of Grading Permit Application No. 25
000206 – 3677 S. Riverbend Ave.**

Dear Mr. White:

Pursuant to section 876.6.020, subd. (A) of the Fresno County Zoning Ordinance, Riverbend Sand and Gravel, LLC¹ (“Riverbend”) hereby submits this appeal of the Fresno County Department of Public Works and Planning’s (“County”) November 5, 2025 “Staff Determination - Rejection of Grading Permit Application No. 25-000206² – 3677 S. Riverbend” (“Staff Denial”), including the County’s determination as stated in the Staff Denial that Riverbend’s Conditional Use Permit No. 3390 (“CUP 3390”) has expired. The Staff Denial is a response to Riverbend’s April 21, 2025 response to the County’s Preliminary Response Dated January 22, 2025, regarding Riverbend’s Grading Permit Application, which Grading Permit Application was filed on January 2, 2025.

The Staff Denial incorrectly asserts that:

Staff determine[d] that the CUP [3390] expired in 2017, and that the Applicant may no longer commence upon the use permitted by the CUP. Accordingly, the

¹ The owner of the real property subject to CUP 3390 is Running Luck Ranch, LLC. This appeal is submitted on behalf of both Riverbend and Running Luck Ranch, LLC.

² Riverbend’s Grading Permit Application was initially assigned number 2025-000081 and this reference number was used in prior letters relating to the application, including the January 22, 2025 letter from Staff. The November 5, 2025 Staff Determination that is the subject of this appeal, however, refers to “Grading Permit Application No. 25-000206,” indicating a new reference number. For clarity, this letter will refer to Grading Permit Application No. 25-000206, with the understanding that both reference numbers (No. 2025-000081 and No. 25-000206) apply to the same Grading Permit Application that is the subject of this appeal.

Application, which is reliant on the CUP by its own terms, must be rejected without consideration of its merits.³

Further, the Staff Denial also improperly rejects Riverbend's claim to a vested right in its CUP 3390.

Riverbend respectfully submits this appeal to the Director of Public Works and Planning, Steven E. White ("Director"), and requests that the Director consider the facts and law contained in this appeal of the County's November 5, 2025, Staff Denial, reverse the Staff Denial, and find CUP 3390 to be still valid.

I. Background

This appeal incorporates by this reference the following documents, as if submitted in their entirety with this appeal: (1) Riverbend's April 23, 2024, letter to the County regarding Riverbend's "Vested Property Right Under CUP 3390," and all attached exhibits; (2) Riverbend's June 13, 2024, appeal to the County regarding "Notice of Appeal – Conditional Use Permit No. 3390 (CA Mine ID # 91-10-0031)," and all attached exhibits; and (3) Riverbend's April 21, 2025 letter to the County responding to the County's January 22, 2025, Preliminary Response regarding Grading Permit Application No. 2025-000081 ("Grading Permit Application"). The documents are also listed on the enclosed Index of Documents submitted concurrently. The incorporation of these documents by reference is made in accordance with Chapter 876.6 of the Fresno County Code, and as confirmed through discussions between Riverbend's counsel and Fresno County Counsel, with the understanding that these documents were submitted previously to the Department of Public Works and Planning and to the Board of Supervisors and thus are part of the administrative record for this appeal and will be considered in connection with the Director's determination of the appeal.⁴

II. Riverbend Possesses a Vested Right Under CUP 3390.

Riverbend and the County agree that the right to develop real property vests where (1) a valid building permit, or its functional equivalent, has been issued, and (2) the developer has performed substantial work and incurred substantial liabilities in good faith reliance on the permit.⁵ California law holds that a vested right to a Use Permit is obtained "if a property owner has performed substantial work and incurred substantial liabilities (such as incurring material expense⁶ or substantial costs⁷) in good faith reliance on a permit issued by the government."⁸

³ Staff Denial, p. 11.

⁴ See email chain, dated November 14, 2025 (Index of Documents, No. 327.)

⁵ Staff Denial, p. 4; *Avco Community Developers Inc. v. South Coast Regional Comm'n* (1976) 17 Cal.3d 785, 791.

⁶ *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530.

⁷ See *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 393 at FN 5.

⁸ Grading Permit Application, p. 10; *Avco Community Developers Inc. v. South Coast Regional Comm'n* (1976) 17 Cal.3d 785, 791.

A. CUP 3390 and the Site Plan Review No. 7946, dated September 14, 2015 (“SPR”) are the Functional Equivalent of a Building Permit.

1. The County Improperly Discards the “Last Discretionary Permit” Test.

The County is correct that Riverbend has not received any building permits for construction on the site.⁹ The County is also correct that the California Supreme Court in *Avco* held that other permits that afford substantially the same specificity and definition to a project as a building permit, including Conditional Use Permits, can afford vested rights.¹⁰

However, the County incorrectly asserts that CUP 3390 never conveyed the right to make physical changes to the land, thus precluding Riverbend’s claim to a vested right under CUP 3390.¹¹ To reach this conclusion, the County improperly relies on *South Central Coast v. Charles A. Pratt Const.* (1982) 128 Cal.App.3d 830 (“*South Central*”), which case applied to vested rights determinations that would circumvent compliance with the California Coastal Act. Specifically, the Court in *South Central* held that “a vested right to an exemption from the permit requirements of the Coastal Act ... arises only when the subdivider is entitled to final map approval according to the requirements of the California Subdivision Map Act....”¹² The Court explains that:

[t]his means the subdivider must satisfy all conditions of tentative map approval including the completion or agreement with the local governing body for the completion of the offsite improvements. Since neither subdivider in the instant case had reached the point of entitlement to final map approval by January 1, 1977, the effective date of the Coastal Act...¹³

As explained below, CUP 3390 is not subject to the vested rights limitations set forth in *South Central* since the project was not and is not subject to the permit requirements of the Coastal Act, the project did not need and never required, and does not have a tentative map approval to satisfy, and CUP 3390 constitutes the County’s final approval with regards to a surface mining operation. *South Central* does not apply to the current facts.

The County posits that Riverbend “cherry picks language from factually distinguishable cases,” when in fact the County is the one engaged in that behavior.¹⁴ The County claims that “courts today look to whether the government has issued the final necessary approval, regardless of whether it is discretionary or ministerial . . . [abandoning an earlier ‘last discretionary permit

⁹ Staff Denial, p. 4.

¹⁰ *Avco Community Developers Inc. supra*, 17 Cal.3d at p. 794.

¹¹ Staff Denial, pp. 4-5,

¹² *South Central, supra*, 128 Cal.App.3d 830, at 834.

¹³ *Id.* at p. 834.

¹⁴ Staff Denial, p. 6.

test’],” citing *South Central*.¹⁵ However, as explained above, the Court in *South Central* was interpreting Section 30608 of the California Coastal Act as applied to tentative subdivision maps for a residential project.¹⁶ Section 30608 of the California Coastal Act lays out the process whereby developers obtain a vested right that precludes the requirement of obtaining a permit pursuant to the California Coastal Zone Conservation Act of 1972 (“Coastal Act”).¹⁷

In reaching the Court’s holding in *South Central*, the Court weighed the relative public policy goals of the Coastal Act against those of the Subdivision Map Act.¹⁸ The Court held that:

[a]lthough approval of the tentative map may be the last discretionary act by the local governing agency under the Subdivision Map Act (citations omitted), we believe the overriding environmental policies of the Coastal Act . . . support our holding that more is required to obtain a vested right than mere tentative map approval.¹⁹

Riverbend’s claim to vested rights in this matter do not involve the Coastal Act, and thus the County’s reliance on *South Central* is unsupported because *South Central*’s holding that “abandon[s the] earlier ‘last discretionary permit test’” does not apply to the facts at hand. Here, there is no “overriding environmental polic[y]” in consideration.²⁰ In fact, Riverbend has continuously worked closely with the County following the initial approval of CUP 3390 on February 26, 2015, to ensure that the project meets the requirements set forth in CUP 3390.²¹ Further, as the County details in its Staff Denial, CUP 3390 contains numerous Conditions of Approval that serve to ensure that the development under CUP 3390 will comply with applicable County regulations.²² The very fact that the County listed so many requirements that Riverbend must meet to show compliance with CUP 3390 underscores the amount of oversight and control that the County has over this project. This further removes County’s argument from the holding the County cites in *South Central*.

By improperly discarding the last discretionary permit test based on a misunderstanding / misapplication of one 43 year old inapplicable case, the County reaches the extreme conclusion that even if Riverbend had received all but a single permit, Riverbend would not have vested their rights under CUP 3390. Here, the last discretionary permit test holds, and because Riverbend has obtained the final discretionary permit from the County that Riverbend needs to

¹⁵ *Id.*, at p. 4.

¹⁶ *South Central*, *supra*, 128 Cal.App.3d 830 at p. 842.

¹⁷ *Id.* at p. 842.

¹⁸ *Id.* at p. 844.

¹⁹ *Id.* at p. 845.

²⁰ *Id.* at p. 846.

²¹ See Grading Permit Application, pp. 2-7.

²² See Staff Denial, p. 2-4.

commence development of the mining site (e.g., the County Board of Supervisors' approval of CUP 3390), Riverbend has obtained a vested right under CUP 3390.²³

2. *The County's Position Runs Contrary to the Law Concerning Vested Rights.*

As discussed above, only one California court has “abandoned” the last discretionary permit test regarding vested rights determinations under the California Coastal Act, not for all vested rights determinations. The County takes the position that there can be no vested rights to a permit until the “final necessary approval . . . [for] a multi-phase project” has been received.²⁴ The County then goes on to detail a list of infrastructure that would be required to be constructed under a permit:

- An Aggregate Plant;
- An “HMA” Plant;
- An “RMC” Plant;
- A “Plant Site” consisting of truck loadout, office, scale, shop building, and stormwater retention basin;
- An “orchard-like” vegetated visual screen along Goodfellow Ave.;
- A 10’ high vegetated visual and sound berm along Riverbend Ave.;
- A 50’ wide access road from Goodfellow Ave.;
- An underground conveyor tunnel under Goodfellow Ave.; and
- An open ditch for the relocation of the “Hanke” Pipeline.

Taking the County’s interpretation of the law to its logical conclusion, Riverbend could complete all but one of these projects listed above, and still lack a vested right to complete the project. This interpretation is absurd, does not comply with common sense, and is contrary to the agreed upon black letter law that “[t]he right to develop real property vests where (1) a valid building permit, or its functional equivalent, has been issued, and (2) the developer has performed substantial work and incurred substantial liabilities in good faith reliance on the permit.”²⁵ Vested Rights are intended to protect the good faith efforts of a developer who has relied on a validly issued permit, such as Riverbend’s reliance on CUP 3390 since February 26, 2015. The County’s interpretation is at odds with this intended protection. Thus, the County’s position that rights can vest only once the “final discretionary approval” is obtained is not valid, since the Board of Supervisors’ approval of CUP 3390 constituted the “final discretionary approval” authorizing a surface mining operation, while the County’s provided list of infrastructure to be constructed under the SPR are ancillary to CUP 3390 and, depending on market conditions, can take years to construct. Contrary to *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal.App.4th 534, all of Riverbend’s incurred costs discussed in this appeal occurred after approval of CUP 3390 and the SPR.²⁶

²³ See Grading Permit Application at p. 15-16.

²⁴ Staff Denial, p. 4.

²⁵ *Avco, supra*, 17 Cal.3d 785 at p. 791.

²⁶ *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal. App. 4th 534, 542, 553.

3. *The Conditions of Approval Do Not Mandate an Automatic Expiration of CUP 3390 Absent a Determination of Substantial Development.*

In support of the County’s position that CUP 3390 automatically expired, the County cites the County Planning Commission’s February 26, 2015, Resolution #12492, stating that “the Planning Commission’s 2015 Resolution approving the CUP states [that the CUP] will expire two years from the date of approval unless a determination is made that substantial development has occurred.”²⁷ However, the Conditions of Approval associated with the project provide that “[t]his Use Permit will become void, unless there has been substantial development within two years of the effective date of this approval,” which is similar language to Section 873(I)(1) of the County Zoning Ordinance. Additionally, as I explained in my February 28, 2017, email responding to the County’s February 24, 2017, email, “Section 873(I)(1) of the County Zoning Ordinance was inapplicable because substantial development had already occurred within two years of the May 19, 2017, approval²⁸; thus, there was no need for a formal determination nor an extension regarding CUP 3390.²⁹ This is also consistent with Fresno County Zoning Ordinance section 873-J, and the County’s statement on page 11 of the Staff Denial, that “the procedures in Zoning Ordinance section 873-J are optional.”³⁰

Under the express language of the CUP 3390 Conditions of Approval, the only requirement regarding substantial development is that it occurs, which as discussed below has clearly taken place. There is no requirement, and the County agrees that there is no requirement, that a determination regarding substantial development be made.³¹

The court in *Fort Bragg* held that “notice and hearing must be afforded a permittee prior to revocation of a use permit.”³² This despite my February 23, 2017, letter addressed to the County regarding Riverbend’s vested rights under CUP 3390, in which on March 21, 2017, Chris Motta at the County responded, stating that the County “does not dispute the efforts the Applicant and its team has expended to initiate this long-term project.”³³ Notably, in 2017 the former Deputy Land Use County Counsel, Arthur Wille, had made comments to Riverbend’s counsel, which Riverbend’s reliance upon Mr. Wille’s representations only confirmed Riverbend’s counsel’s belief that Riverbend had in fact performed substantial development on the property, under then County Zoning Ordinance Section 831(I) and (J).³⁴ Further, ongoing communications between

²⁷ Staff Denial at p. 3.

²⁸ The February 26, 2015 Planning Commission Resolution approved the project. However, that February 26, 2015 Planning Commission approval was appealed to the Board of Supervisors, and the appeal was withdrawn in the late afternoon the day before the appeal was to be heard. Thus, the effective date of the approval was May 19, 2015.

²⁹ See April 21, 2025, Response to County’s preliminary response dated January 22, 2025, regarding Grading Permit Application No. 2025-000081 (Grading Permit Application Letter), p. 4.

³⁰ Staff Denial at p. 11.

³¹ *Ibid.*

³² *Community Development Com. v. City of Fort Bragg (Fort Bragg)* (1988) 204 Cal.App.3d at p. 1132.

³³ See April 21, 2025, Grading Permit Application Letter, p. 4.

³⁴ *Id.* at p. 19.

Riverbend and the County show that the County did not hold CUP 3390 invalid from March 21, 2017, to May 31, 2024 (seven years and \$988,173 later), which is when the County formally stated that CUP 3390 had expired seven years earlier in 2017 due to a *lack* of substantial development.³⁵ The County should not be allowed to retroactively hold that a determination was made more than seven years prior, when none of the County’s actions during that seven year period adhere to that reality. Therefore, the holding in *Fort Bragg*, that “notice and hearing must be afforded a permittee prior to revocation of a use permit” applies in this case – because the permit did not automatically expire due to lack of substantial development; and thus, the County is unable to claim they subsequently revoked the permit because no notice and hearing was afforded to Riverbend, i.e. the County process violated basic due process protections as well as principles of fundamental fairness.

B. Riverbend has Performed Substantial Work and Incurred Substantial Liabilities in Good Faith Reliance on CUP 3390.

1. The County Does Not Dispute That Riverbend Has Continuously and Actively Taken Steps to Substantially Develop the Site.

In reaching the conclusion that Riverbend does not possess a vested right to CUP 3390, the County improperly relies on the fact that there are outstanding mitigation measures and Conditions of Approval that have not been complied with.³⁶ But California law does not require that every Condition of Approval be met before a right may vest. Rather, to prove a vested right, an applicant needs only to proceed with a good faith intent to comment upon the proposed use of the permit.³⁷ Riverbend has met this standard, and continues to engage in good faith efforts to complete the conditions of approval and comply with the mitigation measures. The County argues that any costs expended in attempting to meet Mitigation Measures TRANS-1 and TRANS-2, through negotiation of a traffic impact fee in 2020, only reinforce the fact that the mitigation measure was never met. But again, this is not a valid ground to revoke CUP 3390 or declare that it expired for non-compliance with Conditions of Approval. The fact remains that Riverbend has incurred substantial costs of approximately \$998,173 in reliance upon CUP 3390 and with the intent to develop the project. That was enough to vest the right, and constitutes substantial development, which is confirmed by the County’s February 2024 definition of substantial development in the new County code section 868.6.030(E)(4).

The County argues that soft costs do not count when it comes to the determination of whether substantial development has occurred.³⁸ However, in contrast, California law that holds that “in a

³⁵ *Id.* at pp. 8-9, 14, 17, and 19.

³⁶ Staff Denial at p. 7.

³⁷ *Trans-Oceanic Oil Corp v. City of Santa Barbara* (1948) 85 Cal.App.2d 776, 789; *see also Community Development Com. v. City of Fort Bragg* (1988) 204 Cal.App.3d 1124; *Morgan v. County of San Diego* (1971) 19 Cal.App.3d 636.

³⁸ Staff Denial at p. 6.

complex and expensive project . . . much work must be done on the drawing board, in governmental and banking offices before the pick and shovel may be wielded and mortar poured.”³⁹ This is exactly the situation at hand. Riverbend has been “proceeding diligently”⁴⁰ and has not been “idly sitting upon the land[.]”⁴¹ thus, the lack of “actual construction” during the permit period should not call for the expiration of CUP 3390.⁴² For examples of the work Riverbend has spent on pursuit of this project, see pages 10 through 13 of the April 21, 2025, Grading Permit Application Letter.

2. *The County’s Claim that Riverbend’s Cited Cases are Distinguishable is Incorrect.*

The County argues that “little to no work has commenced on the site.”⁴³ However, this ignores the fact that mining, by its nature, requires substantial work and expense long before the ground can ever be disturbed. From February 26, 2015 to April 7, 2025, Riverbend spent more than \$988,173 in expenditures in reliance on CUP 3390, as recounted in detail in Riverbend’s April 21, 2025 letter. The County unconvincingly argues that *Trans-Oceanic*⁴⁴ is not analogous to Riverbend’s assertions because “the *Trans-Oceanic* permittee had performed substantial work and incurred substantial liabilities in reliance on its permit,” while Riverbend has not.⁴⁵

For starters, the \$4,500 spent in 1940 (around the time of *Trans-Oceanic*) is the equivalent of approximately \$104,000 in today’s dollars.⁴⁶ As stated above, Riverbend has spent nearly \$1 million dollars thus far on the project, or 10 times the amount expended in *Trans-Oceanic*. Next, while it is true that the developer in *Trans-Oceanic* spent the majority of its \$4,500 on construction work, the regulatory landscape in 1940 is incomparable to that which we have today. A substantial portion of the almost \$1 million spent by Riverbend in this case was spent on the installation of a fence and furnishing power utilities, and on preparatory and site planning work that was required to take place prior to the completion of the actual mine, and evidence of Riverbend’s continuous diligent efforts to pursue the completed mine is made apparent by the numerous communications between Riverbend and County, and the cost spent on consultants and planning.⁴⁷ Moreover, the County’s current Zoning Ordinance at section 868.6.030(E) acknowledges that the County will consider soft costs in its own consideration of “Substantial Development.”⁴⁸ The nearly 10x cost spent by Riverbend when compared with *Trans-Oceanic*, and the updated environmental regulations that forced Riverbend to expend so much time and effort on planning prior to direct mine construction, clearly show that the effort expended by

³⁹ *Morgan v. County of San Diego* (1971) 19 Cal.App.3d 636, 642.

⁴⁰ *Id.* at p. 642.

⁴¹ *Id.* at p. 642.

⁴² *Id.* at p. 642.

⁴³ Staff Denial at p. 5.

⁴⁴ *Trans-Oceanic v. City of Santa Barbara* (1948) 85 Cal.App.2d 776.

⁴⁵ Staff Denial at p. 6.

⁴⁶ <https://www.usinflationcalculator.com/>

⁴⁷ See Grading Permit Application

⁴⁸ Fresno County Zoning Ordinance, section 868.6.030(E)(4); see April 21, 2025 letter at pp. 17-18.

Riverbend in this case meets, or even exceeds, that which afforded the developer a vested right in *Trans-Oceanic*.

The County next claims that Riverbend “cherry picks language” from *Morgan*⁴⁹ and *Fort Bragg*.⁵⁰ The County claims that *Morgan* is inapplicable because “the respondent county was a cause of the applicant’s construction delay . . . [whereas here] the County has not ordered [Riverbend] to stop work[.]”⁵¹

The fact that the county in *Morgan* told the developer to stop work is only one of the bases on which the Court reached its conclusion. The Court held that the county in *Morgan* abused its discretion in “at least three ways: “First, an estoppel exists . . . Second, the [County’s Director of Building Inspection] conceded he [did not apply the diligence standard uniformly] . . . Third, the [County Director of Building Inspection’s] purported standard is unreasonable.”⁵²

Further drawing on *Morgan*, Fresno County’s statement that “many of [Riverbend’s fields] were under active cultivation as of July 2025, as confirmed through aerial photographs”⁵³ is remarkably similar to the standard that was rejected in *Morgan*. In *Morgan*, the standard for extending a building permit “involved going out to the site and making the determination there upon what could be seen and then decide whether the project was being actively pursued.”⁵⁴ There, the court held that “the extent of construction alone does not invariably show whether a permittee is ready to proceed. In a complex and expansive project [such as a multi-million dollar mining operation] . . . much work must be done on the drawing board . . . before the pick and shovel may be wielded[.]”⁵⁵ The case here is remarkably similar to *Morgan*, contrary to the assertions made by the County. Similarly to *Morgan*, Riverbend has diligently pursued development under a given permit (i.e., CUP 3390), and therefore the County is now unable to prevent the completion of that work. In addition, for County staff to argue that no work was occurring as of July 2025, after stating in writing that Riverbend had no right to do so since March 2024 is in bad faith and grounds for estoppel.

The County claims that *Fort Bragg* is inapplicable to Riverbend’s argument, because the County “has not revoked any permit here. Nor has the County failed to follow its own code here.”⁵⁶ The Court in *Fort Bragg* did not hold that the use permit in that case was valid only because the county did not follow its code. Rather, the use permit was valid because “[t]he record . . . clearly demonstrate[d that] CDC was proceeding with a good faith intent to commence upon the

⁴⁹ *Morgan v. County of San Diego* (1971) 19 Cal.App.3d 636.

⁵⁰ *Community Development Com. v. City of Fort Bragg* (1988) 204 Cal.App.3d 1124.

⁵¹ Staff Denial at p. 6.

⁵² *Morgan* at p. 641 (emphasis added).

⁵³ Staff Denial at p. 2.

⁵⁴ *Morgan* at p. 639.

⁵⁵ *Morgan* at p. 641.

⁵⁶ Staff Denial at p. 6.

proposed use” and thus the county’s determination that because there was an absence of “actual on-site construction” the permit was invalid, was improper.⁵⁷

As stated above, the court in *Fort Bragg* held that “notice and hearing must be afforded a permittee prior to revocation of a use permit.”⁵⁸ Riverbend does not claim that the staff communications from 2017 to 2024 represent a determination that substantial development occurred. Rather, Riverbend claims that the ongoing communications show that the County never considered CUP 3390 invalid after May 19, 2017 due to a *lack* of substantial development. The County should not be allowed to retroactively hold that a determination was made more than seven years prior, when none of the County’s actions over the past seven years adhere to that reality. Thus, the holding in *Fort Bragg*, that “notice and hearing must be afforded a permittee prior to revocation of a use permit” applies in this case – because the permit did not automatically expire due to lack of substantial development, and thus, the County cannot claim it subsequently revoked the permit because no notice and hearing has ever been afforded to Riverbend by Fresno County.

III. The County Misrepresents the Scope of the Right Given Under CUP 3390 by Claiming it Contains an Automatic Two-Year Expiration.

The County claims that “[t]he expiration of a limited-life permit is well established as not providing a vested right past its own expiration,”⁵⁹ citing *South Lake Tahoe Property Owners Group v. City of South Lake Tahoe* (2023) 92 Cal.App.5th 735, 747 (“*South Lake Tahoe*”). The County uses this line to argue that even if Riverbend could receive a vested right under CUP 3390, it would not last longer than the underlying permit allowed. However, the permit in *South Lake Tahoe* and Riverbend’s CUP 3390 are not analogous for one critical reason: Riverbend’s permit did not automatically expire at the end of a term, whereas the *South Lake Tahoe* permit did.

In *South Lake Tahoe*, “the permits expire[d] after one year and must be renewed on an annual basis prior to expiration.”⁶⁰ In Riverbend’s case, CUP 3390 would only expire upon the failure to substantially develop within two years of the CUP approval. As discussed above and as recounted in the April 21, 2025 letter and prior letters Riverbend sent to the County, substantial development occurred within the first two years,⁶¹ sufficient to vest Riverbend’s rights in CUP 3390 and remove the possibility that CUP 3390 could have expired on May 19, 2017.

⁵⁷ *Fort Bragg*, *supra*, 204 Cal.App.3d 1124, at p. 1131.

⁵⁸ *Id.* at p. 1132.

⁵⁹ Staff Denial at p. 8.

⁶⁰ *South Lake Tahoe* at p. 743.

⁶¹ *See also* Grading Permit Application at pp. 10-20.

IV. The County’s Ongoing Representations and Negotiations with Riverbend After 2017 Clearly Refute the County’s Position that CUP 3390 Expired on its own Terms in 2017.

The County argues that Riverbend claims a vested right exists because of County staff actions.⁶² Riverbend makes no such claim. Riverbend does not argue that the County made a substantial development determination through their ongoing communications. Rather, Riverbend argues that these continuous seven years of communications and \$988,173 in substantial development efforts evidence that the County **never held CUP 3390 invalid until, at the earliest, March 2024**. This undercuts County’s claim that CUP 3390 expired as of May 19, 2017, due to a lack of substantial development.

The County argues that “any reliance by [Riverbend] on the statements of County Staff who were not empowered to make a substantial development or vested rights determination was unjustified by the facts and law, and therefore does not create a vested right.”⁶³ In reaching this conclusion, the County erroneously cites *Summit Media LLC v. City of Los Angeles (Summit Media)*⁶⁴. In *Summit Media*, the court primarily took issue with the fact that the city had entered into “a settlement agreement that that gives the settling parties an exemption from ordinances currently in effect.”⁶⁵ There, the court was taking issue with the fact that the city had contracted away its police power. Riverbend has received no such exemption contract nor claims to be exempt from any County ordinances. Rather, Riverbend is arguing that the County should comply with its own ordinances regarding substantial development which County Counsel was interpreting, not that Riverbend is exempt from any applicable ordinance.

The County further claims that “[n]o County employees made any representation that the CUP was still valid, or that [Riverbend] was exempted from the provisions of section 873-I.1 of the Zoning Ordinance.” As to the second claim, Riverbend has never claimed exemption from section 873-I.1 of the Zoning Ordinance. As to the first claim, this argument requires a serious suspension of disbelief to follow. The County dismisses Riverbend’s counsel’s 2017 conversation with former Deputy Land Use County Counsel, Arthur Wille, in which Mr. Wille made representations that confirmed Riverbend’s belief that Riverbend had in fact performed substantial development on the property as contemplated under then-existing County Zoning Ordinance Sections 831(I) and (J). Further, the County does not dispute that the countless communications between Riverbend and County that are detailed in the Grading Permit Application took place after the CUP supposedly expired in 2017.⁶⁶ Thus, County makes the claim that the countless emails, phone calls, correspondence, and approximately \$988,173 spent

⁶² Staff Denial at p. 8.

⁶³ Staff Denial at p. 9.

⁶⁴ *Summit Media LLC v. City of Los Angeles* (2012) 211 Cal.App.4th 921.

⁶⁵ *Id.* at p. 936.

⁶⁶ Grading Permit Application at pp. 3-8.

by Riverbend in good faith reliance on these continued communications with County Counsel's office and County Planning staff from May 17, 2017 until March 8, 2024, all of which pertained to CUP 3390, did not count as "any representation that the CUP was still valid." This claim is so contrary to the facts that it is difficult to understand how the County could take this position.

The County says that Riverbend "was on actual notice, from the March 21, 2017 letter, that following [the ordinance pertaining to substantial development determinations] was the only way [Riverbend] would obtain a substantial development determination."⁶⁷ Specifically, the March 21, 2017 letter states that "...a formal determination of substantial development is a process that must be requested by the Applicant and implemented through public noticing and the ability of neighbors to request a hearing before the Board of Supervisors." However, neither this email nor the former Zoning Ordinance Section 873(J)(1), states that an Applicant is required to make such a request in order to receive a determination of substantial development as a prerequisite to a claim of vested right. Riverbend never disagreed that the County code set out the method by which a substantial development determination could be received; however, the former Zoning Ordinance, Section 873(J)(1) does not require a formal determination. The County has on several occasions expressly agreed with Riverbend's position on this matter.⁶⁸ The fact that the County communicated with Riverbend on numerous occasions (as evidenced by the extensive list of Exhibits attached to the April 21, 2025, Grading Permit Application Letter), on issues of which a basic assumption had to be that CUP 3390 remained valid (otherwise, why would County engage in such communications for over seven years), is evidence that the County never deemed or assumed CUP 3390 to be invalid due to a lack of substantial development until, at the earliest, March 8, 2024.

V. The County Zoning Ordinance Did Not Require a Determination of Substantial Development and the County Did Not Consider CUP 3390 as Invalid Until March 2024, at the Earliest.

The County claims that Riverbend "was also on actual notice of the two-year lifespan of the permit owing to the admonition on page 4 of the resolution approving the CUP."⁶⁹ As discussed earlier, the applicable County Code does not say anything about requiring a substantial development determination, and the County expressly agrees with this fact.⁷⁰ As discussed above, the County is attempting to take a position that is contrary to their continuous actions from 2017 to 2024, and claim that CUP 3390 automatically expired on May 19, 2017. This cannot be the case, unless the County would have us believe that they would engage in the numerous communications, discussions, and inspections, with the knowledge that Riverbend was continuously incurring substantial costs surrounding CUP 3390 over a seven-year period, all the

⁶⁷ Staff denial at p. 8-9.

⁶⁸ Staff Denial at p. 11.

⁶⁹ Staff Denial at p. 10.

⁷⁰ Staff denial at p. 11.

while during which that CUP had expired seven years prior. The County's position strains credulity to say the least.

Again, the County cites *South Lake Tahoe* and argues that Riverbend's permit is analogous to a permit that *automatically* expires at the end of a set term. In *South Lake Tahoe*, the permits expired every year, which forced the permit holders to seek renewal on an annual basis.⁷¹ Here, CUP 3390 did not automatically expire at the end of a set term (except for the 75-year timeframe passed by the Planning Commission),⁷² and the County's actions show that the County did not believe that CUP 3390 expired on May 19, 2017.

The County claims that "staff [was] not required to make the determination that no substantial development occurred. The fact that [the County] declined to make the determination until [Riverbend] initiated a process requiring a determination described by the County ordinances does not imply that [the County] ever concluded otherwise."⁷³ Again, the County is attempting to rewrite history and have us believe that the County would engage in seven years of countless discussions that assumed that CUP 3390 was valid, while the County secretly had considered the CUP expired since May 19, 2017.

1. The County Should Not Be Allowed to Retroactively Interpret the Zoning Code in a Self-Serving Manner.

The County's "suggestion" that the zoning ordinance follows the *Avco* case is doing a lot of work to make the County's argument sound. The County argues that "[d]evelopment . . . can only mean construction and establishment of the use."⁷⁴ As discussed above, with this argument the County is saying that no vested rights could exist for a large mining operation unless the entirety of that operation is fully functional within, in this case, two years of CUP approval. This interpretation runs contrary to the purpose and law of vested rights – which hold that "if a property owner has performed substantial work and incurred substantial liabilities in good faith reliance on a permit issued by the government," vested rights accrue.⁷⁵

Finally, and perhaps most telling of the County's new found claim (as of 2024) that there had been no substantial development before 2017, is the following line on the last page of the Staff Denial: "[A] process [for substantial development determination] does exist. Had [Riverbend] availed itself of those procedures, it might have resulted in a different outcome."⁷⁶ This amounts to a tacit admission that the County agrees that substantial development occurred and the County is only now trying to backtrack and claim otherwise. This conclusion is also supported by the County's March 21, 2017, letter, which provides that "Staff does not dispute the efforts the

⁷¹ *South Lake Tahoe* at p. 743.

⁷² February 26, 2015 Planning Commission Staff Report Agenda Item No. 3, p. 7.

⁷³ Staff Denial at p. 10.

⁷⁴ *Id.* at p. 10.

⁷⁵ *Avco, supra*, 17 Cal.3d 785, at p. 791.

⁷⁶ Staff Denial at p. 11.

Applicant and its team has expended to initiate this long-term project; those efforts are outlined in your February 23rd [2017] letter.”⁷⁷ Riverbend had no obligation to seek a formal substantial development determination from the County and should not be punished for not doing so.

VI. This Grading Permit Application Must Be Approved, and CUP 3390 Must Be Recognized as Valid.

For the reasons outlined above, and as set forth in (1) Riverbend’s April 23, 2024, letter to the County regarding Riverbend’s “Vested Property Right Under CUP 3390”; (2) Riverbend’s June 13, 2024, appeal to the County regarding “Notice of Appeal – Conditional Use Permit No. 3390 (CA Mine ID # 91-10-0031)”; and (3) Riverbend’s April 21, 2025 letter to the County responding to the County’s January 22, 2025, Preliminary Response regarding Grading Permit Application No. 2025-000081 in their entirety, with exhibits, as incorporated into this appeal by reference, CUP 3390 remains a valid and active permit. Therefore, Grading Permit Application No. 25-000206, submitted by Riverbend in reliance upon CUP 3390, and CUP 3390 should be upheld as valid and still in effect.

Thank you for your attention to this matter.

Sincerely yours,

MITCHELL CHADWICK LLP

Sincerely,

MITCHELL CHADWICK LLP



Patrick G. Mitchell

⁷⁷ See April 21, 2025, Grading Permit Application Letter, Exhibit 6-5.

Enclosures: Index of Documents

Cc: William Kettler, Deputy Director of Planning
Douglas T. Sloan, County Counsel
Peter J. Wall, Chief Deputy County Counsel
Bryan D. Rome, Deputy County Counsel
Michelle Leffel (Running Luck Ranch)
Herb Lang (Riverbend)
John Gillan (Martin Murrieta)
Bryan Forgey (Martin Murrieta)
J. Scott Miller (Mitchell Chadwick)
Buddy Mendes, Chairman, Fresno County Board of Supervisors
Garry Bredefeld, Vice Chairman, Fresno County Board of Supervisors
Supervisor Chavez
Supervisor Magsig
Supervisor Pacheco

(all cc via email)

**Index Number 330:
Riverbend Sand and Gravel –
Director's Determination**



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

February 11, 2026

Via U.S. Certified Mail

Pat Mitchell
Scott Miller
MITCHELL CHADWICK
1420 Rocky Ridge Drive, Suite 260
Roseville, CA 95661

John P. Kinsey
WANGER JONES HELSLEY PC
265 E. River Park Circle, Suite 310
Fresno, California 93720

Subject: Riverbend Sand & Gravel – Director's Determination

I consider the letter entitled "Appeal of Staff Determination - Rejection of Grading Permit Application No. 25-000206 – 3677 S. Riverbend Ave." ("Appeal"), dated November 20, 2025, submitted by the Applicant following the November 5, 2025, "Staff Determination - Rejection of Grading Permit Application No. 25-000206 – 3677 S. Riverbend Ave." from Department staff ("Determination") declining Applicant's Application for a grading permit on the basis that the CUP on which the Application depended had expired. This Decision of Director incorporates the Determination by staff, including all terms specially defined therein.

The CUP was issued to allow Applicant to mine. Applicant does not dispute that it never did so. Applicant asserts that it had acquired a vested right to finish its project more than a decade from the issuance of the permit. Not only did Applicant fail to meet the technical requirements of its permit or apply for all of the required construction permits, but with hardly any physical improvements to the site for a decade, Applicant did nothing to disabuse the public of the conclusion that the mine would never open.

Applicant had notice of the time limitation on the CUP and notice that the onus was on the Applicant to demonstrate substantial development. Applicant has a duty to understand and follow the County's laws and its own CUP. Here, the ordinance speaks for itself. Soft costs expended by the Applicant following that notice were at the Applicant's own risk, and do not support Applicant's claim for relief. As a consequence, Applicant's appeal is denied, and staff's Determination stands.

Applicant Inadequately Addresses the Test for the Creation of a Vested Right

Applicant asserts "good faith reliance on the permit." But that is not the test established by the Supreme Court in *Avco Community Developers v. South Coast Regional Commission* (1976) 17 Cal.3d 785 to determine if a vested right exists.

ADMINISTRATION

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Each element of the vested rights test from *Avco* is about whether improvements were made to land. We must determine whether the applicant expended substantial liabilities *in hard costs* (*i.e.*, in making improvements to the land) and performed substantial work (*i.e.*, in construction) on a permit that defines the scope of the improvements to the land. This is developed through the case law discussed in the Determination and below.

To allow the Applicant to define the right so broadly as simple “good faith reliance” would allow the Applicant to create a nearly unlimited scope permit, dependent solely on the Applicant’s unilaterally declared perception of its own permit. Applicant’s interpretation of the vested rights doctrine does not just create a “slippery slope” situation; its interpretation of “good faith reliance,” if applied as the rule, would lead projects to languish in “development hell.”

The “Last Discretionary Permit” Test Is Not the Law

In *South Central Coast Regional Commission v. Charles A. Pratt Const. Co.* (1982) 128 Cal.App.3d 830, 845 (“*South Central*”), the court “specifically reject[ed] the ‘final discretionary permit test.’” The reason, despite Applicant’s assertion to the contrary, was manifold. The Court considered both the public policy behind the Coastal Act and, more importantly, the nature of the “ministerial” approval that follows the subject discretionary permit. In the same way that “tentative map approval without more does not entitle a subdivider to a final map,” the CUP and SPR do not entitle the Applicant to building and construction permits without more, especially given the unfulfilled conditions of approval.

A Federal District Court in Nevada, deciding a matter under California law, states the following of a so-called final discretionary permit rule:

“Such [final discretionary] approvals cannot be viewed in this case as the functional equivalent or sine qua non of a building permit. To so hold would allow a landowner who has gained preliminary governmental approval for a phased development project such as [subject project in the litigation] the right to complete construction for the indefinite future. This would result in ‘serious impairment of the government’s right to control land use policy.’ [California case citations.]” (*LeRoy Land Development Corp. v. Tahoe Regional Planning Agency* (D. Nev. 1982) 543 F.Supp. 277, 281 abrogated on grounds of *Nevada state law* by *Wal-Mart Stores, Inc. v. County of Clark* (D. Nev. 1999) 125 F.Supp.2d 420.)

The Court in *LeRoy Land Development Corp.* stated that, while the result is harsh, the final discretionary permit rule “is not the law” of California. (*Ibid.*)

The County cannot ignore the language choices of the *Avco* court. There is a reason the *Avco* decision specified a “building permit” or its functional equivalent. While *Avco* stated that a CUP can indeed meet the functional requirements of a building permit, the terms are not synonymous.

First, building permits are almost universally *ministerial*, not discretionary. (See Tit. 24, Cal. Code Regs. (California Building Standards Code), § 105.3.1 [“building official shall issue a permit”]; see also Tit. 14, Cal. Code Regs., § 15268, subd. (b)(1) [establishing a presumption for the California Environmental Quality Act that a building permit is ministerial].) A “last discretionary permit” test

simply does not make sense as a hard and fast rule where the Supreme Court identified a typically ministerial permit.

Furthermore, a building permit is precise—it specifies exactly where and exactly how improvements can be made. On the other hand, a CUP and SPR are general—they permit uses (not improvements) and provide a general bird's eye view of the landscape. As stated above, the necessary condition of a vested right is making improvements to land, thus the substantial work and hard costs requirements. A general permission for certain uses is not enough to establish the nature of specific improvements that are necessary for those uses.

In the years since *South Central*, California courts have considered the concept of the “phased project.” Practical law guides suggest that developers should “avoid long delays between phases of an approved project.” (CEB California Land Use Practice (2025) § 16-16; citing *Lakeview Development Corp. v. City of South Lake Tahoe* (9th Cir. 1990) 915 F.2d 1290 [no vested right with delay of ten years between phases one and two].)

Because the CUP is not the functional equivalent of a building permit merely by virtue of being the “last discretionary permit,” and does not bear the hallmarks of a building permit, we view the CUP as the first stage of the development of the mine. This is supported by the conditions of approval and project notes, specifically those referencing the additional permits required, as discussed in the Determination. Those additional permits, which Applicant did not seek for a decade, might have bridged the divide between the generality of the CUP and SPR and the specificity necessary to support a vested right.

No matter how this CUP is considered, the result is the same—it is not a permit on which a right can vest.

Applicant Continues to Focus Exclusively on Soft Costs

Applicant's Appeal focuses heavily on the amount spent by Applicant and the inflation adjusted figures spent by other developers in published cases. Those amounts are large and, in a vacuum, might even seem sufficient to support the “substantial liabilities” requirement in the context of Applicant's limited case review.

But Applicant has ignored the hard costs requirement from the case law. And again, Applicant's amounts do not tell the whole story.

Courts have considered large amounts before and found them insufficient. For example, \$1.1 million spent and \$29 million secured in 1980s dollars, were not sufficient where construction of a permitted hazardous waste processing facility had not begun. (*Security Environmental Systems, Inc. v. South Coast Air Quality Management Dist.* (1991) 229 Cal.App.3d 110, 127.) The result should be the same here.

I agree with Staff's Determination that there is no evidence that the Applicant expended sufficient hard costs to sustain a vested interest in development under the CUP.

Applicant's Argument That the CUP Does Not Automatically Expire Defies Logic

The Appeal attempts to rewrite the County's ordinances and the resolution approving the CUP by relying on self-serving statements of Applicant's legal counsel made years after the approval of the CUP. After stating that Resolution No. 12492 does not support an automatic expiration, despite its plain language to the contrary, Applicant does not analyze the language of the resolution, but instead focuses on the discussion of Applicant's legal counsel's after-the-fact emails.

These emails are irrelevant to the key issue—what the Resolution and ordinances actually say. Applicant's statement that "CUP 3390 would only expire upon the failure to substantially develop within two years of the CUP approval" (Appeal, at p. 10) is, at best, a half-truth. Resolution #12492 prominently states:

"The approval of this project **will** expire two years from the date of approval **unless** a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Unclassified Conditional Use Permit." (Resolution, p. 4 (emphases added).)

This is consistent with the text of the County's ordinance

"Each Conditional Use Permit approved either before or after the effective date of this amendment **shall** become void when:

"1. There has not been substantial development within two years after the approval of said Conditional Use Permit or the effective date of this amendment, whichever date is later...

"3. Where circumstances beyond the control of the applicant cause delays which do not permit compliance with the time limitation established in Section 873-I.1, the Commission may grant a maximum of four one (1)-year extensions. Application for such time extension must be set forth in writing, including the reasons for the extension, and be filed with the Public Works and Planning Department before the expiration of the Conditional Use Permit." (Zoning Ordinance, § 873, subd. (I) (emphasis added).)

"Where a determination is caused to be made by the Director of Public Works & Development Services that there either has or has not been substantial development within two years after the approval of said Conditional Use Permit, a notice of such determination shall be mailed to the applicant and to owners of property adjacent the external boundaries of the property described in the application." (*Id.*, at subd. (J)(1).)

"If an established time limit for development expires and no extension has been granted, the Conditional Use Permit **shall be considered void.**" (*Id.*, at subd. (K)(2) (emphasis added).)

Collectively, these provisions provide for the automatic termination of conditional use permits. They do not require a process, let alone a hearing, for the termination of one for failure to substantially develop or seek an extension within two years. The County did not elect to bind itself through its ordinances to initiate an administrative process, on its own accord, every time a use is abandoned or never

established across the millions of acres of Fresno County. To the contrary, the County's ordinances put the burden on the Applicant to demonstrate substantial development or seek an extension.

There is an optional process, which Applicant did not use, to apply for and acquire a substantial development determination or extension. Communications to the Applicant from the Planning Division have been entirely consistent with these principles.

Applicant Ignores its Obligation to Timely Prove Substantial Development

As stated above, the onus is on the Applicant to timely initiate a process and to demonstrate substantial development. Applicant's argument largely hinges on the question of whether it acquired a vested right, and does not adequately address whether Applicant achieved substantial development prior to the 2017 expiration of the CUP or presented evidence of that substantial development to the Director in accordance with the Zoning Ordinance and Resolution No. 12492.

I agree with Staff's Determination that the substantial development standard can only provide a greater level of protection than the vested rights doctrine. I also agree that the substantial development standard must require construction, which has not occurred here, not just expenditure of soft costs. (See, Determination, at pp. 9-10.)

A Separate Hearing on the Alleged "Revocation" Is Not Required

While I agree with Staff's Determination, namely that the County never revoked the CUP and that it automatically expired under its own terms and the requirements of County ordinances, entitling Applicant to no hearing, the matter is moot. The Applicant is receiving adequate process through this appeal process.

Because I have found that substantial development has not occurred and that the CUP expired, this correspondence amounts to a Director's determination on substantial development within the meaning of section 876.6.020, subd. (B), of the current Zoning Ordinance. Therefore, this determination is eligible for appeal to the Board of Supervisors in compliance with section 876.6.030 of the Zoning Ordinance.

Sincerely,

Steve White
Digitally signed by Steve
White
Date: 2026.02.11
16:44:03 -08'00'

Steven E. White, Director
Department of Public Works and Planning

c: Peter Wall, Chief Deputy County Counsel
Bryan Rome, Senior Deputy County Counsel

Index Number 331:

**Email Re: Question: Appeal of
Director Determination re Grading
Permit Application No. 25-00206
(Riverbend Sand and Gravel, LLC)**

From: Rome, Bryan <brome@fresnocountyca.gov>
Sent: Monday, February 23, 2026 9:09 AM
To: Scott Miller <smiller@mitchellchadwick.com>
Cc: Patrick Mitchell <pmitchell@mitchellchadwick.com>; Wall, Peter <pwall@fresnocountyca.gov>
Subject: RE: Question: Appeal of Director Determination re Grading Permit Application No. 25-000206 (Riverbend Sand and Gravel, LLC)

Scott,

Provided that your updated index is sufficiently specific and accurate to enable staff to identify documents already in the record, your submission may include an index referencing records already in the record in lieu of providing such records again.

Staff identified no issues with the index provided for your appeal to the Director of Public Works and Planning. And I agree that it was quite a useful index.

Staff will not reject an otherwise complete and compliant appeal for the reason that it was made in the manner described above.

Please let us know if you have any further questions.

Thanks,
Bryan

Bryan D. Rome
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From: Scott Miller <smiller@mitchellchadwick.com>

Sent: Friday, February 20, 2026 4:05 PM

To: Wall, Peter <pwall@fresnocountyca.gov>; Rome, Bryan <brome@fresnocountyca.gov>

Cc: Patrick Mitchell <pmitchell@mitchellchadwick.com>

Subject: Question: Appeal of Director Determination re Grading Permit Application No. 25-000206 (Riverbend Sand and Gravel, LLC)

Hello Peter and Bryan,

We received the written Determination from Fresno County Department of Public Works and Planning Director Steven E. White, dated February 11, 2026, regarding Grading Permit Application No. 25-000206, previously submitted on behalf of Riverbend Sand & Gravel, LLC and Running Luck Ranch, LLC (collectively, the "Applicant"). We are preparing an appeal of this Determination for the Board of Supervisors, which we will submit next week pursuant to section 876.6.030 of the Fresno County Zoning Ordinance ("Zoning Ordinance").

Recall that when we submitted our appeal to the Director on November 20, 2025, we included an "index of documents for appeal" as the County requested, which cross-referenced all documents previously submitted in connection with past appeals, letters, and other communications related to CUP 3390 and to this Grading Permit Application. (See attached "Index of Documents" and "Doc No. 327 - Email Chain 11-14-25"). As the attached Email Chain explains, we prepared and submitted this index with cross-references based on our understanding that (1) Chapter 876.6 of the Zoning Ordinance does not prohibit the Applicant from incorporating by reference those prior submissions instead of re-submitting them, and (2) this will avoid burdening the Director and the Supervisors with voluminous documents that they received previously and which are already part of the administrative record. As the Email Chain indicates, the County was agreeable to this procedure.

We believe this same procedure applies to the Appeal to the Board of Supervisors we plan to submit next week, and we propose to submit an updated index (very similar to the attached index) along with the appeal rather than re-submitting hard copies of all prior filings. To confirm, this would follow the same procedure as with our prior appeal on November 20.

Please let me know if the County will agree to accept our appeal to the Board of Supervisors, if it is submitted in the manner detailed above.

Thanks,
Scott

J. Scott Miller
Partner



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