

Kaiser given 90 days to agree on controls

5-17-72

Study of controls on Kaiser Permanente's quarrying operation and rehabilitation of the hillside it has scarred has been referred to County Counsel by Santa Clara County Supervisor.

Counsel has been given 90 days in which to confer with Kaiser Cement officials and two citizen observers and come up with written, enforceable guarantees as to the future of limestone mining at Permanente.

Supervisors, guided by Victor Calvo (District 5), discussed Permanente's quarrying operation May 10 at the behest of several citizens' groups concerned over the lowering of Montebello Ridge and the visibility of the open pit from several residential areas.

The county, hamstrung in its control of Permanente because the company's quarrying predates zoning ordinances adopted in 1937, hoped to obtain voluntary concessions from company officials.

DIFFERENCE

Kaiser representatives appeared to differ somewhat in their views as to how many promises they could make at the meeting.

Ralph Hoffman, general production manager at Permanente, said future quarrying would reduce the ridge 100 feet over a 1000 foot area, and between zero and 100 feet over an additional 700 foot length.

Hoffman promised the company would not lower the ridge to

below a minimum of 1500 feet above sea level.

He also said the company was aware of the trauma of having an open pit view from residences.

"We have tried to minimize the view of equipment from the Los Altos area," Hoffman explained. He also promised the 100 feet skyline as a result of the limestone mining operation.

Other spokesmen for the corporation were not so willing to make promises, however. Duncan O'Neal, attorney for the mammoth business, said representatives had come for discussion and were not prepared to make any commitments.

LEGALITY

John Walker, Kaiser's vice president of operations, said, "As a matter of corporate legality, there is no one here who can agree to (a 90 day moratorium on lowering the ridge)."

Calvo had asked the company to agree to a moratorium so no more ridge lowering could occur before an agreement was reached by Permanente and the county.

All company men agreed they would be quite willing to meet as soon as possible to discuss future plans. Walker said Kaiser had to take advantage of the dry season for quarrying.

Indicating his concern was mounting as to Kaiser's willingness to cooperate with the county, Calvo warned there were ways of controlling the quarrying operation which Supervisors

might have to resort to if they receive no voluntary commitments from the company.

HISTORY

County Counsel William Siegel reported the legal history surrounding the plant's operation.

Quarrying was taking place at Permanente prior to the adoption of the August 1937 county zoning ordinance. Existing companies were treated as non-conforming uses, meaning Permanente could continue operation even though it was technically in violation of current law.

Case law has established, according to Siegel, that the non-conforming quarry operation could expand to the original boundaries of the property, but that property could not be increased in size.

Some governments place time limits on non-conforming uses, Siegel said, providing for amortization. "Our ordinance does not provide for (this)," he said. Quarries established after 1937 must conform with zoning ordinances and must obtain a use permit.

In August 1961 the County Planning Commission adopted quarry standards which were applied as conditions under which new quarries could obtain use permits.

STANDARDS

Some items provided for in the 1961 standards were: rehabilitation plans, noise and vibration

exercise to make Permanente adhere to the 1967 letter.

Siegel indicated there were none. The county could gain some control over future quarrying if Permanente were willing to make a voluntary commitment.

O'Neal said that so far as he knew the company had stayed within the commitments it had made in 1967.

PROMISE

Calvo said he hoped the county could get the statement Hoffman had made, promising not to lower the ridge to less than 1500 feet above sea level, in writing and enforceable.

The Supervisor from Mountain View also asked for a hardened promise that Kaiser would have the area rehabilitated "in X number of years."

Residents representing various citizen groups spoke, including Joan Brown of Los Altos. She reported the cities of Palo Alto, Los Altos Hills, Los Altos, Cupertino and Sunnyvale had gone on record asking the county to place some controls on the operation at Permanente.

Dr. Marjorie Evans, chairman of Los Altos Hills environmental protection commission, reported the chief concern of residents was that supervisors obtain binding commitments in ways that were reasonable.

She suggested one possibility would be for the company to grant an easement to the county. "We need a description in engineering terms of the final

(Continued on page 42)