



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #: 15-0748 **Name:** Porter Estates
Type: General Agenda Item **Status:** Passed
File created: 6/29/2015 **In control:** Board of Supervisors
On agenda: 7/7/2015 **Final action:** 7/7/2015

Title: Public hearing to consider adopting a resolution to:
a. Deny the appeal by Center for Biological Diversity from the Planning Commission's decision to adopt a Mitigated Negative Declaration, approve an application by Trio Petroleum for a temporary Use Permit to allow production testing for oil and gas using an existing well, and adopt a Mitigation Monitoring and Reporting Program;
b. Adopt a Mitigated Negative Declaration;
c. Approve a temporary Use Permit (Porter Estates (Trio Petroleum) to allow the production testing for oil and gas using an existing well, subject to conditions of approval; and
d. Adopt the Mitigation Monitoring and Reporting Program (PLN140395 / 72327 Jolon Road, Bradley / APN 424-081-082-000 / South County Area Plan)

Sponsors: Planning / RMA

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A-Project Discussion, 3. Attachment B-Draft Board Resolution, 4. Attachment B-Exhibit 1, 5. Attachment B-Exhibit 2, 6. Attachment C-Mitigated Negative Declaration, 7. Attachment D-Errata to the Mitigated Negative Declaration, 8. Attachment E-Public Comments, 9. Attachment F-Notice of Appeal, 10. Attachment G-Planning Commission Resolution No. 15-030, 11. Completed Board Order & Resolution

Date	Ver.	Action By	Action	Result
7/7/2015	1	Board of Supervisors	approved	Pass

Public hearing to consider adopting a resolution to:
a. Deny the appeal by Center for Biological Diversity from the Planning Commission's decision to adopt a Mitigated Negative Declaration, approve an application by Trio Petroleum for a temporary Use Permit to allow production testing for oil and gas using an existing well, and adopt a Mitigation Monitoring and Reporting Program;
b. Adopt a Mitigated Negative Declaration;
c. Approve a temporary Use Permit (Porter Estates (Trio Petroleum) to allow the production testing for oil and gas using an existing well, subject to conditions of approval; and
d. Adopt the Mitigation Monitoring and Reporting Program (PLN140395 / 72327 Jolon Road, Bradley / APN 424-081-082-000 / South County Area Plan)

PROJECT INFORMATION:

Planning File Number: PLN140300

Owner: Porter Estate Company Bradley Ranch Inc / Bradley Minerals Inc (Trio Petroleum LLC, applicant)

Project Location: 72327 Jolon Road, Bradley

APN: 424-081-082-000

Agent: Steve Rowlee

Plan Area: South County Area Plan

Flagged and Staked: No

CEQA Action: Adopt a Mitigated Negative Declaration

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (Attachment B) to:

- a. Deny the appeal by Center for Biological Diversity from the Planning Commission's decision to adopt a Mitigated Negative Declaration, approve a temporary Use Permit to allow production testing for oil and gas using an existing well, and adopt a Mitigation Monitoring and Reporting Program;
- b. Adopt a Mitigated Negative Declaration;
- c. Approve a temporary Use Permit (Porter Estates (Trio Petroleum)) to allow the production testing for oil and gas using an existing well, subject to conditions of approval; and
- d. Adopt the Mitigation Monitoring and Reporting Program

PROJECT SUMMARY:

This hearing is on the appeal by the Center for Biological Diversity (or "appellant") from the Planning Commission's April 29, 2015 approval of the application by Trio Petroleum (or "applicant") for a temporary Use Permit (Porter Estates (Trio Petroleum) PLN140395). The Planning Commission approved the temporary Use Permit to allow production testing on an existing well for a period of one year with limits placed on the amount of oil that can be produced. The Planning Commission also adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

The applicant proposes production testing for oil and gas using an existing oil and gas well located off Jolon Road in South County. The existing well was originally permitted for oil and gas exploration in 2007 and the permit expired in 2010. Currently the site contains two wells that have expired permits. The site is currently in violation of the conditions of approval because the prior Use Permits required abandonment of the wells and site restoration upon completion of testing. The approval of this temporary Use Permit would resolve the violations of the two prior permits.

This project initially came before the Planning Commission on July 30, 2014, and at that time the Center for Biological Diversity sent a letter objecting to the project and staff's recommendation of a categorical exemption from CEQA. The Planning Commission voted to continue the hearing to a date uncertain and directed the preparation of an Initial Study. An Initial Study determined all impacts could be mitigated to a less than significant level, which resulted in the preparation of a Mitigated Negative Declaration (MND) that was circulated for public comment from February 27 through April 1, 2015. During that time staff did not receive any comments from the Center for Biological Diversity and the comments that were received did not substantially change any of the analysis in the MND. The project returned to the Planning Commission for hearing on April 29, 2015, and staff received a letter from the Center for Biological Diversity the morning of the 29th, requesting the Planning Commission to deny the application or require an EIR. The letter did not provide substantial evidence that would render the MND insufficient, and staff responded to the issues raised in the letter during the public hearing. The Planning Commission voted to approve the project with a vote of 5-4 on April 29, 2015.

The appeal letter submitted by the appellant alleges that the MND does not comply with the requirements of the California Environmental Quality Act, and that the Planning Commission's adoption of the MND, project approval, and associated findings and decisions were in error. The appellant contends the following errors were

made:

- 1) Failure to produce a full environmental impact report (EIR) analyzing the significant impacts of the project;
- 2) Failure to mitigate reasonably foreseeable activities, including the production of oil using enhanced oil recovery techniques;
- 3) Failure to consider reasonably foreseeable impacts to the production and disposal of wastewater, water resources, and greenhouse gas emissions; and
- 4) Failure to consider or mitigate significant potential impacts to water, including water contamination.

The contentions raised by the appellant are not backed by substantial evidence, and in some cases, misconstrue the details of the project. The MND prepared for the project found that the project would not result in significant impacts to any resources, and provided mitigations for biological resources. The MND analyzed reasonably foreseeable impacts of the proposed production testing, and potential long term production of the well site if commercial quantities of oil and gas were found. The MND did not analyze the use or impact of enhanced oil recovery techniques because the project is not proposing the use of enhanced oil recovery techniques or any well stimulation treatments. The temporary Use Permit has been conditioned to prohibit the use of any well stimulation treatments. For full discussion of the contentions raised, see Attachment A.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- √ Environmental Health Bureau
- √ RMA-Public Works
- √ Water Resources Agency
- √ Cal Fire South County Fire Protection District

The project was referred to the South County Land Use Advisory Committee (LUAC) for review. The LUAC reviewed the project on June 18, 2014 and recommended approval of the project by a 5-0 vote.

FINANCING:

Funding for staff time associated with this project is included in the FY14-15 Adopted Budget for RMA-Planning.

Prepared by: Grace Bogdan, Assistant Planner ext. 6414

Approved by: Mike Novo, Director, RMA-Planning, ext. 5192

Carl P. Holm, AICP, Acting Director, Resource Management Agency

This report was reviewed by John H. Ford, RMA-Services Manager

cc: Board of Supervisors; Front Counter Copy; Planning Commission; Cal Fire South County Fire Protection District; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; John Ford, RMA Services Manager; Grace Bogdan, Project Planner; Porter Estate Company Bradley Ranch LLC, Owner; Steve Rowlee, Agent; Steve Craig, Citizen Planning Alliance; Center for Biological Diversity; Sierra Club; Sara Rubin, Monterey County Weekly; Tia Leberherz, Food and Water Watch; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Steve Craig; Planning File PLN140395

The following attachments are on file with the Clerk of the Board:

Attachment A-Project Discussion
Attachment B-Draft Board Resolution
Attachment C-Mitigated Negative Declaration
Attachment D-Errata to the Mitigated Negative Declaration
Attachment E-Public Comments
Attachment F-Notice of Appeal
Attachment G-Planning Commission Resolution No. 15-030