



Appeals Filed With The Delta Protection Commission Challenging Yolo County's Approval Of The Old Sugar Mill Project

By Kari E. Fisher

On November 3, 2006, two appeals were filed with the Delta Protection Commission challenging the October 24, 2006 decision of the Yolo County Board of Supervisors in approving the Old Sugar Mill Specific Plan and related actions. The appeals argue that the Old Sugar Mill project, located in Clarksburg, California, conflicts with the Delta Protection Act.

Background: History of the Old Sugar Mill Project

The Town of Clarksburg is located in the southeast portion of Yolo County along the Sacramento River. A sugar beet processing facility, at the Old Sugar Mill site, was established in Clarksburg during the 1930's and ceased operation in 1993. Recently, a portion of the site was converted into a winery that buys grapes from surrounding farmers.

The Old Sugar Mill Specific Plan proposes the redevelopment of the 105.4 acres of the old sugar beet processing site. Specifically, 28.2 acres would be allotted for residential development, adding 162 new homes to the town. In addition, the plan allows for 24.7 acres of commercial uses, 29.7 acres of industrial uses, 5.7 acres of public uses, 3.2 acres of waterfront, and 3.9 acres of roads. The Specific Plan proposes the improvement of infrastructure for the purpose of serving the Specific Plan area, including a water system for domestic and fire protection, a storm drainage system, and a wastewater treatment system. Prior to Yolo County's approval of the Specific Plan and subsequent rezoning of the property, the 105.4 acre subject site was zoned as M-2 (Heavy Industrial). That previous zoning designation precludes some uses proposed by the Old Sugar Mill Specific Plan, including residential development.

Background: History of the Delta Protection Act

In September of 1992, the California Legislature declared that it is the policy of the State to recognize, preserve, and protect the irreplaceable natural resources within the Sacramento-San Joaquin Delta for the use and enjoyment of current and future generations. Recognizing urban encroachment's potential to significantly impact Delta resources, including agriculture, wildlife habitat, and recreation uses, the Delta Protection Act was adopted. The Act includes mandates for the designation of primary and secondary zones within the legal Delta, the creation of a Delta Protection Commission, and the completion of a Land Use and Resource Management Plan for the Primary Zone. The Commission's main goal is to preserve and enhance the overall quality of the Delta environment for agriculture, wildlife habitat, and recreational activities. The Commission works with local communities and governments, striving to protect existing land uses in the primary zone through balanced planning and continued implementation of the Resource Management Plan. The Commission's jurisdiction is limited to areas within the primary zone of the Delta and includes portions of five counties—Solano, Yolo, Sacramento, San Joaquin, and Contra Costa. In accordance with the Act, these local government's general plans are to provide for consistency with the provisions of the Resource Management Plan.

The Commission has the authority to hear appeals regarding land located exclusively within the primary zone, which allege that a local government's action is inconsistent with the Commission's Resource Management

Plan, those portions of the local government's general plan that implement the Resource Management Plan, or other portions of the Delta Protection Act. Prior to the current appeals, the Commission has exercised its appellate review powers only once in its 14-year history. Under the Delta Protection Act and the Commission's applicable regulations (Cal. Code Regs., tit. 14, § 20000 et. seq) the Commission hears appeals in two sequential phases. The Commission first determines whether the matter falls within its jurisdiction and whether it raises an appealable issue. If a majority of Commissioners determine that the matter raises an appealable issue within its jurisdiction, the Commission will then hear the appeal on its merits.

The Appeals

Ten days after the Yolo County Board of Supervisors approved the Old Sugar Mill Specific Plan, the Natural Resources Defense Council and the Concerned Citizens of Clarksburg each filed an appeal with the Commission. Both appeals claim Yolo County's approval of the Old Sugar Mill Specific Plan violates state laws meant to protect the Delta. A key point of contention is whether the Specific Plan project site is located within the "primary zone" of the Delta. The "primary zone" was established by the Delta Protection Act to protect farmland and wildlife habitat and to minimize urbanization and intrusion by nonagricultural uses. Both appeals allege the project is located within the "primary zone" of the Delta and, therefore, subject to the Commission's appellate review authority. Yolo County and the developer, Clarksburg Investment Partners, claim the project is outside the primary zone. They also claim the project does



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not qualify as "development" because the project conserves agricultural land and ecological resources through the redevelopment of infill. On November 16, 2006, the Commission ruled that the project is development within the primary zone and, therefore, within the Commission appellate review authority. The merits of the appeals allege the project is inconsistent with certain provisions of the Resources Management Plan. The appeals assert that the Resources Management Plan prohibits any new sewage treatment facilities within the primary zone and thus the Specific

Plan's proposed new residential wastewater treatment and disposal facilities are in direct conflict with the Resources Management Plan. Additionally, the appeals allege the Specific Plan is inconsistent with the Resources Management Plan since current infrastructure and levee protection may not adequately support the proposed residential development.

Conclusion and Implications

The Commission is scheduled to meet and rule on the merits of the appeals at its January 25, 2007 meeting. The decision will be an

important test of the Commission's powers as urban development continues to encroach the Delta from all sides. If the Commission finds the project conflicts with the Delta Protection Act, it will tell Yolo County how to correct those deficiencies. The Commission's findings will stay in effect until addressed and resolved. In the meantime, Yolo County is under Commission orders to halt further progress and development of the Old Sugar Mill project.