

Resolution No.

**County of Sonoma
Santa Rosa, CA 95403**

**Date: 11/10/2009
Jennifer Barrett/Tom O’Kane**

**RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY
OF SONOMA, STATE OF CALIFORNIA, UPDATING THE
REQUIRED MITIGATION FEE FOR AGGREGATE OPERATORS
PURSUANT TO THE AGGREGATE RESOURCES
MANAGEMENT PLAN AND SURFACE MINING ORDINANCE.**

WHEREAS, the Board of Supervisors of the County of Sonoma adopted an Aggregate Resources Management Plan (ARM) in 1981 which sets forth goals, objectives, policies and programs for the management of aggregate resources and regulation of aggregate operations; and,

WHEREAS, trucks associated with hauling aggregate were, due to their extreme weight, identified as a key cause of and contributor to pavement deterioration on County roads and identified as a significant cumulative impact of aggregate hauling operations in the 1981 ARM Plan EIR; and,

WHEREAS, the 1981 ARM Plan and EIR established a mitigation fund program to address adverse impacts from mining operations, including hydrology impacts from instream mining operations and impacts related to excessive road damage and repairs caused by heavy aggregate trucks; and,

WHEREAS, aggregate operators were required to contribute annually to the fund based on their annual production and the fee was collected from all operators, including operations that were vested prior to adoption of the 1981 Mitigation Fund; and,

WHEREAS, the County’s Surface Mining and Reclamation Ordinance Section 26-09-010 (c) (6) requires aggregate operators to pay an annual road mitigation fee to mitigate the wear and tear of aggregate operations on county roads; and,

WHEREAS, since 1981 use permits for aggregate operations have included conditions that require compliance with ARM Plan standards including payment of the road mitigation fee; and,

WHEREAS, in 1990 the Board of Supervisors suspended collection of the fee until an update of the 1981 ARM Plan and EIR was completed; and,

WHEREAS, in 1994 the update to the ARM Plan was adopted which revised the mitigation program to separate the mitigation funds for road mitigation and instream impacts; and,

WHEREAS, Mitigation Measure 8.9-1 and 8.14-1 of the 1994 ARM Plan Program EIR required that the aggregate industry provide an appropriate level of funding to an Aggregate Road Mitigation fund to be used by the County for the maintenance and improvement of local roadways which receive a cumulatively significant impact from aggregate haul trucks; and,

WHEREAS, permit renewals and new permits issued since the 1994 ARM Plan also include specific conditions requiring payment of fees to the road mitigation fund; and,

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WHEREAS, in 1996 the Department of Transportation and Public Works (DTPW) prepared an updated cost analysis and recommended a uniform fee level be established pursuant to Section 26A-09-010 (c) (6) of the Surface Mining and Reclamation Ordinance; and,

WHEREAS, the fee amount was disputed by the aggregate operators, and the Board directed staff to meet with industry representatives to reach an agreement on the cost allocation methodology; and,

WHEREAS, the operators and DTPW were unable to reach agreement on the fee amount; and,

WHEREAS, an ad hoc committee of the Board of Supervisors reviewed the updated cost analysis prepared by DTPW and requested additional site specific studies and cost analysis be conducted; and,

WHEREAS, additional site specific studies and cost analysis was conducted by the DTPW in 1999 and DTPW recommended that safety related improvements be assessed separately from the road wear impacts; and,

WHEREAS, site specific impacts of aggregate hauling that require site specific roadway improvements, including but not limited to roadway shoulder widening, traffic signalization and channelization projects, were separated from the road wear impacts and mitigation requirements for safety related improvements related to individual aggregate operations have been incorporated into conditions of permit approvals by the Board of Supervisors; and

WHEREAS, in 2006 the Board of Supervisors approved a contract with Economic and Planning Systems (EPS) to provide another updated cost analysis of impacts of aggregate hauling and develop an appropriate methodology for allocating those costs to aggregate operators; and,

WHEREAS, DTPW recommended that the road wear costs be calculated based on Caltrans method of determining the Equivalent Single Axle Loads using the reported sales volume in tons and calculating the pavement thickness consumed that year by each hauling operation; and

WHEREAS, the Technical Report prepared by EPS, entitled, "Aggregate Hauling Impacts on County Roads", dated December 8, 2008 (Technical Report), estimates the road deterioration, and proportional impacts of aggregate hauling on County roads using accepted engineering principles, and the cost of road repairs and improvements required to offset the excessive wear and damage caused by aggregate haul trucks; and,

WHEREAS, staff of the Permit and Resources Management Department (PRMD) in conjunction with staff from the DTPW hosted several workshops with industry representatives to review the Technical Report including the updated cost estimates and cost allocation methodology; and,

WHEREAS, comments from industry representatives were addressed and revisions to the cost estimates were incorporated into the Technical Report and staff reports; and,

WHEREAS, a public hearing was scheduled and notice was published in the Press Democrat, a newspaper of general circulation, on July 18th and July 24th in accordance with the noticing requirements set forth in Government Code Sections 6066; and,

WHEREAS, notice of the public hearing was also mailed to all aggregate operators and interested parties; and,

WHEREAS, a public hearing before the Board of Supervisors was held at a regularly scheduled meeting on August 4th, 2009 at which all interested parties were given an opportunity to be heard; and,

WHEREAS, the Board of Supervisors reviewed and considered the consultant's Technical Report, the 1994 ARM Plan and Program EIR, staff reports, and the oral and written comments of other interested parties, and referred the item to an Ad Hoc Committee of the Board for further evaluation and recommendation; and

WHEREAS, on October 7th, 2009 the Ad Hoc Committee met with representatives of the aggregate industry and DTPW and PRMD staff and heard their concerns and issues; and

WHEREAS, the Board Ad Hoc Committee recommended that the annual road mitigation fee be established at a lower amount than that set forth in the Technical Report due to the current state of the economy and that annual adjustments should be based on the Consumer Price Index (CPI); and,

WHEREAS, the item was scheduled for continued consideration of the Ad Hoc Committee's recommendation at a regularly scheduled meeting of the Board of Supervisors and notice of continued public meeting was mailed to all aggregate operators and interested parties; and,

WHEREAS, continued discussion at a public meeting before the Board of Supervisors was held on November 10th, 2009 at which all interested parties were given an opportunity to be heard; and,

WHEREAS, the Board of Supervisors reviewed and considered the Ad Hoc Committee's recommendation; the 1994 ARM Plan and Program EIR, the Technical Report prepared by EPS, staff reports, and the oral and written comments of other interested parties; and,

NOW, THEREFORE, BE IT RESOLVED that the Sonoma County Board of Supervisors hereby accepts the Technical Report with adjustments to the cost analysis as recommended in the staff report dated August 4th, 2009; and, hereby makes the following findings:

- a) The purpose of the Aggregate Road Mitigation Fund, as establish in the 1981 ARM Plan and as set forth in the 1994 ARM Plan and the County's Surface Mining and Reclamation Ordinance is to pay the costs associated with excessive road wear and tear from aggregate hauling on County roads.
- b) The Aggregate Road Mitigation Funds are to be used to pay such costs of pavement maintenance and repair activities and additional costs associated with structural requirements on the aggregate haul routes, the County's Metropolitan Transportation System designated roads and other arterial and collector roads generally used by the aggregate haulers as shown in the map identified as Attachment D to the staff report dated August 4th 2009 on file at PRMD.
- c) The Aggregate Road Mitigation Fee is directly proportional to the impact of aggregate hauling in that it is based on the standard engineering practice of calculating the Equivalent Single Axel Load (ESAL) to determine the pavement thickness required to support heavy aggregate hauling on County roads and the amount of wear from each loaded haul trip as described in the Technical Report.
- d) There is a reasonable relationship between the fees used and aggregate operations on which the fee is imposed for the reasons set forth in the Technical Report, the 1981 and

1994 ARM Plan Program EIR and various environmental studies prepared for various permits for aggregate operations, all of which are incorporated herein by reference.

- e) There is a reasonable relationship between the need for roadway repairs and the operations on which the fee is imposed based upon the additional pavement thickness needed to meet structural requirements to support heavy aggregate loads as identified in the Technical Report and staff report, ARM Plan, and other permit all of which are set forth herein by reference.
- f) The cost estimates in the Technical Report, December 2008, are based upon actual current costs of construction as determined by the Director of DTPW through an analysis of current contracted public projects and adjusted by the Caltrans Price Index.
- g) Although the cost analysis indicates a higher mitigation fee is warranted, due to the severe economic recession and the need to encourage local production the mitigation fee should be lower than the cost analysis to maintain a competitive market.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby updates the Aggregate Road Mitigation Fee Program to \$.10 per ton effective January 1st 2010 and applied prospectively based on the annual reports submitted by aggregate operators thereafter, subject to auditing by the Sonoma County Auditors Office.

BE IT FURTHER RESOLVED THAT the mitigation fee level shall be updated annually by the Director of PRMD on January 1st of each year based on the Consumer Price Index as published in the third quarter for the previous 12 month period.

BE IT FURTHER RESOLVED that DTPW shall work with industry representatives to identify and prioritize the use of the funds on the primary haul routes used by the industry.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Brown:	Kerns:	Zane:	Carrillo:	Kelley:
Ayes:	Noes:	Absent:	Abstain:	

So Ordered.