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Good deal or slippery slope?

Contentious quarry proposal's habitat plan comes before county supervisors Tuesday

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Near Two Rock Valley, small wooden signs with the message "Protected Forever" stand along cattle-dotted hillsides that make up Sonoma County's long-tenured dairy belt.

County taxpayers have poured millions of dollars into preventing development on about 2,000 acres of private rangeland here.

Evidence of that effort is visible in all directions. Open fields stretch down dirt roads, past aging barns and out toward the windswept coast. The public agency behind the work, the 20-year-old Agricultural Preservation and Open Space District, erected the signs to tout those results.

But a complicated land deal that comes before the Board of Supervisors on Tuesday could test that track record, and, some say, undermine land conservation efforts across the county.

Under a proposal by the owner of a 70-acre rock quarry tentatively approved for the area, about 105 acres of adjacent, county-protected farmland owned by a local dairy family would be used to partly replace habitat for two rare amphibian species that would be impacted by the quarry.

At issue is whether such an effort would compromise the permanency of conservation agreements with private property owners and affect how they can use their land. In addition, it raises the question whether a private developer should be able to satisfy habitat replacement requirements without adding new protected lands.

The developer, former North Bay Construction owner John Barella, defends the deal by pointing to past instances where the county has allowed habitat mitigation on county-protected farmland.

If anything, Barella and his supporters say, it would add protection by creating more natural habitat and limit agricultural use to grazing.

"I feel I'm enhancing the property," Barella said. "People ought to be proud we're



JOHN BURGESS/PD

Kathy and Joe Tresch, right, with daughters Lindsay, left, and Lydia, own a 2,000-acre dairy off Walker Road, near where neighbor John Barella proposes to build a quarry. Despite an earlier agreement with Barella to support the quarry, Kathy Tresch is now speaking out against its habitat mitigation proposal.

doing that.”

But a number of dairy-belt landowners, land conservation supporters, agriculture leaders and environmentalists oppose the proposal.

Some, including a group of quarry neighbors, have objected to the quarry because of concerns about potential air and water pollution.

Now, others, some of whom actually support the rock project, say the habitat proposal risks tampering with land protection agreements — known as conservation easements — and opens up a taxpayer-protected property for the benefit of a private developer.

If his proposal is approved, based on figures provided by mitigation experts, Barella could save between \$5 million and \$15 million, money he might otherwise have to spend on suitable land or more costly “habitat credits” elsewhere.

Barella has disputed those numbers, saying he owns other land that could be used if his proposal is turned down.

But some opponents say the potential savings smack of a sweetheart deal with the county that muddies the purpose of taxpayer-funded land conservation.

“It really is a slippery slope. Permanent conservation is always up for negotiation if something else were to come along,” said David Katz, former executive director of the Sonoma Land Trust, which has weighed in against the proposal.

Land conservation leaders from around the Bay Area and state also warned of the perils behind such proposals, which they said are increasingly common for public open space districts.

“You open up a good reason for public doubt in the whole process,” said Huey Johnson, a founder and former president of the Trust for Public Land who served as California’s Secretary of Resources under then Gov. Jerry Brown in the late 1970s and early 1980s. “The little steps begin to be big steps. And eventually they become highways. And I wouldn’t want to be at the beginning of that tradition if I were the supervisors.”

BACK TO SUPERVISORS

The politically charged issue, which county supervisors have twice put off for lack of consensus and information, returns to the board Tuesday with a number of questions still unresolved.

The biggest of those is that even if supervisors approve Barella’s deal — and there are number of ways they could do that — there is still no guarantee that the two state and federal resource agencies that would oversee the deal will sign off. Both have declined the county’s request to provide input before Tuesday’s hearing, saying they must wait to see Barella’s formal application, which won’t be ready until spring.

Officials with the California Department of Fish and Game, one of the agencies, acknowledged last week that they generally do not favor private mitigation projects using already-protected land.

The item also returns in the waning weeks of a board term marked by decisions in favor of three controversial industrial projects — an asphalt plant south of Petaluma, a Russian River gravel mine near Geyserville and Barella’s quarry off Roblar Road west of Cotati.

The quarry, like the asphalt plant, was endorsed on a 3-2 straw vote. Supervisors were split over how best to generate local sources of construction material and jobs

in the face of environmental concerns.

Outgoing supervisor Mike Kerns, who represents the area slated for the quarry, and north county Supervisor Paul Kelley, who also is stepping down at the end of this year, formed the core voting block in favor of those projects. Both have voiced support for Barella's proposal.

Kerns especially has battled against allegations that he is rushing the deal through before his term ends. The Open Space District's citizens' advisory committee has asked for more time to complete a draft policy that could guide the decision.

Kerns last week accused the advisory committee of "sticking their nose into our area" and blasted allegations of any rush to approve the proposal.

"John Barella has been working on this project for seven years," he said. "Stop and think about this. A mitigation area. What is it? It's open space. It's allowing agriculture and protecting endangered species. I don't think this is that big an issue. For someone to say that we're risking support for the Open Space District because of this ... that is ridiculous. Not only is it ridiculous, it's stupid."

Swing votes could include board Chairwoman Valerie Brown, who backed the quarry, and Supervisor Efred Carrillo, who voted for the asphalt plant.

Brown said she supports allowing mitigation on county-protected land. But both she and Carrillo said last week that they were undecided on Barella's proposal. In the preliminary October vote on the quarry, they joined Supervisor Shirlee Zane in turning down a separate proposal that would have used four acres of the same protected farmland adjacent to the quarry for a haul road.

Development interests and a local trade union that supported the quarry and the other industrial projects all continue to back Barella's proposal.

But beyond that, some of the county's usual political alliances between development and agriculture have shifted over the nuanced questions before supervisors this week: whether taxpayer-protected farmland should be opened up for quarry mitigation and a conservation agreement changed or reinterpreted to allow for that use.

AGRICULTURE OPPOSITION

Some dairy-belt landowners who say they would usually steer clear of political disputes are speaking out against any tampering with conservation easements.

Dean Marty, who boasts of being the first rancher in the county to sell the Open Space District development rights — in his case 225 acres of pasture land near the Cotati grade — said he sought out the deal for its permanence.

"I was told that even when I pass away, or if I sell the ranch, that that's the way it's going to be forever," said Marty, 81. "I thought a deal was a deal. But the Board of Supervisors, they tell me, can override that. That's why I'm concerned."

Opinion among farmers remains mixed. Santa Rosa dairyman Doug Beretta and Rohnert Park rancher Stan Poncia both have written to supervisors in support of allowing mitigation on protected ag lands, although neither addressed Barella's proposal.

Others who are against it have a more personal stake.

Joe and Kathy Tresch own a 2,000-acre dairy ranch off Walker Road, just south of the proposed quarry. About 370 acres of the ranch are covered by the same easement that governs their neighbor's 388-acre property, part of which Barella

hopes to use for mitigation.

Barella used to own both properties, and he sold the conservation easement on them to the county for \$2.3 million. They were divided and sold in 2004 — one to the Tresches, the other to Ken and Clairette Wilson, co-owners of the Diamond W Dairy — with one big condition, Kathy Tresch said. Both families had to agree not to oppose the quarry.

The Wilsons have declined requests for an interview and have not spoken in any public forum on the quarry or the mitigation deal.

Kathy Tresch said her family also has followed the agreement.

But because any change or reinterpretation of their easement to allow for mitigation on the Wilson property could affect her family's land, possibly limiting the types of farming they can pursue, she is speaking out now against the proposal.

Her family's opposition is important. It could force supervisors, if they give approval, to go against the recommendation of staff at the Open Space District and the county's legal office and settle on a path that is less defensible in court.

Kathy Tresch said her stand is for the good of her family.

“If our children want to put in vineyards in the future, I want them to be able to do that,” she said, standing atop green hills overlooking the family's spread. Because of the proposal, she added, “at this point I feel like the land that is not covered by an open space easement is more protected than that which is covered. And that's not how I want to feel about the Open Space District.”

Other ranchers and local ag leaders echoed those concerns.

“Maintaining the integrity of the contracts or easements that have been established is extremely important,” said Lex McCorvey, executive director of the Sonoma County Farm Bureau. Farms need flexibility to change their operations, he said, and additional restrictions for habitat inhibit that. “It would make the ag community uneasy. It ought to make the community as a whole uneasy.”

NO 'FREE RIDE'

Barella and his supporters say the significance of the mitigation proposal has been overblown by quarry opponents who want to kill his project.

Replacing habitat for the endangered California tiger salamander and threatened California red-legged frog onsite — on 105 acres of Wilson property and an additional 130 acres Barella owns around the quarry — makes better biological sense than doing it elsewhere, they say.

No money is currently in it for the Wilsons, Barella insists. And if approved, Barella would still have to pay several hundred thousand dollars for habitat improvements and more than \$3 million for a permanent endowment fund to oversee those, his biologist estimated.

To sweeten the deal for the county, Barella also has offered to donate the entire 200-acre quarry property to the district — the 70-acre quarry site after the \$60 million project runs its estimated 20-year life-span — and a conservation easement on his 244-acre ranch on the Petaluma River.

“What is that worth?” said Barella. “We are not getting a free ride. We're protecting endangered species. They ought to be happy about that. (But) quarry opponents are using anything they can to stop the project. That is the issue.”

Open Space District staff disagree with Barella that a precedent exists for his type of proposal. In the three cases where staff say supervisors have changed or reinterpreted farmland easements to allow for mitigation, each of those original agreements was less strict than the one covering the Wilson and Tresch properties, staff said.

District manager Bill Keene has advised supervisors that approval of the deal could possibly set a new policy precedent.

Unfazed, Kerns called the proposal a “no brainer.”

“When we make decisions, we are making policy. That's what we do,” he said. “And I believe this is a policy that should be set.”

But a “yes” vote brings risks, land conservationists said

“Generally, this is not what voters had in mind” when they approved open space districts, said Darla Guenzler, an expert on land conservation policy and executive director of the California Council of Land Trusts.

“I think it is dangerous for the future of the district,” said Ted Eliot, a Sonoma resident who co-chaired the 2006 ballot initiative that voters passed by a 75 percent margin to reauthorize the district. “This would be a great blow to the confidence of the people in this district.”

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