



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT

3015 H Street • Eureka CA 95501
Phone: (707) 445-7541 • Fax: (707) 268-3792

November 14, 2023

Kernen Construction
Yolynn St. John
PO Box 1340
Blue Lake, CA 95525

RE: Notice of Violation (NOV) letter of 10/11/2023
Kernen Construction yard, 2350 Glendale Dr., APN 516-141-017 et. al.
Conditional Use Permit/Special Permit (CUP-00-27/SP-00-65) and Modification to CUP
(CUP-00-27M)

Dear Yolynn,

Thank you for the thoughtful response in your letter dated 11/10/2023 which responded to the subject NOV letter of 10/11/2023. The Planning and Building Department (Department) is not in agreement with your letter and will explain why below. We were surprised with your approach as that was not what we discussed during our meeting of 11/9/2023 at the Department. We remain in a place where actions still need to be addressed, and we will discuss those by basic areas of concern: hours of operation, lighting, and unpermitted grading.

Hours of Operation

We understand from your letter that Kernen interprets the Modification to the CUP as not modifying the existing operation which would mean that the 2006 Conditions of Approval (COA) for hours of operation would not apply. Based on the fact that there are COAs that apply to the existing operation we must interpret the COA to apply to the whole of the site operation. COA for the CUP Modification which do not apply to the building expansion include B.1 limiting hauling along public roads to "legal loads", B.3 prohibits blasting on the project site, and B.4 requires all new and existing outdoor lighting to be compatible with the existing setting and directed within the property boundaries. Given these three conditions specifically address ongoing operations not only the additional building being proposed clearly the modification addressed more than just the building.

As a result, the hours of operation in the modification do apply to the permitted operation. The hours of operation that do apply are limited to between 7:00 am and 5:00 pm on weekdays and occasional Saturdays. No operations on Sundays or national holidays.

It must also be understood that even if we accepted your interpretation as described in your letter about the modification, the project description for the original 2002 permit included a limitation on the hours of operation, which are 7:00 am-6:00 pm weekdays and 7:00 am-5:00 pm Saturdays, with reduced hours during winter months. Further in the executive summary of this same permit, the hours are again specified with respect to activities associated with the facility. Either way, the limited hours of operation are undisputable.

Even after our meeting where we agreed to limit the hours of operation the Department received additional complaints alleging Kernen was working outside of the approved hours on two additional occasions: 11/10 at 2:57 am and 11/12 at 1:10 pm (Sunday).

Your letter puts us in a different place than I recall. I recall we were going to enforce the 2006 condition including the hours of operation. Currently it appears from complaints and your letter that Kernan is still violating the 2002 and 2006 permits with respect to hours of operation.

Required Action

Operations of the site outside of the approved hours must stop immediately. This means the operations at the facility must be conducted during the approved hours in the modification which are between 7:00 am and 5:00 pm on weekdays and occasional Saturdays. No operations on Sundays or national holidays.

Lighting

Your letter states that the lights are shielded, but we have received additional lighting complaints. The Department needs to visit the site to see the effectiveness of the shielding you recently installed. The conditions of approval in the modification and the original permit both have the same requirement, which is "*All new and existing lighting shall be compatible with the existing setting and directed within the property boundaries (CUP/SP COA B.5, CUP Mod COA B.4).*"

Required Action

Contact the Department to schedule a site visit during dark hours to confirm shielding is effective at meeting the COAs.

Unpermitted grading of pond

The Department received the as-built grading plan application on the Planning Application Form, which is the incorrect form. The Building Division would issue the grading permit, so a Building Permit Application for the pond needs to be submitted. Also, the filing fees were not included with the e-mail submittal, so the applications are still incomplete. Once the fees are paid, and the correct forms are completed and submitted, the Department will review the applications for completeness. For the grading permit to be approved, it will require a Special Permit to perform this work in the streamside management area. This Special Permit submission should include any biological studies or wetland determinations that have already been done in your previous work with the Water Boards and the Department of Fish and Wildlife.

The building permit application for the fence was received on 10/13/2023 on the correct form as requested.

Required Actions

- Submit completed Building Permit Application and filing fee of \$560.00 for the grading permit for the pond.
- Submit Planning Deposit of \$4,128.50 for Special Permit for the pond/work within the SMA, as shown on backside of the Planning Application Form.
- Submit building permit filing fee of \$560.00 for the fence.

Summary

To reiterate what we discussed in our meeting last week it is vitally important that Kernan immediately and continually comply with the terms of the existing permit.

Please recall that we also discussed that you may apply for another modification of your permit

if the current hours do not meet your current needs for operations. As you accurately pointed out, this would require a public hearing in front of the Planning Commission for their approval of a modification. I am happy to work with you on such a modification should you choose to pursue that as an additional action outside of those listed in this letter.

Failure to immediately operate within the approved hours of operation will put the Department in the position where additional actions will be needed to respond to ongoing noncompliance which could result in a permit revocation hearing before the Board of Supervisors to address the ongoing issues.

If you have questions about this letter, please contact me at (707) 268-3779 or at jdorris@co.humboldt.ca.us.

Thank you,

A handwritten signature in blue ink that reads "Joshua Dorris". The signature is written in a cursive, flowing style.

Joshua Dorris
Senior Planner

Enc:
Staff Report CUP-00-27/SP-00-65
Staff Report CUP-00-27M