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SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF PLACER

MEADOW VISTA PROTECTION,

Petitioner and Plaintiff,

v.

CHEVREAUX AGGREGATES, INC.;  
COUNTY OF PLACER; COUNTY OF  
PLACER PLANNING DEPARTMENT;  
and DOES 1 through 50, inclusive,

Respondents and Defendants.

Case No.: SCV 19614

Complaint Filed: 7/12/06

PLAINTIFF MEADOW VISTA  
PROTECTION'S OBJECTIONS  
TO EVIDENCE

Date: 5/15/07

Time: 8:30 a.m.

Dept.: 4

Judge: The Hon. Charles D. Wachob

Plaintiff Meadow Vista Protection (MVP) hereby objects to the following evidence proffered by Defendant Chevreaux Aggregates, Inc. (Defendant) in support of its Opposition to MVP's Motion for Summary Adjudication, in addition to its separately filed Objections to Request for Judicial Notice, which is incorporated herein by reference.

**1. Declaration of Louis H. Merzario, Jr.**

A. MVP objects to the entirety of the Merzario Declaration (a copy of which is attached hereto as Exhibit 1) on the ground that it does not "show affirmatively that the affiant is competent to testify to the matter stated" in the declaration, as required by C.C.P. §473c(d).

B. MVP further objects to Page 3, Lines 5-9 of the Merzario Declaration, which

1 contains the following language:

2                   “It is my declaration that the permitting of an asphalt plant  
3                   at the Chevreux mine site in Placer County was  
4                   appropriate as an accessory use to the surface mining  
5                   operation permitted under LD-1030, and is still a permitted  
6                   use today. I further declare that this was true at the time of  
7                   the original permit action, pursuant to the requirements of  
8                   the Placer County Zoning Ordinance, circa March 1964.”

9 MVP objects to the foregoing portion of the Merzario Declaration on the grounds that it  
10 constitutes a legal conclusion; constitutes hearsay; is of insufficient foundation; and is  
11 speculative.

12           C.       MVP further objects to the entirety of Paragraph 4 of the Merzario Declaration  
13 (Pages 3-6), on the grounds that it constitutes a legal conclusion; constitutes hearsay; and is of  
14 insufficient foundation. Mr. Merzario’s purported quotation of portions of the State Mining and  
15 Geology Board (SMGB) Guidelines for Classification and Designation of Mineral Lands is  
16 objectionable in that the full Guidelines are not attached as an exhibit to the Declaration. MVP  
17 further specifically objects to Page 6, Lines 9-11 of the Merzario Declaration of the ground that  
18 it is vague and ambiguous as to the term “Chevreux project.” MVP further objects to the  
19 entirety of Paragraph 4 of the Merzario Declaration in that it is irrelevant and immaterial to the  
20 issue presented in the Motion for Summary Adjudication, and is speculative. Specifically,  
21 nothing in Paragraph 4 of the Merzario Declaration establishes that either the SMGB or the  
22 County of Placer defined an asphalt plant as a “commercial mining operation.”

23           D.       MVP further objects to the following portion of the Merzario Declaration, at Page  
24 6, Lines 12-14:

25                   “Since 1947, an asphalt plant has been operating on the site  
26                   of the present Chevreux gravel dredging and quarrying  
27                   operations in Meadow Vista.”

28 MVP objects to this portion of the Merzario Declaration on the grounds that Mr. Merzario has no  
personal knowledge of the operations of Defendant since 1947. MVP further objects on the  
ground that it constitutes speculation.

1 E. MVP further objects to the following portion of the Merzario Declaration, which  
2 appears at Page 7, Lines 25-28:

3 “. . . is in fact an accessory use to the surface mining  
4 operation. Therefore, LDA-786, although permitted under  
5 its own land use entitlement, is an accessory use to the  
6 surface mining operation approved under LD-1030.”

6 MVP objects to the foregoing portion of the Merzario Declaration on the grounds that it  
7 constitutes a legal conclusion; is of insufficient foundation; and is speculative.

8 F. MVP further objects to the following portion of the Merzario Declaration at Page  
9 8, Lines 5-6: “However, these are actually accessory uses to the permitted surface mining  
10 operation, not stand-alone operations.” MVP objects to this portion of the Merzario Declaration  
11 on the grounds that it constitutes a legal conclusion; is of insufficient foundation; and is  
12 speculative.

13 G. MVP further objects to Page 8, Lines 7-27 through Page 9, Lines 1-12 of the  
14 Merzario Declaration on the grounds that it is irrelevant and immaterial to the issues presented in  
15 the Motion for Summary Adjudication; is of insufficient foundation; and constitutes hearsay.

16 H. MVP further objects to following portion of the Merzario Declaration at Page 9,  
17 Lines 13-14: “By way of these examples, it is clear that LDA-786 can be defined as an  
18 accessory use to the surface mining permitted under LD-1030.” MVP objects to this portion of  
19 the Merzario Declaration on the grounds that it constitutes a legal conclusion; is of insufficient  
20 foundation; and is speculative.

21 I. MVP further objects to Page 9, Lines 19-26 of the Merzario Declaration on the  
22 grounds that it constitutes a legal conclusion; is of insufficient foundation; and is speculative.

23 J. MVP further objects to Page 9, Lines 26-28 through Page 10, Lines 1-3 of the  
24 Merzario Declaration on the grounds that it constitutes hearsay and is of insufficient foundation.

25 K. MVP further objects to Page 10, Lines 4-14 of the Merzario Declaration on the  
26 grounds that it constitutes a legal conclusion and is of insufficient foundation.

27 L. MVP further objects to the Merzario Declaration at Page 10, Lines 20-28 through  
28 Page 11, Lines 1-21 on the grounds that it is of insufficient foundation, and is irrelevant and

1 immaterial to the issue presented in the Motion for Summary Adjudication.

2 M. MVP further objects to the Merzario Declaration at Page 11, Line 28 through  
3 Page 12, Lines 1-10 on the grounds that it constitutes hearsay and is of insufficient foundation.

4 N. MVP further objects to the Merzario Declaration at Page 12, Lines 18-19 and  
5 Page 12, Lines 23-25 on the grounds that it constitutes a legal conclusion and is of insufficient  
6 foundation.

7 O. MVP further objects to the Merzario Declaration at Page 12, Lines 26-27 through  
8 Page 13, Lines 1-4 on the grounds that it constitutes hearsay and is of insufficient foundation.

9 **2. Declaration of Michael E. Fleming**

10 A. MVP objects to the entirety of the Fleming Declaration (a copy of which is  
11 attached hereto as Exhibit 2) on the ground that it does not “show affirmatively that the affiant is  
12 competent to testify to the matter stated” in the declaration, as required by C.C.P. §473c(d).

13 **3. Declaration of Bill Combs**

14 A. MVP objects to the entirety of the Combs Declaration (a copy of which is  
15 attached hereto as Exhibit 3) on the ground that it does not “show affirmatively that the affiant is  
16 competent to testify to the matter stated” in the declaration, as required by C.C.P. §473c(d).

17 B. MVP further objects to the following portion of the Combs Declaration at Page 1,  
18 Lines 26-27: “Classified as official records in my custody. . .” MVP objects to the foregoing  
19 portion of the Combs Declaration on the grounds that it constitutes a legal conclusion and is of  
20 insufficient foundation.

21 **4. Declaration of Judy Simpson**

22 A. MVP objects to the entirety of the Simpson Declaration (a copy of which is  
23 attached hereto as Exhibit 4) on the ground that it does not “show affirmatively that the affiant is  
24 competent to testify to the matter stated” in the declaration, as required by C.C.P. §473c(d).

25 B. MVP further objects to the following portion of the Simpson Declaration at Page  
26 2, Lines 7-9: “. . . Chevreaux commenced its surface mining operations on the Property, which  
27 have been ongoing and continuous since that time. Chevreaux’s surface mining operations are  
28 comprised of the activities depicted on Exhibit 10 of the Fleming Dec.” MVP objects to the

1 foregoing portion of the Simpson Declaration on the grounds that it is vague and ambiguous as  
2 to “surface mining operations;” constitutes a legal conclusion that asphalt plant operations are a  
3 component of “surface mining operations;” constitutes speculation; is of insufficient foundation;  
4 and constitutes hearsay.

5 C. MVP further objects to the following portion of the Simpson Declaration on Page  
6 3, Lines 1-2: “. . . the County had independently determined that Chevreaux’s operations had  
7 made large expenditures of funds in support of the operation.” MVP objects to the foregoing  
8 portion of the Simpson Declaration on the grounds that it constitutes hearsay; is of insufficient  
9 foundation; and is speculative.

10 **5. Declaration of Brigit Barnes**

11 A. MVP objects to the entirety of the Barnes Declaration (a copy of which is  
12 attached hereto as Exhibit 5) on the ground that it does not “show affirmatively that the affiant is  
13 competent to testify to the matter stated” in the declaration, as required by C.C.P. §473c(d).

14 B. MVP further objects to the Barnes Declaration at Page 2, Lines 7-12 on the  
15 ground that it constitutes hearsay; is speculative; and is of insufficient foundation.

16 DATED: May 10, 2007.

17 Respectfully submitted,

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19 RONALD A. ZUMBRUN  
20 TIMOTHY V. KASSOUNI  
21 ANGELA C. THOMPSON  
22 THE ZUMBRUN LAW FIRM

23 By \_\_\_\_\_  
24 TIMOTHY V. KASSOUNI  
25 Attorneys for Plaintiff Meadow Vista Protection  
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