



# COUNTY OF HUMBOLDT

For the meeting of: 12/3/2024

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File #: 24-1533

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Time Certain Matter

**Vote Requirement:** Majority

**SUBJECT:**

10:30 AM - Revocation of a Conditional Use Permit for Kernan Construction for a Rock Aggregate Processing and Materials Storage and Handling Yard Facility

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the permit holder and testimony from the public; and
2. Close the public hearing; and
3. Adopt the resolution (Attachment 1) which does the following:
  - a. Finds that the permit has been exercised contrary to the terms or conditions of approval; and
  - b. Finds that the permit has been exercised in violation of the Humboldt County Code; and
  - c. Finds that the use for which the permit was granted is so conducted as to be a nuisance; and
  - d. Modifies the Conditional Use Permit to eliminate use of the northern yard area pursuant to Section 312-14 of the Humboldt County Code; and
  - e. Adds conditions related to noise and operating outside of normal business hours.; and
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.

**STRATEGIC PLAN:**

This action supports the following areas of your Board's Strategic Plan.

Area of Focus: Safe & Healthy Communities  
Strategic Plan Category: 9999 - Core Services/Other

**DISCUSSION:**

**Executive Summary**

This revocation is asking the Board of Supervisors to consider modification of an approved Conditional Use Permit (CUP-00-27) for a rock aggregate processing and materials storage and handling yard. The permit has been exercised contrary to the terms and conditions of approval and in violation of the Humboldt County Code, and the use for which the permit was granted has been

conducted as to be a nuisance. The recommendation is to modify the permit to eliminate the use of the northern yard area, consisting of APNs 516-151-08 and 516-151-016, and add operational conditions related to noise, hours of operation and screening material moved onto the site and to require removal of unpermitted grading development and restoration of the areas disturbed.

Modification is recommended to strengthen and clarify the conditions of approval related to noise, hours of operation and material moved onto the site and to address the northern yard which has been the focus of community complaints and the location of construction of a water impoundment feature and berm without permits in violation of County Code.

**Project History**

The Conditional Use Permit/Special Permit (project) was approved by the Humboldt County Planning Commission on Aug. 16, 2001. Approval of the project was conditioned on terms and requirements which must be satisfied for the life of the project.

The subject property has been used for industrial purposes since at least the 1950's. In 1976 the Humboldt County Planning Commission (PC) approved Conditional Use Permit (CUP) CUP-212-76 to allow for construction of an additional steel building to house lumber sorting machinery for Cal-Pacific Manufacturing Company. In 1980 the PC approved CUP-45-80 to convert the existing lumber and sawmill operation to a log-salvaging and chipping facility for Blue Chip Milling Company, including improvements to the northern yard area (APN 516-151-016) for log storage, which had from 1 foot to several feet of river run rock applied to the surface over the years to facilitate the log and lumber storage and handling activities.

The approved project covers six APNs with activity mainly occurring in two areas referred to as the southern yard area ("Upper Area") (APN 516-141-017) and the northern yard area ("Lower Area") (APNs 516-151-008 and -016). The CUP includes development and operation of a rock products processing facility and a contractor's yard used for the parking and storage of construction materials, vehicles and equipment; for the transfer, storage and processing of building and construction debris and waste material for recycling; the siting and regular use of heavy construction equipment (loader, log trucks, backhoe extractor, dump trucks and trailers, flatbed trucks, water trucks) and rock crushing machinery; and office facilities for the new use, in the southern yard area (APN 516-141-017). The approved hours of operation are identified in the project description on the staff report as 7 am to 6 pm Monday through Friday, and 7 am to 5 pm on Saturdays.

A Special Permit (SP-00-65) was approved to address unpermitted filling of wetlands in the northern yard area (APNs 516-151-008, -016 and -017). The mitigation for this included creating new wetland areas to compensate for loss of wetland areas filled without permits and enhance the overall quality of the new wetland areas by excavating down through the old deck rock mantle to natural ground and planting native wetland plant species in the areas. The work was completed in accordance with an ACOE 404 Permit and a CDFG Wetland Mitigation and Riparian Buffer Mitigation Plan. The remaining yard was then permitted to be utilized for soil stockpiling and some material storage. The image below on the left is from 2004, shortly after the completion of most of the mitigation, and the image on the right is from 2023. Both the upper (southern) yard and the lower (northern) yard are visible and in use. The approved site plan shows this area vaguely at Soil/Gravel Yard (Attachment 3b.) In the image on the right an unpermitted stormwater impoundment feature can be clearly seen.



2004 Satellite Image

2023 Satellite Image

On Aug. 21, 2023, the Planning and Building Department received a complaint alleging that during

July 2023 loud heavy equipment was operating 24 hours a day and during weekends and that fugitive light was spilling offsite. On Aug. 28, 2023, the department sent a letter to Kernan stating that a complaint was received and reiterated the approved operating hours (Project Description: 7 am to 6 pm Monday through Friday, 7 am to 5 pm on Saturdays) and noise generation limits (COA B.6: noise generated by the operation shall not exceed 60 Ldn at nearby residential properties). The required action was to ensure the project is being operated in compliance with the approved days and hours and within the noise threshold, and failure to operate within these terms is a violation of the permit.

On Sept. 28, 2023, the department conducted a site inspection to follow up on the July 2023 complaint. It was confirmed that there was about a 3-week period during July 2023 when Kernan operated outside of the approved hours in order to provide gravel for the Indianola interchange project. During the inspection the department observed a stormwater impoundment feature in the northern yard area on APN 516-151-016 that was constructed during winter 2021-2022 without a grading permit, and a fence was constructed without approval along the northern boundary of APN 516-151-008. The fence is greater than 7 feet in height and is located within the required property setbacks, which would require both a building permit and a setback variance.

The stormwater impoundment feature was allegedly constructed to retain stormwater onsite following a civil enforcement action in 2020 brought against Kernan by Californians Against Toxics (CATs) for ongoing violations of the Clean Water Act (CWA) and the General Permit from Regional Water Quality Control Board (RWQCB) that governs industrial stormwater discharges in California. Kernan claims the site as a “no discharge” status under the CWA and General Permit, which means no stormwater would be discharged during storm events. The stormwater impoundment feature was constructed without agency consultation to determine effectiveness and there has been no evaluation of an engineered plan or the actual work to ensure the design is not likely to result in failure of the water impoundment releasing water into the creeks or surface.

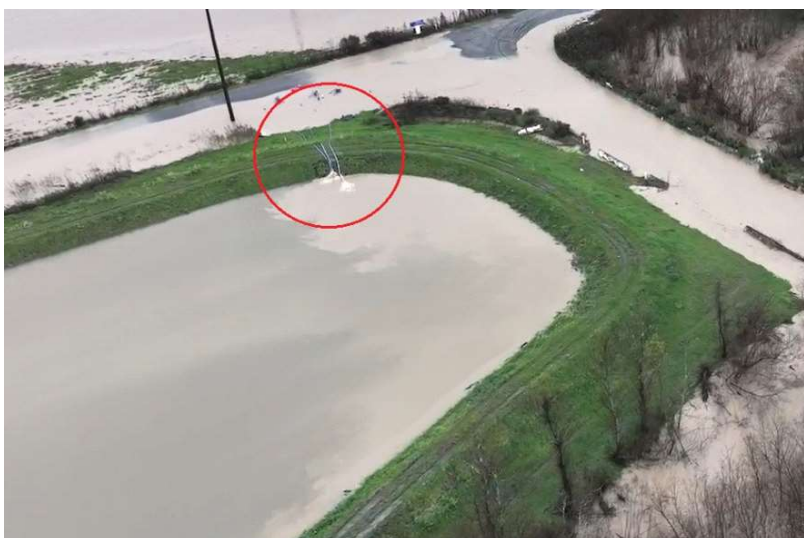
On Oct. 10, 2023, the department sent a letter to the permit holder advising that the permit is in violation for operating outside of the approved hours of operations (COA B.1: 7 am to 6 pm Monday through Friday, 7 am to 5 pm on Saturdays), unshielded lighting (COA B.5: all new and existing outdoor lighting shall be compatible with the existing settings and directed within the property boundaries), and for constructing the water impoundment feature and a boundary fence exceeding the allowed height in the northern yard area without permits. The corrective action was to work within the approved operating hours, shield the lighting, and submit a complete grading permit and variance permit application within 30 days, which would have been Nov. 10, 2023.

On Nov. 9, 2023, the department met with Kernan regarding the violations where they agreed to operate within the approved operating hours, submit an as-built building permit application for grading of the water impoundment feature, and submit an as-built building permit application for the fence and a planning application for the fence height Variance by Nov. 11, 2023. As of Nov. 7, 2024, a complete building permit application has not been submitted for the water impoundment feature or

the fence, although the variance application was submitted on March 25, 2024.

On Nov. 14, 2023, the department contacted Kernan and informed them that after the Nov. 9, 2023, meeting where Kernan agreed to limit the hours of operation, the department received additional complaints alleging work occurred outside of the approved hours on two additional occasions: Nov. 10, 2023, at 2:57 am and Nov. 12, 2023 (Sunday), at 1:10 pm. The letter reiterated the approved hours of operation, the need to shield exterior lighting, and the required actions for a complete building permit application for grading of the stormwater impoundment feature.

On Nov. 21, 2023, the department received a letter from Allison Jackson, attorney representing Kernan, which committed to resolving the operational concerns at the site. Kernan addressed the lighting issues and placed shielding on the offending lights. The hours of operation have largely been complied with. The county has continued to receive complaints about operations at night and on the weekends.



Throughout the winter of 2023 and 2024 the department received complaints of pumps running throughout the night and quad all-terrain vehicles accessing the property at all hours. These complaints are related to the unpermitted stormwater impoundment feature. The impoundment is not constructed to be gravity fed but requires stormwater to be pumped from the drainage channel on the south end of the lower yard into the impoundment. The image to the left shows a portion of the impoundment and pumps running to pump water from the lower yard area into the impoundment. These pumps have been run by generator power and were confirmed by staff to be audible at the residences on the north side of Glendale Drive.

The department has been holding routine meetings with concerned neighbors since early 2024. On Sept. 23, 2024, the department held a public meeting at Skinner Store in Blue Lake with concerned members of the public and representatives of Kernan Construction. The public was concerned about

violations of the CUP and about water quality and the impact the Kern operation was having on the fisheries in Hall Creek and Noisy Creek. A complaint was filed with the RWQCB who issued a notice of violation (NOV) to Kern on May 21, 2024. The NOV alleges that Kern violated the General Permit by discharging industrial stormwater from the site during significant rain events during January and February 2024. The community was interested to understand what was being done to address this issue. Kern's engineer presented grading of a berm to convey stormwater along the eastern and southern boundaries of APN 516-151-016 in the northern yard as a means of preventing flood waters from flowing across the Kern site. The proposed berm would be within the SMA. The department explained the importance of obtaining a permit prior to grading to allow an analysis of the impacts to the water surface elevation during a flood event. While the area along the northern side of the property is not technically within the Federal Emergency Management Agency (FEMA) floodplain, it did flood during 2024 rains. The purpose of the berm would be to redirect floodwaters. Modifying an area subject to flooding requires consideration of what impacts may occur from narrowing the area subject to flooding which could affect adjacent property and Glendale Road. Kern was instructed by the department to not do any work until it had applied for and received a permit for grading.

On Sept. 30, 2024, the department received a complaint that Kern was working in the northern yard area on Sunday, Sept. 30, 2024, during the afternoon. On Oct. 4, 7, 11, 12, 13, 14, 15, and 16, the department received complaints that grading was occurring along the eastern and southern boundaries of the northern yard area within the Streamside Management Area (SMA), and that riparian vegetation had been removed. The work reportedly also occurred past the approved hours of operation, after 11 pm on Oct. 16, 2024.

On Oct. 18, 2024, the department conducted a site inspection to follow up on the complaints about the grading in the northern yard area. It was confirmed that a flood control berm was constructed without grading permits in September - October 2024 and riparian vegetation was also removed. The images below show the new unpermitted berm and its location immediately adjacent to riparian vegetation associated with Noisy Creek. Additional images can be found in the Oct. 18, 2024, Inspection Report included as Attachment 6 to this staff report.

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The location of the berm is not in a location where stockpiling of material was contemplated or allowed and the berm was constructed as close as 10 feet from the top of bank of Noisy Creek, well within the SMA. The placement of a berm in an area subject to flooding without the benefit of a grading permit and without allowing the Floodplain Administrator to evaluate the impacts of placement berm in an area either subject to flooding poses a potential impact to public health, safety and welfare. This is considered a nuisance under the Humboldt County Code. Additionally, the placement of the berm has removed riparian vegetation, including riparian vegetation that was identified on the approved site plan along Glendale Drive and riparian vegetation within the Streamside Management Area was removed. In Figure 1 below, the yellow highlighted line shows the location of the new unpermitted berm and the stormwater impoundment feature overlaid on the approved site plan.

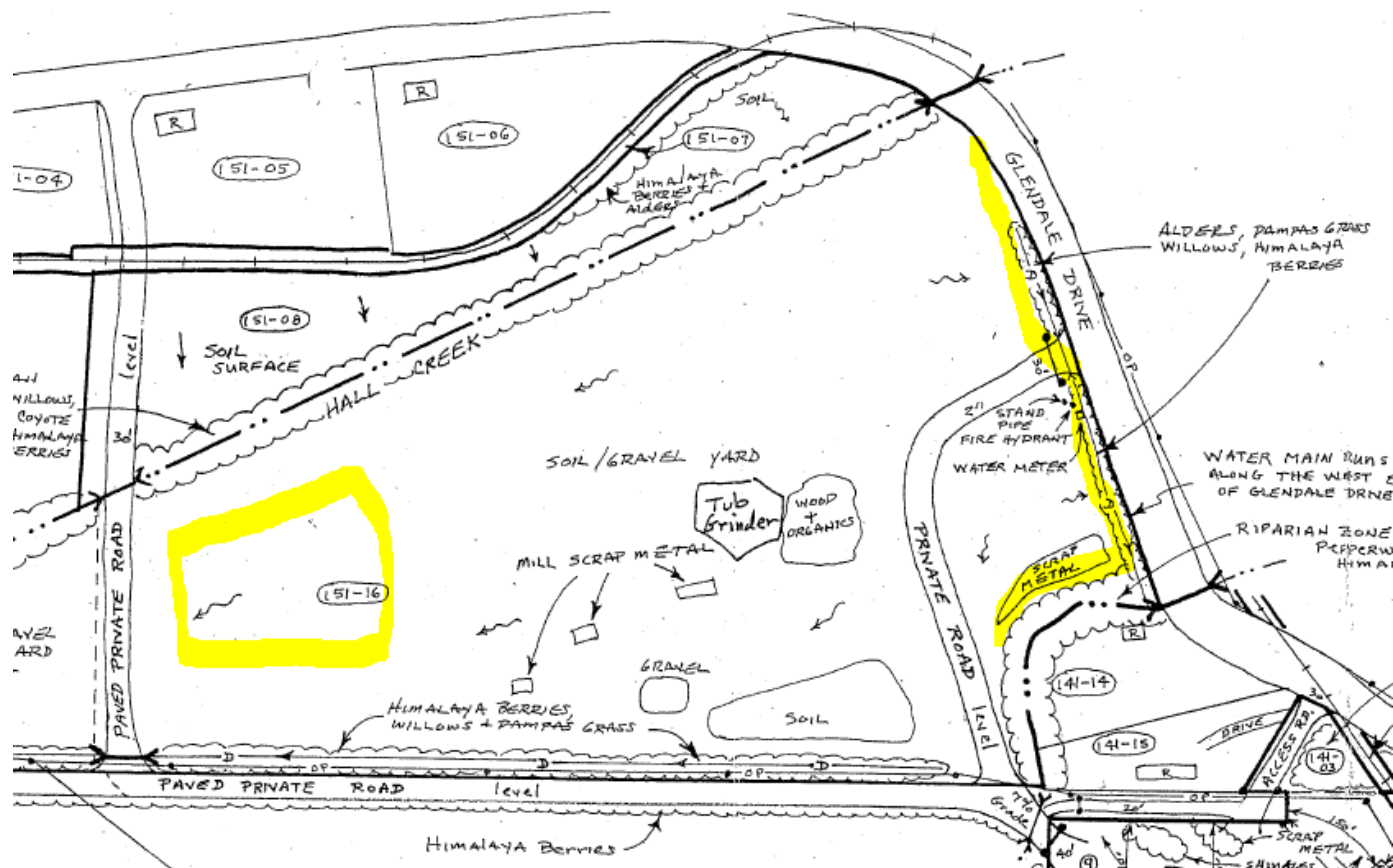


Figure 1 - Approved Site Plan with highlights added showing the unpermitted berm and stormwater impoundment feature.



The approved site plan called for the retention of the alders, willows and Himalayan berries presumably as a vegetative buffer to separate the use of the yard from Glendale Drive. Much of this area has now been removed. The image to the right shows that most of the vegetation and nearly all of the screening that did exist has been removed, leading to extensive views of the industrial

operation on the property from the public road. Unfortunately, because the unpermitted work was conducted without advance notice, county staff was not able to take photographs showing the extensive vegetation that had grown up in this area. The images below shows a 2011 Google Street View Image and an image from the same general location taken in November 2024. The red arrow denotes the same power pole in both images. It should be noted that the vegetation in this area had grown significantly between the 2011 Street View image and when it was removed for construction of the unpermitted berm.



2011 Google Street View

November 2024 Photograph

On Oct. 21, 2024, the department received a complaint, and a report was filed with the Sheriff's Office about noisy activity occurring after 8 pm on Oct. 15, 2024 in the Quonset hut in the southern yard area. According to the Sheriff Corporal who responded, he encountered Kernan workers in the large garage building (likely the Quanset hut) at approximately 8:30 pm. He noted that they appeared to be working on a large dump truck (Attachment 7). This activity was a violation of the hours of operation.

On Oct. 24, 2024, the department issued a Notice of Potential Conditional Use Permit Revocation to



the operator for the continued operation outside of the hours of operation, the ongoing grading in the northern yard, which also created a public nuisance, and included a Notice of Public Hearing for the Board of Supervisors meeting of Dec. 3, 2024.

On Nov. 8, 2024, Kernan Construction submitted a response, through their attorney, to the Notice of Potential Revocation (attachment 8). Kernan argues the following:

- 1) *Kernan indicates that a grading permit application was submitted in November 2023 and again on March 2024 and that the grading permit is still pending review and approval by the county.*

This is not accurate. While a submittal was made in November 2023 and again in March 2024, those application submittals were immediately rejected as incomplete. (See Attachments 9 and 10). A complete application for the grading permit was not submitted until November 8, 2024. The current grading permit application cannot be approved because it includes work within a Streamside Management Area, which requires approval of a Special Permit.

- 2) *Kernan indicates that the recently installed stormwater control berm is within the area encompassed by CUP-00-27 and associated grading permit #15818 and is in compliance with the NPDES Industrial General stormwater permit issued by the Regional Water Quality Control Board.*

This is not accurate. The berm is not in compliance with the approved site plan for CUP-00-27, which showed this area as retained vegetation. The berm was not included on the grading permit #15818, and the Regional Water Quality Control Board does not have the authority to issue or approve a grading permit in Humboldt County. Both the pond and the berm are permanent installations which retain or divert water and thus are different than dirt stockpiles. Both require permitting.

- 3) *Kernan argues that the hours of operation listed in the staff report for CUP-00-27 are incorrect, and that the submitted operations plan controls. Specifically, they argue that only materials handling and processing of rock aggregates are limited in hours of operation.*

The project description of the staff report identifies the hours of operation for the facility are 7 am to 6 pm weekdays and 7 am to 5 pm Saturdays, with reduced hours during winter months. This was the project description considered by the county Planning Commission during the approval of this permit, and Kernan has previously acknowledged these hours as applicable. The operations plan on the other hand only identifies that the hours of operation limit material handling and processing of rock aggregates. It is unclear why the project description in the staff report indicated hours of operation that the applicant says they did not agree to. Since this is not a condition of approval and there are not clear findings expressing that this was a consideration by the Planning Commission, there is question as to whether these hours are enforceable for anything other than materials handling. In the event the Board of Supervisors chooses to modify this permit, this is an

issue that should be addressed specifically in a condition of approval. That all activities other than in office activities, janitorial services and security have specific hours of operation as a condition of approval.

4) *Kernan argues that it is false that the berm is “in an area subject to flooding” which “poses a danger to the public health, safety and welfare.” They state that there is an approved FEMA elevation certificate showing the area above the Base Flood Elevation (BFE) and out of the floodplain.*

While Kernan states that the berm is outside of the mapped floodplain and above the BFE, the failure to submit for a grading permit prior to completing the work prevented the County Building Official and Floodplain Administrator from reviewing the to confirm this. If the berm does not redirect flood flows there is no purpose for the berm.



This is in an area subject to flooding, as seen in the flooding this last year. The image to the left shows the condition of the property on Jan. 13, 2024. Additional images of flooding on the property in January of 2024 are included as Attachment 11 to this staff report.

5. *Kernan argues that the hours of operation are not applicable (see #3 above) and that even if they were, the majority of complaints related to operating out of these hours were not substantiated after investigation.*

As evidenced by Attachment 5, the county received numerous complaints of working outside of the hours listed in the project description of the staff report. Most of these were in fact not able to be substantiated by staff. In response to many of the complaints staff reviewed the video footage the permit holder records and maintains of the yard area. Staff determined that some of the noise outside of the permitted hours of operation were from Eureka Ready Mix. Eureka Ready Mix also has limitations on their hours of operation, and they have modified their

schedules to operate within the allowed hours. There have been incidents of activities outside the hours of operation more recently. Kernan argues that since these were not related to materials handling, they are not actually violations. This reaffirms the need to modify the permit to have clarity on the hours of operation.

6. *Kernan argues that soil test results were submitted to the County showing the stockpile was clean and consistent with soils in the region.*

Condition of Approval B8 states that “The applicant operator shall have a screening program to ensure that hazardous, designated, contaminated soil or unauthorized wastes are not received. The program shall include screening criteria, laboratory testing by a certified lab when necessary, and record keeping. The program shall be designed and enforced to the satisfaction of the Division of Environmental Health.”

While a soil test was submitted on Aug. 23, 2024, this is the only such time a soil test was submitted to Humboldt County and is the only evidence of soil testing having occurred since the beginning of operation. Additionally, evidence of a screening program being in place was not submitted to the County until Nov. 7, 2024. Records of the material accepted since the beginning of operation have never been submitted to the county.

### **Grounds for Revocation**

Humboldt County Code Section 312-14.1 Grounds for Revocation states: A development permit or variance may be revoked or modified by the Board of Supervisors after a Public Hearing upon making certain findings. The following discussion identifies those findings and provides evidence as to why modification of the permit can be supported.

14.1.2 The permit or variance granted is being, or recently has been, exercised contrary to the terms and conditions of such approval, or in violation of any statute, Code section, law or regulation.

- a. The issuance of the Conditional Use Permit/Special Permit was conditioned on terms and requirements which must be satisfied for the life of the project.
- b. On Oct. 10, 2023 the permit holder was notified that the permit was being exercised outside of the approved days and hours of operation and lighting was installed in a manner violating the requirement to prevent lighting from spilling outside the project boundaries. The corrective action was to immediately operate in compliance with the approved days and hours of operation and shield the lighting. The lighting issue has been resolved. The hours of operation are not consistent with what is stated in the project description of the staff report. Given that they Permit Holder contends they did not agree to these hours and there is ambiguity as to how enforceable the hours of operation are,

this is not a violation that can be the basis for a revocation but should be addressed as part of a modification to the permit.

- c. On Oct. 10, 2023 the permit holder was notified that constructing a water impoundment feature on the northern yard without permits is a violation of County Code. The permit holder was given 30 days (Nov. 10, 2023) to submit for the necessary permit. A complete grading permit application was not submitted until Nov. 8, 2024, after the permit holder was notified, the permit was being scheduled for revocation. This is a violation of County Code and can be grounds for revocation or modification of the permit.
- d. On Oct. 10, 2023 the permit holder was notified that constructing a fence in excess of the allowed height on the northern yard without permits is a violation of County Code. The permit holder was given 30 days (Nov. 10, 2023) to submit for the necessary permit. The variance application was submitted on March 25, 2024. This application still needs action by the Planning Commission. This should not be grounds for revocation of the permit but is evidence of the permit holder's disregard for County Code requirements.
- e. In September - October 2024 an unpermitted berm was installed in the northern yard in a Streamside Management Area (SMA) and in an area previously supporting riparian vegetation. A complete application for the as-built grading was submitted November 8, 2024. Grading occurred within 10 feet of the top of bank of Noisy Creek. Per Section 314-61.1 of the Humboldt County Code, the setback from perennial streams is 100 feet, measured from the top of bank or edge of riparian vegetation, whichever is greater. The grading occurred at or within the edge of riparian vegetation which is within the SMA. This is a violation of County Code requiring a grading permit for this amount of grading and required a Special Permit for encroachment into the Streamside Management Area. This could be grounds for revocation or modification of the Conditional Use Permit.
- f. The permit holder contends that the need to install the retention pond without permit and to install the berm without permits is needed to address litigation associated with the site. If this is the case, that use of the site precludes the permit holder's ability to comply with state and county regulations, then perhaps a material stockpile and equipment storage yard is not an appropriate use of the site. The fact that the retention pond is not useful unless water is pumped into it indicates the design is not functional and has a potential for failure. This can support grounds to revoke or modify the permit.
- g. A screening program with testing and record keeping of imported soil and materials has not been submitted to the county, as required by Condition of Approval B8. While a soil test was submitted on Aug. 23, 2024, this is the only evidence submitted of any testing having been done for soil accepted on-site. A screening program was submitted on Nov. 7, 2024, however, to date no records of soil or material accepted by the facility has yet to



have been submitted to the county. The condition of approval has not been complied with and this is grounds for revocation or modification of the permit.

14.1.3 The use for which the permit or variance was granted is so conducted to be a nuisance.

- a. There is a history of making improvements to the northern yard area without obtaining permits.
  - i. The original application included a Special Permit for after the fact filling of wetlands. This resulted in the requirement for a mitigation plan to mitigate for the filled wetlands. The requirements for the mitigation plan have been fulfilled and this is not a violation, but the filling of wetlands without permits is the first evidence of the permit holder conducting activities in violation of County Code.
  - ii. The impoundment pond was constructed without permits. This pond is constructed with berms extending above the natural grade. Ponds constructed in this manner if not engineered and constructed correctly can fail and release impounded water. This pond has not gone through appropriate engineering review to ensure stability and has not been approved by the Regional Water Quality Control Board as an appropriate means of protecting water quality. Water is conveyed to the point by pumps powered by generators to pump water uphill into the pond. The pumps and generators run at all hours of the night and early morning and employees use quads to keep fuel in the generators running the pumps. The noise resulting from the generators and quads has caused disturbances to neighboring property owners, creating a public nuisance.
  - iii. The berm was constructed without permits and without the ability to determine the impact on flooding impacts and on the riparian vegetation in proximity to the berm and that which was removed. This has the potential to impact upstream and adjacent property owners as well as increased flooding on Glendale Drive.
- b. Riparian vegetation is a plant community with high habitat value, particularly as a migration corridor. The California Department of Fish and Wildlife expressed concern that CDFW was not aware of the nature or extent of the installed berm and have advocated for avoidance, minimization and mitigation (Attachment 14.)

**Recommended Action**

As noted above, Section 312-14.2 allows modification or revocation of a permit based upon making the findings addressed above. The issues involved in this situation relate to noise and hours of operation, lack of monitoring of the materials brought onto the site and the continued installation of improvements in the lower yard without the benefit of permits in the northern yard. Noise and hours of operation impacts can be addressed through modifications to the conditions of approval. The materials brought onto the site should be monitored and tested and there needs to be a protocol for that, particularly since this site is in proximity and drains to the water supply for much of Humboldt

County. This condition can be clarified to require annual reporting of the material brought onto the site.

The disregard for compliance with County Code required permitting is more complicated to address. As discussed above, the original permit was for after-the-fact filling of wetlands and more recently the pond and berm were installed without permits. Much of the community concern is related to the ongoing activity in the northern yard area. The primary recommendation by staff is to modify the permit to remove the unpermitted improvements in the northern yard and to discontinue this area as part of the approved permit. This would keep the southern yard and all the activities there part of the permit, but the use of the northern yard for equipment storage and stockpiling material would be discontinued. This would remove the need for the berm, because there would not be industrial activity on the northern yard and would address the generator and pump noise associated with pumping water into the pond. Northern yard would then not be a concern associated with industrial discharges.

An alternative to this would be to allow continued use of the northern yard, and to retain the pond, but to require the pumps to be converted to electricity, and to require the berm to be removed and relocated outside of where the previous riparian vegetation was located and further back from Noisy Creek. The berm should be clearly outside of the dripline of the vegetation along Noisy Creek. Maintaining the normal SMA does not protect existing riparian vegetation, but the thin band of riparian vegetation should be protected by moving the berm back. The riparian corridor removed along Glendale should be replaced. It is difficult to know if riparian vegetation can be re-established on a compacted berm. Removal of the berm and implementation of a revegetation plan would restore the riparian corridor. The berm could be moved back to separate water running off the industrial site from the riparian corridor which flows into Noisy Creek or directly into Noisy Creek.

It is recommended that the Board of Supervisors modify the permit as follows:

- a. Eliminate use of the northern yard, including removal of the existing stockpile, pond, and newly created berm.
- b. Add conditions for remediation of the northern yard area (COA A.2, 3, and 4),
- c. Modify the noise limitation to set a maximum noise threshold of 70 db (COA A.6) and
- d. Condition operating hours (COA A.5) (Attachment 4).

**SOURCE OF FUNDING:**

There is no identified funding source for this action. This is funded by the General Fund Contribution to department operations.

**FINANCIAL IMPACT:**

There is no identified funding source for this action. This is funded by the General Fund Contribution to department operations.

**OTHER AGENCY INVOLVEMENT:**

California Department of Fish and Wildlife  
State Water Resources Control Board

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

There are a range of alternatives available to the Board of Supervisors. The challenge is to tailor the action to the significance of the nuisance/permit violations. The following range of alternatives are presented for consideration:

- A. Revoke the Conditional Use Permit in its entirety. This is not recommended because Kernan Construction provides a valuable service to Humboldt County and most of the issues are related to the use of the northern (lower) yard or to issues that can be addressed with modified conditions.
- B. Modify the Conditional Use Permit to allow continued use of the northern yard but require removal and relocation of the berm in the northern yard and require the pumps to be connected to electricity and not run on generator power or be powered by non-electric engines. Conditions b, c and d above would also be included in this alternative. This alternative addresses the nuisance/violations associated with the Conditional Use Permit but allows the source of much of the community complaint to remain.
- C. Modify the Conditional Use Permit to include conditions b, c and d above, but make no other requirements. This alternative addresses the condition violations but does not address the nuisance impact associated with the permit holder's failure to obtain permits prior to doing work.
- D. Take no action on the Conditional Use Permit to modify or revoke. This alternative does not address the nuisance issues or the violations of the conditions of approval.

**ATTACHMENTS:**

Attachment 1: Draft Board Resolution

Exhibit A: Revised Conditions of Approval.

Attachment 2: Notice of Permit Revocation letter, October 24, 2024

Attachment 3: CUP-00-27 Original Conditions of Approval 8/16/2021

- a. Operations Plan
- b. Approved Site Plan
- c. Staff Report from 2001.

Attachment 4: Notice of Violation

Attachment 5: Table of Complaints Received

Attachment 6: October 18, 2024, Inspection Report

Attachment 7: Email from Corporal Joshua Boyer to Director John Ford

Attachment 8: Response to Notice of potential Conditional Use Permit Revocation dated November 8, 2024

Attachment 9: County Reply to Kernan Response to NOV dated November 14, 2023

Attachment 10: County reply to March Pre-Application submittal

Attachment 11: Images from January 13, 2024

Attachment 12: Submittal from Lynne Owens

Attachment 13 - Submittal by Linda Miller

Attachment 14 - CDFW comment

**PREVIOUS ACTION/REFERRAL:**

Meeting of: N/A

File No.: N/A