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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

STANLEY SWENSON, an individual,  
Plaintiff,  
v.  
SISKIYOU COUNTY, et al.  
Defendants.

Civ. No. 2:08-CV-1675-JAM-CMK

FINAL PRETRIAL ORDER

On, September 17, 2015, the court conducted a final pretrial conference. Mark Fickes appeared for the plaintiff, Stanley Swenson; Robert Chalfant and Wendy Motooka appeared for defendants Siskiyou County, Siskiyou County Planning Commission, Lavada Erickson, Frank Demarco, Bill Hoy, Marcia Armstrong, Jim Cook, Ron Stevens, Jeff Fowle, Chris Lazaris, and Mike McMahon. After hearing, and good cause appearing, the court makes the following findings and orders:

JURISDICTION/VENUE

Jurisdiction is predicated on 28 U.S.C. Sections 1331, 1343 and 42 U.S.C. Section 1983. Venue is proper under 28 U.S.C. Section 1391. Jurisdiction and venue are not contested.

JURY/NON-JURY

The parties agree that timely demand for a jury trial was made, and that twelve (12) jurors will be impaneled.

1 UNDISPUTED FACTS

2 A. A use permit (the "Use Permit") was issued on August 3, 1966 to C. O. Palmer,  
3 Jr., on property owned then by Mrs. Lucille Morgan.

4 B. The real property subject to the Use Permit was subsequently acquired by Mr.  
5 Swenson and his wife (the "Property") in September 1994, consisting of 14.5 acres.

6 D. Mr. Swenson and his wife subsequently conveyed a 2/3's interest in 11.5 acres of  
7 the Property to others so that he and his wife currently own a 100% interest in 3 acres of the  
8 Property and a 1/3 interest in 11.5 acres of the Property.

9 E. The Use Permit permitted the installation and operation of an asphalt hot plant and  
10 the manufacture of aggregate and asphalt paving products.

11 F. There has not been an asphalt hot plant on the Property since sometime in the  
12 1980s, including when Mr. Swenson owned the Property.

13 G. In 1995, Mr. Swenson participated in rezoning the real property to an M-M (Light  
14 Industrial District) zone, which was done at his request. There has been no change in the zoning  
15 applicable to the Property since February 14, 1995.

16 H. From February 1995 to about May 2003, Rick Barnum was the County's Planning  
17 Director and Wayne Virag was the County's Assistant Planning Director.

18 I. In August 2000, Mr. Swenson submitted an application for a use permit to surface  
19 mine on the Property. Wayne Virag had some involvement in Mr. Swenson's August 2000  
20 application for a use permit and reclamation plan approval to surface mine the real property.

21 J. Mr. Virag notified Mr. Swenson that the August 2000 application was defective.

22 K. In a memo to the planning department, Brian McDermott, then Director of Public  
23 Works, indicated that a railroad undercrossing near the Property was too narrow and unsafe to  
24 allow for the grant of the surfacing mining use permit.

25 L. The County of Siskiyou had a surface mine (pit) next to Mr. Swenson's property  
26 for which his August 2000 application for a use permit and reclamation plan was made.

27 M. Mr. Swenson's attorney, Darrin Mercier, wrote a letter, on December 10, 2002,  
28 followed by a letter on December 12, 2002 to Rick Barnum, director of the County's Planning

1 Department, advising that his clients were moving forward with their business plan consistent  
2 with the 1966 Use Permit, but inquiring whether the Planning Department had any factual or legal  
3 basis to suggest that operation under the Use Permit would be unlawful.

4 N. Mr. Virag responded to Mercier's December 10 and 12, 2002 letters in a letter  
5 dated February 13, 2003.

6 O. Mr. Swenson filed a complaint for declaratory relief in the Siskiyou County  
7 Superior Court on February 15, 2005, Case No. SCCVCV05-222 ("Siskiyou County  
8 Complaint"). Mr. Swenson sought judicial determination of: (1) whether the Use Permit runs with  
9 the land; (2) whether the Use Permit is still valid; and (3) whether the owner of the Property may  
10 use the Property for the uses specified in the Use Permit. Mr. Swenson filed the Siskiyou County  
11 Complaint before the completion of the administrative appeals to the Planning Commission and  
12 Board of Supervisors.

13 P. After about May 2003, Mr. Virag became the County's Planning Director until his  
14 employment finished.

15 Q. Defendants Jeff Fowle, Ron Stevens, Mike McMahon, and Chris Lazaris were  
16 duly appointed Planning Commissioners who attended the meeting of the Planning Commission  
17 held on May 4, 2005.

18 R. At the conclusion of the Public Hearing on May 4, 2005, a motion was adopted,  
19 upon a vote of the Commissioners, upholding Mr. Virag's opinion contained in his letter of  
20 February 13, 2003.

21 S. Defendant Frank DeMarco was County Counsel of the County of Siskiyou and  
22 defendant Don Langford was the Assistant County Counsel of the County of Siskiyou during  
23 2005 and the times mentioned herein.

24 T. Don Langford attended the meeting of the Planning Commission of Siskiyou  
25 County held on May 4, 2005, at the time the hearing on the appeal of Mr. Virag's opinion  
26 contained in his letter of February 13, 2003, relating to the status the Use Permit.

27 U. An issue raised by Mr. Swenson, at and prior to the hearing, was whether or not  
28 Mr. Virag's opinion contained in his letter of February 13, 2003, was under provisions of the

1 Siskiyou County Code, an action subject to the administrative remedies of appeal to the Planning  
2 Commission and ultimately to the Board of Supervisors.

3 V. The decision of the Planning Commission upholding the conclusion/opinion of  
4 Wayne Virag contained in his letter of February 13, 2003 was appealed to the Board of  
5 Supervisors. Mr. Swenson initiated that appeal under protest.

6 W. The Board of Supervisors, after a public hearing, denied the appeal and upheld Mr.  
7 Virag's opinion as set forth in his February 13, 2003 letter.

8 X. Defendant LaVada Erickson, Marcia Armstrong, Bill Hoy, and Jim Cook were  
9 Supervisors of Siskiyou County, who conducted and heard Mr. Swenson's appeal of the decision  
10 of the Planning Commission upholding the opinion of Wayne Virag contained in his letter of  
11 February 13, 2003. That appeal was heard on May 24, 2005.

12 Y. Defendant Frank DeMarco attended the May 24, 2005 meeting of the Board of  
13 Supervisors of Siskiyou County at the time of the hearing on the appeal of the Planning  
14 Commission's decision to uphold the opinion of Mr. Virag contained in his February 13, 2013  
15 letter relating to the status of the Use Permit.

16 Z. An issue raised by Mr. Swenson, at and prior to the Planning Commission hearing  
17 and the Board of Supervisors hearing, was whether or not Mr. Virag's opinion contained in his  
18 February 13, 2013 letter relating to the status of the Use Permit was, under provisions of the  
19 Siskiyou County Code, an action subject to the administrative remedies of appeal to the Planning  
20 Commission and ultimately to the Board of Supervisors, and hence, ultimately reviewable in  
21 court by way of a Writ for Administrative Mandamus.

22 AA. The County filed various procedural challenges to the Siskiyou County Complaint,  
23 alleging in part that the administrative process before the County had not been completed. Mr.  
24 Swenson's claim for declaratory relief was dismissed, but he was permitted to proceed with his  
25 claims for Administrative Mandamus in a Second Amended Complaint.

26 BB. Plaintiff Swenson prevailed against the County in the Administrative Mandamus  
27 action.

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1 CC. The County did not appeal the May 15, 2007 decision in the Administrative  
2 Mandamus action.

3 DD. Brian McDermott was the Director of Public Works for the County until January  
4 2008.

5 EE. Scott Sumner is the Director of Public Works for the County of Siskiyou and has  
6 been since November 2008. Prior to becoming Director of Public Works, Scott Sumner was a  
7 Senior Civil Engineer for Siskiyou County from May 18, 1997 through November 23, 2002, and  
8 Deputy Director of Public Works for Siskiyou County from November 23, 2002 through  
9 November 15, 2008.

10 FF. As of the present date, there has been no revocation hearing concerning the 1966  
11 Use Permit.

12 DISPUTED FACTUAL ISSUES

13 The court has narrowed the list of disputed factual issues provided in the Joint  
14 Pretrial Conference Statement to what it believes is the list of facts actually disputed. The parties  
15 should meet and confer, and advise the court by the first day of the trial if the list can be further  
16 narrowed.

17 A. Whether prior to Mr. Swenson's acquisition of the property in 1994, it was used  
18 for an asphalt hot mix plant, quarry/surface mining operations, a gravel pit, and  
19 aggregate/concrete processing.

20 B. Whether the County submitted a reclamation plan, jointly with Mr. Swenson, for  
21 approval to reclaim the County's gravel pit adjacent to Swenson's property.

22 C. Whether Mr. Swenson permitted the County of Siskiyou (the "County") to surface  
23 mine the Property jointly with the County's adjacent property.

24 D. Whether the County removed 4,860 tons of pit run rock from Mr. Swenson's side  
25 of the property line as part of the reclamation.

26 E. Whether the Department of Public Works was only concerned with the railroad  
27 undercrossing with respect to Swenson's August 2000 application and not for the January 2000  
28 jointly proposed Reclamation Plan.

1 F. Whether after Mr. Virag reviewed the August 2000 application, the County  
2 decided that Mr. Swenson could not obtain a use permit without completing an Environmental  
3 Impact Report.

4 G. Whether Mr. Virag's Letter was formal action by the Planning Department.

5 H. Whether the County went forward with "staff-initiated" appeal despite the  
6 Plaintiff's protest.

7 I. Whether there has been the manufacture of aggregate products on the Property  
8 during the period of Mr. Swenson's ownership of the Property.

9 J. Whether a hearing is required when the right obtained under a Use Permit expires  
10 by operation of the law.

11 K. Whether the Use Permit has been abandoned.

12 L. Whether Plaintiff has any damages arising from lost mining operations, and if so,  
13 to what extent.

14 M. Whether Plaintiff has any damages arising from not operating an asphalt hot plant,  
15 and if so, to what extent.

16 N. Whether the plaintiff has established an asphalt hot plant to manufacture aggregate  
17 and asphalt paving products on his real property since May 15, 2007.

18 O. Whether the defendants have ever filed any enforcement action against Mr.  
19 Swenson to prevent him from operating an asphalt hot plant to manufacture aggregate and asphalt  
20 paving products pursuant to the Use Permit.

21 P. Whether Mr. Swenson was aware that he risks prosecution should he proceed with  
22 the manufacture of aggregate and asphalt paving products pursuant to the Use Permit.

23 Q. Whether Swenson has ever obtained a permit or approval of a reclamation plan  
24 and financial assurances, as required under California Public Resources Code Section 2770(a), to  
25 permit him to surface mine on his property.

26 R. Whether Swenson has initiated or needs to initiate a vested rights determination  
27 hearing, pursuant to the Surfacing Mining and Reclamation Act ("SMARA"), regarding the 1966  
28 Use Permit.

1           S.       Whether there was an impediment to Mr. Swenson's making use of the real  
2 property as permitted by the Use Permit issued August 3, 1966.

3       DISPUTED EVIDENTIARY ISSUES/MOTIONS IN LIMINE

4           Plaintiff's Position

5           At this juncture, Mr. Swenson does not anticipate disputes concerning the  
6 admissibility of live and deposition testimony, or physical or demonstrative evidence. Based on  
7 the status of discovery, Mr. Swenson does not believe that the defendants intend to use any  
8 computer animation, video discs, or other high technology. Mr. Swenson is still considering  
9 whether to move in limine for the exclusion of the testimony of the County's expert, Craig M.  
10 Enos. Mr. Swenson is also considering whether to move in limine to preclude defendants from  
11 making certain arguments as set forth in plaintiff's points of law, below.

12           Defendants' Position

13           Defendants anticipate the following evidentiary disputes, to be raised by way of  
14 motions in limine:

15           A.       Whether plaintiff should be precluded from arguing that Wayne Virag's letter  
16 constitutes the revocation of a vested right.

17           B.       Whether testimony from experts Thomas Chapman and Angela Casler, and  
18 testimony regarding aggregate and asphalt sales from the contractor witnesses (Terry Smith,  
19 Ronald Taylor, Roger Henry, Gerard Pelletier, John McDowell, Jack Mitchell, David Baird, John  
20 Buick, Donald Loader, Stephen Dean, Ron Rhodes, Joe Williams, Jack DeGray, David Jackson,  
21 Harold Knight, and Jim Freeze) should be excluded as irrelevant, because plaintiff has never had  
22 a vested rights determination hearing pursuant to SMARA or County ordinances.

23           C.       Whether the Court should decline, under the *Pullman* abstention doctrine, to  
24 determine the validity and scope of the 1966 Use Permit.

25           D.       Whether the testimony of plaintiff's expert Thomas Chapman, and the testimony  
26 of the contractor witnesses listed in item B, *supra*, should be excluded as too speculative.

27           E.       Whether the testimony of plaintiff's expert Angela Casler should be excluded as  
28 too speculative.

1 F. Whether plaintiff should be precluded from arguing that his constitutional rights  
2 were violated by the Planning Department's initiation of a hearing on the use permit.

3 G. Whether plaintiff should be precluded from referencing other disputes in the  
4 County of Siskiyou over mining rights.

5 H. Whether plaintiff should be precluded from referencing other legal disputes he has  
6 had with the County of Siskiyou.

7 I. Whether plaintiff should be precluded from referencing how other mines were  
8 regulated in the County of Siskiyou.

9 J. Whether certain testimony from William Overman, regarding the Board of  
10 Supervisors' actions and the legal effect of Wayne Virag's letter, should be excluded as lacking  
11 foundation and more prejudicial than probative.

12 K. Whether plaintiff should be precluded from arguing that the Siskiyou County  
13 Superior Court order on the writ of mandate established a federal civil rights violation.

14 L. Whether plaintiff should be precluded from referencing the existence of insurance  
15 or indemnification pertaining to any defendant.

16 M. Whether plaintiff should be precluded from making arguments to the jury about  
17 the value of abstract constitutional rights.

18 N. Exclusion of expert testimony by any expert who has not been disclosed pursuant  
19 to Rule 26.

20 O. Exclusion of testimony, documentary evidence, or argument from plaintiff that is  
21 contrary to his responses to requests for admissions.

22 Pretrial Hearing on Select Motions in Limine

23 As discussed with the parties at the scheduling conference, the court will hear  
24 certain motions in limine on **October 30, 2015**, prior to trial. Those motions include those  
25 identified above as defendants' motion C, F, and K, motions to determine the scope of this action  
26 in light of the history of the case, and the effect of missing parties, including the status of the  
27 defendant's ex-wife.

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1 STIPULATIONS/AGREED STATEMENTS

2 None at this time.

3 RELIEF SOUGHT

4 A. Mr. Swenson seeks compensation for lost profits and personal salary.

5 B. Mr. Swenson seeks emotional distress damages.

6 C. Mr. Swenson seeks punitive damages.

7 D. Mr. Swenson seeks attorneys' fees and costs for the administrative proceedings  
8 and the administrative writ proceedings, and this action.

9 E. Mr. Swenson seeks prejudgment interest.

10 F. Defendants seek judgment in their favor and attorneys' fees.

11 POINTS OF LAW

12 The parties shall alert the court to disputes about the applicable law and legal  
13 standards, including the disputes referenced in the "special factual information" section of the  
14 parties' joint statement that are relevant to trial. Trial briefs addressing these points more  
15 completely shall be filed with this court no later than **seven days prior to the date of trial** in  
16 accordance with Local Rule 285.

17 Plaintiff's Points of Law

18 A. Issue preclusion prohibits defendants from re-litigation whether Mr. Swenson has  
19 a vested property right in the Use Permit.

20 B. Defendants are precluded from arguing that Mr. Swenson's claims are barred by  
21 the statute of limitations.

22 C. Defendants are not entitled to absolute or qualified immunity.

23 D. Defendants are liable under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694  
24 (1978).

25 Defendant's Points of Law

26 A. Individual defendants are entitled to qualified immunity.

27 B. Plaintiff cannot claim a property interest in the right to surface mine or to  
28 manufacture asphalt, because the validity of the 1966 Use Permit remains uncertain.

1 C. Plaintiff's claimed damages relating to mining are too speculative to be awarded,  
2 because he has not yet had a vested rights determination hearing.

3 D. The case may be missing required parties.

4 E. Plaintiff did not mitigate his damages.

5 ABANDONED ISSUES

6 Mr. Swenson has not abandoned any issues raised by the pleadings.

7 WITNESSES

8 Plaintiff's witnesses shall be those listed in Attachment A<sup>1</sup>. Defendants' witnesses  
9 shall be those listed in Attachment B. Each party may call any witnesses designated by the other.

10 A. The court will not permit any other witness to testify unless:

11 (1) The party offering the witness demonstrates that the witness is for the purpose  
12 of rebutting evidence that could not be reasonably anticipated at the pretrial  
13 conference, or

14 (2) The witness was discovered after the pretrial conference and the proffering  
15 party makes the showing required in "B," below.

16 B. Upon the post pretrial discovery of any witness a party wishes to present at trial,  
17 the party shall promptly inform the court and opposing parties of the existence of the unlisted  
18 witnesses so the court may consider whether the witnesses shall be permitted to testify at trial.  
19 The witnesses will not be permitted unless:

20 (1) The witness could not reasonably have been discovered prior to the  
21 discovery cutoff;

22 (2) The court and opposing parties were promptly notified upon discovery  
23 of the witness;

24 (3) If time permitted, the party proffered the witness for deposition; and

25 (4) If time did not permit, a reasonable summary of the witness's testimony  
26 was provided to opposing parties.

27 \_\_\_\_\_  
28 <sup>1</sup> The court notes the plaintiff's Witness List skips from #29 William Overman to #31 Joseph Pelletier, and assumes this reflects a clerical error and not the omission of a witness name.

1 EXHIBITS, SCHEDULES AND SUMMARIES

2 Plaintiff's exhibits are identified on Attachment C. At trial, plaintiff's exhibits  
3 shall be listed numerically.

4 Defendant's exhibits are identified on Attachment D<sup>2</sup>. At trial, defendant's exhibits  
5 shall be listed alphabetically.

6 The court understands the parties are working to generate a joint exhibit list. The  
7 court encourages the parties to generate a joint exhibit list to the extent possible. If parties wish  
8 to submit a joint exhibit list to supersede their separate exhibit list in whole or in part, they should  
9 submit that by **October 8, 2015**. Joint Exhibits shall be identified as JX and listed numerically,  
10 e.g., JX-1, JX-2.

11 All exhibits must be premarked.

12 The parties must prepare exhibit binders for use by the court at trial, with a side tab  
13 identifying each exhibit in accordance with the specifications above. Each binder shall have an  
14 identification label on the front and spine.

15 The parties must exchange exhibits no later than twenty-eight days before trial.  
16 Any objections to exhibits are due no later than fourteen days before trial.

17 A. The court will not admit exhibits other than those identified on the exhibit lists  
18 referenced above unless:

- 19 1. The party proffering the exhibit demonstrates that the exhibit is for the purpose  
20 of rebutting evidence that could not have been reasonably anticipated, or  
21 2. The exhibit was discovered after the issuance of this order and the proffering  
22 party makes the showing required in Paragraph "B," below.

23 B. Upon the discovery of exhibits after the discovery cutoff, a party shall promptly  
24 inform the court and opposing parties of the existence of such exhibits so that the court may  
25 consider their admissibility at trial. The exhibits will not be received unless the proffering party  
26 demonstrates:

27 \_\_\_\_\_  
28 <sup>2</sup> The court notes Exhibit VV on the defendants' Exhibit List is identified as a Minute Order dated  
May 17, 2007, although it appears in a series of documents dated in 2005.

- 1 1. The exhibits could not reasonably have been discovered earlier;
- 2 2. The court and the opposing parties were promptly informed of their existence;
- 3 3. The proffering party forwarded a copy of the exhibits (if physically possible) to
- 4 the opposing party. If the exhibits may not be copied the proffering party must
- 5 show that it has made the exhibits reasonably available for inspection by the
- 6 opposing parties.

7 DEPOSITION TRANSCRIPTS

8 Counsel must lodge the sealed original copy of any deposition transcript to be used  
9 at trial with the Clerk of the Court on the first day of trial.

10 Plaintiff's Position

- 11 A. Bill Hoy's Responses to Interrogatory Nos. 1, 5, 7, 8, 9, and 20. (Set No. 1).
- 12 B. Chris Lazaris's Responses to Interrogatory Nos. 1, 5, 7, 8, 9, and 20. (Set No. 1).
- 13 C. Siskiyou County's and Siskiyou County Planning Commission's Responses to
- 14 Interrogatory Nos. 1, 2, 5, 7, 8, 9, and 20. (Set No. 1)
- 15 D. Frank DeMarco's Responses to Interrogatory Nos. 1, 2, 3, 5, 7, 8, 9, and 20. (Set
- 16 No. 1).
- 17 E. Jim Fowle's Responses to Interrogatory Nos. 2, 3, 4, 5, 6, 7, 9, 15, and 20. (Set
- 18 No. 1).
- 19 F. Jim Cooke's Responses to Interrogatory Nos. 1, 4, 5, 6, 7, 9, 15, and 20. (Set No.
- 20 1).
- 21 G. Lavada Erickson's Responses to Interrogatory Nos. 1, 5, 7, 8, 9, 15, 16, 18, and 20.
- 22 (Set No. 1).
- 23 H. Marcia Armstrong's Responses to Interrogatory Nos. 1, 5, 7, 8, 9, and 20. (Set
- 24 No. 1).
- 25 I. Mike McMahon's Responses to Interrogatory Nos. 1, 3, 7, 8, 9, and 20. (Set No.
- 26 1).
- 27 J. Ron Stevens's Responses to Interrogatory Nos. 1, 3, 5, 7, 8, 9, and 20. (Set No. 1).

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1 K. Defendants' Responses to Request for Admissions Nos. 2, 6, 7, 8, 9, 10, 11, 12,  
2 29, 30, 39, 40, 55, 75, 76, 77, and 78 (Set No. 1).

3 Plaintiff's Designation of Excerpts from Depositions

4 A. David Baird: 4:6-8:19; 9:24-10:5; and 16:4-17:2.

5 B. David Jackson: 4:14-5:6; 5:15-22; 6:14-25; 10:23-11:13; 13:3-18; 15:21-24;  
6 18:18-19:4; 20:10-24:10; 27:9-15; 29:13-30:10; 32:2-25; 34:18-35:5.

7 C. Donald Clifton: 4:6-16; 4:20-10:2; 11:8-14:9; 16:16-17:6.

8 D. Richard Loader: 4:6-14; 5:25-9:12; 10:6-13:15; 14:18-15:7; 19:25-20:2; 23:5-  
9 25:22.

10 E. Earl Campbell: 4:13-13:23; 14:3-7; 15:22-18:17; 18:20-19:8; 19:14-21:10; 21:3-  
11 23:17; 29:13-30:3.

12 F. Fern Campbell: 4:13-11:20.

13 G. Gerard Pelletier: 4:6-10; 5:24-7:23; 8:4-9:13; 14:6-15:14; 28:8-30:21.

14 H. Harold Knight: 4:6-16; 5:22-7:9; 8:16-18:6; 28:16-29:10.

15 I. Jack DeGray: 4:6-14; 5:20-7:18; 7:23-8:22; 10:20-11:20; 12:6-13:24; 16:1-17:13;  
16 19:21-20:2; 20:6-22:17; 24:3-10; 26:4-26:23.

17 J. Jack Mitchell: 4:6-16; 5:21-7:25; 9:8-11:2; 13:6-15:7; 19:3-22; 37:12-24.

18 K. Joe Williams: 5:9-18; 5:24-6:8; 7:4-12; 8:7-12; 10:21-11:14; 20:3-23; 24:5-28:21.

19 L. John Buick: 5:9-21; 6:1-25; 17:8-20:20.

20 M. John McDowell: 4:6-8:8; 9:7-10:5; 11:10-13:5; 13:14-17:8.

21 N. Ron Rhodes: 4:6-13; 5:9-21; 6:3-7:5; 7:20-9:24; 11:23- 12:16; 16:5-10; 16:23-  
22 17:13; 21:5-22:18; 24:16-29:24.

23 O. Ronald Taylor: 4:7-6:11; 7:5-9:11; 12:8-20; 15:24-16:13; 19:26-20:10; 27:23-  
24 29:19.

25 P. Stephen Dean: 4:6-8:3; 8:21-10:12.

26 Q. William Overman: 6:7-13; 7:24-15:6; 16:13-21:17.

27 R. Roger Henry: 4:4-5:3; 7:18-8:18; 14:6-22; 31:4-32:24; 34:15-35:22.

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Defendant's Position

Stanley Swenson's Response to Request for Admissions Nos. 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 19, 42, 43, 44, 45, 46, 47, and 48.

FURTHER DISCOVERY OR MOTIONS

With the possible exception of motions in limine, no other motions are contemplated at this time.

AMENDMENTS/DISMISSALS

None at this time.

SETTLEMENT

The parties participated in a settlement conference before Magistrate Judge Dale A. Drozd on June 9, 2014. Since the first settlement conference, the court has denied the defendants' motion for summary judgment, and the defendants have new counsel. The court therefore orders the parties to a second settlement conference.

A settlement conference is scheduled before Judge Drozd for **November 5, 2015** at 10:00 a.m. in Courtroom No. 27, 8th Floor. The parties have waived conflict to the assigned magistrate judge.

The parties are directed to submit their confidential settlement conference statements to the Court using the following email address: dadorders@caed.uscourts.gov. Statements are due at least 7 days prior to the Settlement Conference. Such statements are neither to be filed with the clerk nor served on opposing counsel. However, each party shall e-file a one page document entitled Notice of Submission of Confidential Settlement Conference Statement. The parties may agree, or not, to serve each other with the settlement statements. Each party is reminded of the requirement that it be represented in person at the settlement conference by a person able to dispose of the case or fully authorized to settle the matter at the settlement conference on any terms. See Local Rule 270.

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1 JOINT STATEMENT OF THE CASE

2 The parties have agreed to the following joint statement of the case:

3 Mr. Swenson and the County of Siskiyou dispute the applicability of  
4 certain land use restrictions to Mr. Swenson's real property in Siskiyou  
5 County, and their impact on his ability to surface mine and manufacture  
6 asphalt on his property. Mr. Swenson alleges that the County of Siskiyou  
7 and several of its employees violated his federal constitutional rights  
during the litigation. He now sues the County and several County  
employees for monetary damages.

8 AGREED STATEMENT OF FACTS

9 Because so much of this case depends on the interpretation of documents,  
10 presentation of all or part of the action upon an agreed statement of facts is not advisable because,  
11 in most if not all instances, the parties' interpretation of arguably undisputed facts would require  
12 thorough examination of the witnesses who prepared and received the largely undisputed  
13 documents.

14 SEPARATE TRIAL OF ISSUES

15 None.

16 IMPARTIAL EXPERTS/LIMITATION OF EXPERTS

17 None.

18 ATTORNEYS' FEES

19 As set forth in Section 7, above, Mr. Swenson seeks attorneys' fees as permitted  
20 by law. Mr. Swenson will file a motion no later than 28 days after entry of the final judgment as  
21 set forth in Local Rule 293.

22 Defendants also will seek attorneys' fees, as permitted by law.

23 TRIAL EXHIBITS

24 No special handling is required.

25 The court will not retain certified copies of exhibits as set forth in Local Rule  
26 138(j) in the event of an appeal.

27 ////

1 TRIAL PROTECTIVE ORDER

2 The parties do not seek a protective order for civil trial under Local Rule  
3 141.1(b)(2).

4 ESTIMATED TIME OF TRIAL/TRIAL DATE

5 This jury trial is on standby for **November 16, 2015 at 9:00 a.m.** in Courtroom  
6 Three before the Honorable Kimberly J. Mueller. The parties have agreed to trail the case  
7 currently scheduled for that date. The parties will be notified by one week prior to the standby  
8 date whether the case will proceed on November 16, 2015. The trial is anticipated to last fourteen  
9 (14) days. The parties are directed to Judge Mueller’s default trial schedule outlined on her web  
10 page on the court’s website.

11 PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS

12 The parties shall file any proposed jury voir dire seven days before trial. Each  
13 party will be limited to ten minutes of jury voir dire.

14 The court directs counsel to meet and confer in an attempt to generate a joint set of  
15 jury instructions and verdicts. The parties shall file any such joint set of instructions fourteen  
16 days before trial, identified as “Jury Instructions and Verdicts Without Objection.” To the extent  
17 the parties are unable to agree on all or some instructions and verdicts, their respective proposed  
18 instructions are due fourteen days before trial.

19 Counsel shall e-mail a copy of all proposed jury instructions and verdicts, whether  
20 agreed or disputed, as a word document to [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov) no later than fourteen  
21 days before trial; all blanks in form instructions should be completed and all brackets removed.

22 Objections to proposed jury instructions must be filed seven days before trial; each  
23 objection shall identify the challenged instruction and shall provide a concise explanation of the  
24 basis for the objection along with citation of authority. When applicable, the objecting party  
25 shall submit an alternative proposed instruction on the issue or identify which of his or her own  
26 proposed instructions covers the subject.

27 TRIAL BRIEFS

28 Trial briefs are due seven days before trial on **November 9, 2015.**



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OBJECTIONS TO PRETRIAL ORDER

Each party is granted fourteen days from the date of this order to file objections to the same. If no objections are filed, the order will become final without further order of this court.

IT IS SO ORDERED

DATED: September 28, 2015.

  
UNITED STATES DISTRICT JUDGE

1 ATTACHMENT A: Plaintiff's Witnesses

2 **PLAINTIFF'S WITNESS LIST**

3  
4 1. **Marcia Armstrong.** Ms. Armstrong can be reached through counsel for the  
5 defendants. Ms. Armstrong is a defendant and her testimony will be centered on her actions as a  
6 member of the Board of Supervisors. She will testify concerning: (1) her conduct before, during,  
7 and after Board of Supervisor's meetings relating to Mr. Swenson's appeal of the decision of the  
8 Planning Commission; (2) the evidence purportedly considered by the Board; (3) the Board's  
9 decision related to Mr. Swenson's property; and (4) the manner in which she contributed to the  
10 deprivation of Mr. Swenson's constitutional rights.

11 2. **David Baird.** Mr. Baird's address is 240 Cricket Road, Mt. Shasta, California  
12 96067. Mr. Baird is a local contractor and land developer. He purchased gravel for his  
13 subdivision and will testify that he would have purchased gravel from Mr. Swenson, had Mr.  
14 Swenson been allowed to manufacture aggregate.

15 3. **John Buick.** Mr. Buick's address is 9831 Cow Creek Drive, Palo Cedro,  
16 California 96073. Mr. Buick is a local contractor who contracts with the U.S. Forest Service. He  
17 purchased gravel for this and will testify that he would have purchased gravel from Mr. Swenson,  
18 had Mr. Swenson been allowed to manufacture aggregate.

19 4. **Earl Campbell.** Mr. Campbell's address is 2045 S. 19th Street, Coos Bay, Oregon  
20 97420. Mr. Campbell was a former owner of the gravel pit located at 2700 N. Old Stage Rd., in  
21 the Mt. Shasta Area, which is the gravel pit at issue in this case. Mr. Campbell will testify about  
22 the history of the pit and its uses during the tenure of his ownership.

23 5. **Fern Campbell.** Mrs. Campbell's address is Mr. Campbell's address is 2045 S.  
24 19th Street, Coos Bay, Oregon 97420. Mrs. Campbell was a former owner of the gravel pit  
25 located at 2700 N. Old Stage Rd., in the Mt. Shasta Area, which is the gravel pit at issue in this  
26 case. Mr. Campbell will testify about the history of the pit and its uses during the tenure of his  
27 ownership.

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1           6.       **Angela Caster.** Ms. Caster may be reached through counsel for Mr. Swenson. She  
2 is a designated expert who will testify to issues related to Mr. Swenson's damages.

3           7.       **Thomas Chapman.** Mr. Chapman may be reached through counsel for Mr.  
4 Swenson. He is a designated expert who will testify to issues related to Mr. Swenson's damages.

5           8.       **Donald Clifton.** Mr. Clifton's address is 106 Rancho Maderas Way in Henderson,  
6 Nevada 89002. Mr. Clifton was a previous owner/operator of the gravel pit located at 2700 N.  
7 Old Stage Road, in the Mt. Shasta Area, which is the gravel pit at issue in this case. He will  
8 testify about the historical use of the property and the amount of gravel sales he made during his  
9 ownership. Mr. Clifton was owner/operator of the pit when Siskiyou County issued the 1966 use  
10 permit at issue in this case. He installed the asphalt hot mix plant and operated it on the property  
11 for approximately 15 years.

12           9.       **Jim Cook.** Mr. Cook can be reached through counsel for defendants. Mr. Cook is  
13 a defendant and his testimony will be centered on her actions as a member of the Board of  
14 Supervisors. He will testify concerning: (1) his conduct before, during, and after Board of  
15 Supervisor's meetings relating to Mr. Swenson's appeal of the decision of the Planning  
16 Commission; (2) the evidence purportedly considered by the Board; (3) the Board's decision  
17 related to Mr. Swenson's property; and (4) the manner in which he contributed to the deprivation  
18 of Mr. Swenson's constitutional rights.

19           10.      **Tony Cruse.** Mr. Cruse's address is 886 Fitch Road, Alturas, California 96101.  
20 Mr. Cruse is a paving contractor and asphalt hot mix operator who will testify about gravel  
21 purchases, asphalt hot mix plants, and his desire to locate an asphalt hot mix plant on the gravel  
22 pit located at 2700 N. Old Stage Rd., in the Mt. Shasta Area, which is the pit at issue in this case.

23           11.      **Stephen Dean.** Mr. Dean's address is 16335 North Street, Redding, California  
24 96001. Mr. Dean is a California Licensed Land Surveyor. He surveyed Mr. Swenson's gravel pit  
25 and will testify about the results of his survey.

26           12.      **Jack DeGray.** Mr. DeGray's address is 1633 Davis Place Road, Mt. Shasta,  
27 California 96067.     Mr. DeGray is a local paving contractor who will testify about gravel and

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1 asphalt hot mix purchases he made. He will also testify that he would have purchased materials  
2 from Mr. Swenson had the defendants allowed Mr. Swenson to operate his gravel pit.

3 13. **Frank DeMarco.** Mr. DeMarco can be reached through counsel for defendants.  
4 Mr. DeMarco was County Counsel before, during and after the appeals hearing of May 24, 2005.  
5 He will testify about his role in the County's mistreatment of Mr. Swenson including the manner  
6 in which the Board of Supervisor's conducted the appeal of the Planning Commission.

7 14. **Lavada Erickson.** Ms. Erickson can be reached through counsel for defendants.  
8 Ms. Erickson is a defendant and her testimony will be centered on her actions as a member of the  
9 Board of Supervisors. She will testify concerning: (1) her conduct before, during, and after Board  
10 of Supervisor's meetings relating to Mr. Swenson's appeal of the decision of the Planning  
11 Commission; (2) the evidence purportedly considered by the Board; (3) the Board's decision  
12 related to Mr. Swenson's property; and (4) the manner in which she contributed to the deprivation  
13 of Mr. Swenson's constitutional rights.

14 15. **Jeff Fowle.** Mr. Fowle can be reached through counsel for defendants. Mr. Fowle  
15 was a member of the Siskiyou County Planning Commission during the events at issue in this  
16 case. He will testify about his actions before, during and after the Siskiyou County Planning  
17 Commission Hearing held on May 4, 2005, and related to Mr. Swenson, including the decision to  
18 conduct an appeal against Mr. Swenson's wishes. Mr. Fowle will testify about Siskiyou County  
19 Ordinances and the appeals process.

20 16. **Jim Freeze.** Mr. Freeze's address is P.O. Box 1231, Yreka, California, 96097. Mr.  
21 Freeze is a local paving contractor. He will testify about gravel and asphalt hot mix purchases for  
22 his contracting business and how he would have purchased materials from Mr. Swenson had the  
23 County permitted Mr. Swenson to manufacture aggregate and asphalt products.

24 17. **David Gravenkamp.** Mr. Gravenkamp's address is 505 North Street, Yreka,  
25 California 96097. Mr. Gravenkamp was the Siskiyou County Public Works Director. He will  
26 testify about the Siskiyou County Gravel Pit located on Pine Grove Dr. in the Mt. Shasta area,  
27 which is adjacent to Mr. Swenson's pit. He will also testify about the Siskiyou County Public

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1 Works Department's involvement in the handling of the Mr. Swenson's use permit and  
2 reclamation plan application.

3 18. **Roger Henry.** Mr. Henry's address is 2600 Ely Lane, Redding, California 96001.  
4 Mr. Henry is a local paving contractor, estimator, and project manager. He will testify about  
5 gravel and asphalt hot mix purchases for his contracting business and how he would have  
6 purchased materials from Mr. Swenson had the defendants allowed Mr. Swenson to manufacture  
7 aggregate and asphalt products.

8 19. **Bill Hoy.** Mr. Hoy can be reached through counsel for defendants. Mr. Hoy is a  
9 defendant and his testimony will be centered on his actions as a member of the Board of  
10 Supervisors. He will testify concerning: (1) his conduct before, during, and after Board of  
11 Supervisor's meetings relating to Mr. Swenson's appeal of the decision of the Planning  
12 Commission; (2) the evidence purportedly considered by the Board; (3) the Board's decision  
13 related to Mr. Swenson's property; and (4) the manner in which he contributed to the deprivation  
14 of Mr. Swenson's constitutional rights.

15 20. **David Jackson.** Mr. Jackson's address is 704 Aiello Lane, Mt. Shasta, California  
16 96067. Mr. Jackson is a local contractor. He will testify about gravel and asphalt hot mix  
17 purchases for his contracting business and how he would have purchased materials from Mr.  
18 Swenson had the County permitted Mr. Swenson to manufacture aggregate and asphalt products.

19 21. **Harold Knight.** Mr. Knight's address is 1829 Wyecka Way, Mt. Shasta,  
20 California 96067. Harold Knight is a partner in the property located at 2700 N. Old Stage Rd., in  
21 the Mt. Shasta Area, which is the gravel at issue in this case. He will testify about his involvement  
22 with the gravel pit. He is also a local building contractor and he will testify about gravel and  
23 asphalt hot mix purchases for his contracting business and how he would have purchased  
24 materials from Mr. Swenson had the County permitted Mr. Swenson to manufacture aggregate  
25 and asphalt products.

26 22. **Donald Langford.** 311 Fourth Street, Yreka, California 96097. Mr. Langford was  
27 a member of the Siskiyou County Counsel's Office. He was present at the Siskiyou County

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1 Planning Commission appeals hearing that was held on May 4, 2005, and will testify about his  
2 involvement before, during and after the appeals hearing.

3 23. **Chris Lazaris.** Mr. Lazaris's address is 183 South Dewitt Way, Yreka, California  
4 96097. Chris Lazaris was a Siskiyou County Planning Commissioner for a number of years. He  
5 will testify about his actions before, during and after the Siskiyou County Planning Commission  
6 Hearing held on May 4, 2005, regarding Mr. Swenson's gravel pit. He has knowledge of the  
7 Siskiyou County Ordinances and appeals process and he will testify about them.

8 24. **Donald Richard Loader, Jr.** Mr. Loader's address is 242 Dietz Road, Mt.  
9 Shasta, California, 96067. Mr. Loader is a local contractor. Donald Richard Loader, Jr. will  
10 testify gravel and asphalt hot mix purchases for his contracting business and how he would have  
11 purchased materials from Mr. Swenson had the County permitted Mr. Swenson to manufacture  
12 aggregate and asphalt products.

13 25. **Brian McDermott.** Mr. McDermott's address is 1508 Timberhills Road, Mr.  
14 Shasta, California 96067. He has held three positions in the Siskiyou County Government,  
15 including serving as: (1) Assistant Public Works Director; (2) Public Works Director; and (3)  
16 Siskiyou County Administrator. Mr. McDermott will testify about his knowledge of Siskiyou  
17 County's actions leading up to and including the Board of Supervisors' appeal hearing held on  
18 May 24, 2005.

19 26. **John McDowell.** Mr. McDowell's address is 3005 Cantara Road, Mt. Shasta,  
20 California 96067. Mr. McDowell is a partner in the ownership of the real property located at  
21 2700 N. Old Stage Rd., in the Mt. Shasta area. He will testify about the investment he made in the  
22 property and the fact that he was not and will not be involved in the operation of the gravel pit  
23 mining project.

24 27. **Mike McMahan.** Mr. McMahan can be reached through counsel for defendants.  
25 He is a defendant in this action. Mr. McMahan is and was a Siskiyou County Planning  
26 Commissioner for a number of years. He will testify about his actions before, during and after the  
27 Siskiyou County Planning Commission Hearing held on May 4, 2005, regarding Mr. Swenson's  
28 gravel pit.

1           28.     **Jack Mitchell.** Mr. Mitchell's address is 29337 Riverside Road, Castella,  
2 California 96017 & P.O. Box 172, Castella, California 96017. Jack Mitchell is a local paving &  
3 excavation contractor. Jack Mitchell will testify about gravel and asphalt hot mix purchases for  
4 his contracting business and how he would have purchased materials from Mr. Swenson had the  
5 County permitted Mr. Swenson to manufacture aggregate and asphalt products.

6           29.     **William Overman.** Mr. Overman is deceased but his deposition testimony will be  
7 presented to the jury. Mr. Overman was a member of the Siskiyou County Board of Supervisors  
8 during the appeals hearing, which was heard on May 24, 2005, related to Mr. Swenson's gravel  
9 pit. He will testify about the Board's actions before, during and after the hearing. He voted to  
10 overturn the Siskiyou County Planning Commission's Appeal.

11          30.     **Gerard Joseph Pelletier.** Mr. Pelletier's address is 711 Woodland Park Drive, Mt.  
12 Shasta, California, 96067. He is a local excavation contractor. Mr. Pelletier will testify about  
13 gravel and asphalt hot mix purchases for his contracting business and how he would have  
14 purchased materials from Mr. Swenson had the County permitted Mr. Swenson to manufacture  
15 aggregate and asphalt products. He will also testify about his reluctance to participate in this  
16 litigation because he does business with Siskiyou County and he hears that the County will  
17 retaliate against him if he assists Mr. Swenson in this case.

18          31.     **Greg Plucker.** Mr. Plucker can be reached through the Siskiyou County Planning  
19 Department. Mr. Plucker was the Assistant Siskiyou County Planning Director and he has now  
20 been promoted to the position of Siskiyou County Planning Director. He will testify about the  
21 contents of a declaration he submitted in support of the defendants' motion for summary  
22 judgment. He has knowledge of the application for a business license that he approved to allow an  
23 asphalt hot mix plant to be installed on Mr. Swenson's property. Mr. Plucker will also testify  
24 about Siskiyou County Zoning Ordinances, the requirements and validity of the 1966 use permit,  
25 the vested mine determination process that he has developed for Siskiyou County, and the process  
26 for handling vested property rights.

27          32.     **Philip Price.** Mr. Price's address is 466 Vallombrosa Avenue, Chico, California  
28 95927. Mr. Price was outside Counsel under contract with Siskiyou County to handle legal

1 actions. He was brought on board when Plaintiff Stanley Swenson, through his attorney, filed the  
2 Declaratory Relief Action in Siskiyou Superior Court. In response to the Declaratory Relief,  
3 Philip Price filed and successfully demurred the action to a Writ of Mandamus. Mr. Price  
4 counselled the Siskiyou County Planning Staff and Commission during the appeals hearing that  
5 was held on May 4, 2005.

6 33. **Ron Rhodes.** Mr. Rhodes's address is 2200 Mott Airport Road, Mt. Shasta,  
7 California 96067. Mr. Rhodes is a local paving & excavation contractor. Ron Rhodes will testify  
8 about gravel and asphalt hot mix purchases for his contracting business and how he would have  
9 purchased materials from Mr. Swenson had the County permitted Mr. Swenson to manufacture  
10 aggregate and asphalt products.

11 34. **Dr. Richard Shearer.** Dr. Shearer's address is 701 Pine Street, Mt. Shasta,  
12 California 96067. Dr. Richard Shearer is personal physician of Stanley Swenson. He will testify  
13 about his personal observations of Mr. Swenson's mental anguish and medical problems  
14 following his interactions with Siskiyou County officials.

15 35. **Terry Smith.** Mr. Smith's address is 11725 Old Highway 99 S, Grenada,  
16 California 96038. Mr. Smith is a local paving & excavation contractor. Terry Smith will testify  
17 about gravel and asphalt hot mix purchases for his contracting business and how he would have  
18 purchased materials from Mr. Swenson had the County permitted Mr. Swenson to manufacture  
19 aggregate and asphalt products.

20 36. **Ron Stevens.** Mr. Stevens is a defendant in this action and can be reached through  
21 counsel for defendants. Mr. Stevens was a Siskiyou County Planning Commissioner for a number  
22 of years. He will testify about his actions before, during and after the Siskiyou County Planning  
23 Commission Hearing held on May 4, 2005, regarding Mr. Swenson's gravel pit. Mr. Stevens has  
24 knowledge of the Siskiyou County ordinances and appeals process and he will testify about them.

25 37. **Stanley Swenson.** Mr. Swenson can be reached through his counsel. He will  
26 testify about the events and circumstances giving rise to this lawsuit including the manner in  
27 which the defendants violated his constitutional rights.

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1           38.     **Ronald Taylor.** Mr. Taylor’s address is 58 East Yolo Street, Orland, California  
2 95963. Ronald Taylor was a local contractor. Ronald Taylor will testify about gravel and asphalt  
3 hot mix purchases for his contracting business and how he would have purchased materials from  
4 Mr. Swenson had the County permitted Mr. Swenson to manufacture aggregate and asphalt  
5 products.

6           39.     **Wayne Virag.** Mr. Virag’s address is 4536 Rainbow Drive, Weed, California  
7 96094. Mr. Virag held two positions in the Siskiyou County Government. He was the Siskiyou  
8 County Assistant Planning Director under Richard Barnum, who is deceased. Mr. Virag will  
9 testify about his role in the prolonged debate about the status of the 1966 use permit. He will also  
10 testify as to his involvement before, during and after the appeals hearings.

11          40.     **Joe Williams.** Mr. Williams’s address is 7157 Pit Road, Redding, California  
12 96001. Mr. Williams is an estimator for a paving and excavation contractor. Joe Williams will  
13 testify about gravel and asphalt hot mix purchases for his contracting business and how he would  
14 have purchased materials from Mr. Swenson had the County permitted Mr. Swenson to  
15 manufacture aggregate and asphalt products.

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1 ATTACHMENT B: Defendant's Witnesses

2 DEFENDANT'S WITNESS LIST

3 1. **Ron Stevens, Former Planning Commissioner, County of Siskiyou.** Mr.  
4 Stevens will testify as to: (1) all occurrences during Planning Commission meetings involving  
5 plaintiff and the 1966 Use Permit; (2) the opinion letter by Wayne Virag; (3) oral and  
6 documentary evidence presented to the Planning Commission; (4) plaintiff's applications for a  
7 Use Permit with Reclamation Plans, and related issues with a North Old Stage Road Railroad  
8 undercrossing; (5) the role and function of the Planning Commission; and (6) the procedures and  
9 processes for setting and hearing matters before the Planning Commission.

10 2. **Jeff Fowle, Planning Commissioner, County of Siskiyou.** Mr. Fowle will testify  
11 as to: (1) all occurrences during Planning Commission meetings involving plaintiff and the 1966  
12 Use Permit; (2) the opinion letter by Wayne Virag; (3) oral and documentary evidence presented  
13 to the Planning Commission; (4) plaintiff's applications for a Use Permit with Reclamation Plans,  
14 and related issues with a North Old Stage Road Railroad undercrossing; (5) the role and function  
15 of the Planning Commission; and (6) the procedures and processes for setting and hearing matters  
16 before the Planning Commission.

17 3. **Chris Lazaris, Planning Commissioner, County of Siskiyou.** Mr. Lazaris will  
18 testify as to: (1) all occurrences during Planning Commission meetings involving plaintiff and the  
19 1966 Use Permit; (2) the opinion letter by Wayne Virag; (3) oral and documentary evidence  
20 presented to the Planning Commission; (4) plaintiff's applications for a Use Permit with  
21 Reclamation Plans, and related issues with a North Old Stage Road Railroad undercrossing; (5)  
22 the role and function of the Planning Commission; and (6) the procedures and processes for  
23 setting and hearing matters before the Planning Commission.

24 4. **Mike McMahon, Planning Commissioner, County of Siskiyou.** Mr. McMahon  
25 will testify as to: (1) all occurrences during Planning Commission meetings involving plaintiff  
26 and the 1966 Use Permit; (2) the opinion letter by Wayne Virag; (3) oral and documentary  
27 evidence presented to the Planning Commission; (4) plaintiff's applications for a Use Permit with  
28 Reclamation Plans, and related issues with a North Old Stage Road Railroad undercrossing; (5)

1 the role and function of the Planning Commission; and (6) the procedures and processes for  
2 setting and hearing matters before the Planning Commission.

3           **5. Bill Hoy, Former Member of the Board of Supervisors, County of Siskiyou.**

4 Mr. Hoy will testify as to: (1) Board of Supervisors meetings relating to plaintiff and his appeal  
5 of the decision of the Planning Commission; (2) oral and documentary evidence submitted to and  
6 relied upon by the Board; (3) the determination by the Board of Supervisors; (4) correspondence  
7 and communications with Wayne Virag, Darrin Mercier, Stan Swenson and others; (5) the  
8 procedures and processes for setting and hearing issues before the Board of Supervisors; (6) his  
9 involvement with Swenson's appeal before the Board of Supervisors, and (7) his involvement  
10 with Stanley Swenson.

11           **6. Marcia Armstrong, Former Member of the Board of Supervisors, County of**

12 **Siskiyou.** Ms. Armstrong will testify as to: (1) Board of Supervisors meetings relating to plaintiff  
13 and his appeal of the decision of the Planning Commission; (2) oral and documentary evidence  
14 submitted to and relied upon by the Board; (3) the determination by the Board of Supervisors; (4)  
15 correspondence and communications with Wayne Virag, Darrin Mercier, Stan Swenson and  
16 others; (5) the procedures and processes for setting and hearing issues before the Board of  
17 Supervisors; (6) her involvement with Swenson's appeal before the Board of Supervisors; and (7)  
18 his involvement with Stanley Swenson.

19           **7. Jim Cook, Former Member of the Board of Supervisors, County of Siskiyou.**

20 Mr. Cook will testify as to: (1) Board of Supervisors meetings relating to plaintiff and his appeal  
21 of the decision of the Planning Commission; (2) oral and documentary evidence submitted to and  
22 relied upon by the Board; (3) the determination by the Board of Supervisors; (4) correspondence  
23 and communications with Wayne Virag, Darrin Mercier, Stan Swenson and others; (5) the  
24 procedures and processes for setting and hearing issues before the Board of Supervisors; (6) his  
25 involvement with Swenson's appeal before the Board of Supervisors; and (7) his involvement  
26 with Stanley Swenson.

27           **8. LaVada Erickson, Former Member of the Board of Supervisors, County of**

28 **Siskiyou.** Ms. Erickson will testify as to: (1) Board of Supervisors meetings relating to plaintiff

1 and his appeal of the decision of the Planning Commission; (2) oral and documentary evidence  
2 submitted to and relied upon by the Board; (3) the determination by the Board of Supervisors; (4)  
3 correspondence and communications with Wayne Virag, Darrin Mercier, Stan Swenson and  
4 others; (5) the procedures and processes for setting and hearing issues before the Board of  
5 Supervisors; (6) her involvement with Swenson's appeal before the Board of Supervisors; and her  
6 involvement with Stanley Swenson.

7           **9. Frank DeMarco, Former County Counsel, County of Siskiyou.** Mr. DeMarco  
8 will testify as to: (1) his knowledge of plaintiff's appeal to the Planning Commission and Board  
9 of Supervisors regarding Wayne Virag's opinion letter concerning plaintiff's rights under a 1966  
10 Use Permit; (2) plaintiff's attempted declaratory relief action and writ of mandamus in Siskiyou  
11 County Superior Court; (3) the absence of any enforcement action taken against plaintiff  
12 regarding the 1966 Use Permit; (4) his advice to the Planning Commission and Board of  
13 Supervisors; (5) his communications with Stan Swenson; (6) Siskiyou County Codes, including  
14 Article 14 ("Expiration, Revocation and Appeals of Permits and Variances") containing Sections  
15 10-6.1401 through 10-6.1405; (7) Article 25 ("Nonconforming Land, Buildings, and Uses")  
16 containing Sections 10-6.2501 through 10-6.2505; (8) Article 46 ("Light Industrial District M-  
17 M") containing Sections 10-6.4601 through 10-6.4603; (9) Article 48 ("Rural Residential  
18 Agricultural District") containing Sections 10-6.4801 through 10-6.4803; (10) the files of the  
19 Siskiyou County Department of Public Works and Planning Department relating to an application  
20 for a Use Permit in 2002 by Stan Swenson; (11) related issues regarding a North Old Stage Road  
21 Railroad undercrossing.

22           **10. Don Langford, Former Assistant County Counsel, County of Siskiyou.** Mr.  
23 Langford will testify as to: (1) his knowledge of plaintiff's appeal to the Planning Commission  
24 and Board of Supervisors regarding Wayne Virag's opinion letter concern plaintiff's rights under  
25 a 1966 Use Permit; (2) plaintiff's attempted declaratory relief action and writ of mandamus in  
26 Siskiyou County Superior Court; (3) the absence of any enforcement action taken against plaintiff  
27 regarding the 1966 Use Permit; (4) his advice to the Planning Commission and Board of  
28 Supervisors; (5) his communications with Stan Swenson; (6) Siskiyou County Codes, including

1 Article 14 (“Expiration, Revocation and Appeals of Permits and Variances”) containing Sections  
2 10-6.1401 through 10-6.1405; (7) Article 25 (“Nonconforming Land, Buildings, and Uses”) containing Sections  
3 10-6.2501 through 10-6.2505; (8) Article 46 (“Light Industrial District M-  
4 M”) containing Sections 10-6.4601 through 10-6.4603; (9) Article 48 (“Rural Residential  
5 Agricultural District”) containing Sections 10-6.4801 through 10-6.4803; (10) the files of the  
6 Siskiyou County Department of Public Works and Planning Department relating to an application  
7 for a Use Permit in 2002 by Stan Swenson; (11) related issues regarding a North Old Stage Road  
8 Railroad undercrossing.

9       **11. Wayne Virag, Former Assistant Planning Director in the Planning**  
10 **Department, County of Siskiyou.** Mr. Virag will testify as to: (1) plaintiff’s Application for a  
11 Use Permit in 2000; (2) submission of a Reclamation Plan in 2000; (3) his opinions regarding  
12 plaintiff’s right under a 1966 Use Permit contained in his letter dated 2/13/03; (4) correspondence  
13 from plaintiff’s attorney, Darrin Mercier, requesting such opinion; (5) the appeal of that opinion  
14 to the Planning Commission and Board of Supervisors; (6) plaintiff’s writ and attempted  
15 declaratory relief action in Siskiyou County Superior Court; (7) the absence of any enforcement  
16 action regarding the Use Permit; (8) the application by plaintiff for a Use Permit in 2000 with a  
17 Reclamation Plan; (9) issues regarding a North Old Stage Road Railroad undercrossing; (10)  
18 State and County rules and regulations regarding land use issues and SMARA issues (11) his role  
19 and duties as Assistant Planning Director and Director of the Planning Commission.

20       **12. Darrin Mercier, Former Attorney for Plaintiff.** Mr. Mercier will testify as to:  
21 (1) his correspondence and communications with the Planning Department requesting opinions;  
22 (2) the appeals of Wayne Virag’s opinion letter to the Planning Department and Board of  
23 Supervisors; (3) plaintiff’s failed declaratory relief action and writ of mandamus; (4) the absence  
24 of any enforcement action against plaintiff.

25       **13. Phil Price, Attorney for The County of Siskiyou.** Mr. Price will testify as to his  
26 representation of the County during plaintiff’s appeals before the Planning Department, and the  
27 failed effort for declaratory relief and administrative mandamus action in Siskiyou County  
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1 Superior Court. Mr. Price will also testify as to the processes and procedures for hearings, and  
2 correspondence with Darrin Mercier regarding Plaintiff's property.

3 14. **Brian McDermott, Former Assistant Director of Public Works and Former**  
4 **Director of Public Works, County of Siskiyou.** Mr. McDermott will testify as to: (1) the  
5 application by plaintiff for a Use Permit with Reclamation Plans; (2) issues with the North Old  
6 Stage Road Railroad undercrossing; (3) related traffic and engineering studies and cost estimates;  
7 (4) communications with plaintiff, Union Pacific Railroad, the California Public Utilities  
8 Commission, the California Department of Transportation and others.

9 15. **David Gravenkamp, Former Public Works Director, County of Siskiyou.**  
10 Mr. Gravenkamp will testify as to his involvement with the subject property and Mr. Swenson.  
11 He will also testify as to various use permits and reclamations plans submitted, and action taken  
12 by the County. Mr. Gravenkamp will also testify as to his knowledge of the property and history  
13 of the property during relevant time periods.

14 16. **Harry Krause, Former Engineer, Department of Public Works, County of**  
15 **Siskiyou.** Mr. Krause will testify as to: (1) the application by plaintiff for a Use Permit with  
16 Reclamation Plans; (2) issues with the North Old Stage Road Railroad undercrossing; (3) related  
17 traffic and engineering studies and cost estimates; (4) communications with plaintiff, Union  
18 Pacific Railroad, the California Public Utilities Commission, the California Department of  
19 Transportation and others.

20 17. **Scott Sumner, Former Director and Deputy Director of Public Works,**  
21 **County of Siskiyou.** Mr. Sumner will testify as to his involvement with the subject property and  
22 Mr. Swenson, including Swenson and the County's joint reclamation plan.

23 18. **Greg Plucker, Community Director and Former Deputy Director of Planning,**  
24 **County of Siskiyou.** Mr. Plucker will testify as to the records of Siskiyou County relating to  
25 plaintiff's property and the property history. He will also testify as to plaintiff's application for a  
26 business license in 2010.

27 19. **Todd Lamanna, Former Director of Public Works, County of Siskiyou.** Mr.  
28 Lamanna will testify as to: (1) the historical and current price of aggregate and asphalt, and costs

1 associated therewith; (2) weights and quantities; (3) the shipping of asphalt and aggregate; (4) the  
2 grades and kinds of aggregate used in asphalt; (5) government regulations relating to grades of  
3 aggregate and their uses; ;(6) the amounts, grades and sources of aggregate used by Siskiyou  
4 County; (7) the grade and limited amount of aggregate remaining in Swenson's pit.

5       20.     **Terry Barber.** Ms. Barber will testify as to the processes and procedures for  
6 obtaining the right to surface mine in Siskiyou County under SMARA and County of Siskiyou  
7 rules and regulations.

8       21.     **Jim Freeze, Westcoast Paving and Chip Sealing.** Mr. Freeze will testify as to:  
9 (1) the historical and current price of aggregate and asphalt; (2) costs associated therewith; (3)  
10 weights and qualities thereof; (4) the grades and kinds of aggregate used in asphalt; (5)  
11 government regulations relating to grades of aggregate and their uses; (6) the amounts, grades and  
12 sources of aggregate used in Siskiyou County; (7) the grade and limited amount of aggregate  
13 remaining in Swenson's pit; and (8) The asphalt/aggregate business between 2000 to the present  
14 in Siskiyou County

15       22.     **Andy Lanizer, Knife River Construction.** Mr. Lanizer will testify as to: (1) the  
16 historical and current price of aggregate and asphalt, and costs associated therewith; (2) weights  
17 and quantities; (3) the shipping of asphalt and aggregate; (4) the grades and kinds of aggregate  
18 used in asphalt; (5) government regulations relating to grades of aggregate and their uses; (6) the  
19 amounts, grades and sources of aggregate used by Siskiyou County; (7) the grade and limited  
20 amount of aggregate remaining in Swenson's pit.

21       23.     **Earl Campbell, Coos Bay, Oregon.** Mr. Campbell will testify as to: (1) the  
22 property history of plaintiff's real property; (2) cessation of surface mining; (3) past reclamation  
23 plans and efforts.

24       24.     **Fern Campbell, Coos Bay, Oregon.** Ms. Campbell will testify as to: (1) the  
25 property history of plaintiff's real property; (2) cessation of surface mining; (3) past reclamation  
26 plans and efforts.

27       25.     **Donald Clifton, Redding, California.** Mr. Clifton will testify as to: (1)  
28 information relating to the history of plaintiff's real property, the uses of said property and the

1 property's prior owners and operators, including uses under the 1966 Use Permit; (2) the  
2 cessation of use and removal of an asphalt hot plant; (3) cessation of mining and reasons therefor;  
3 (4) the pit's limited supply of mineable aggregate; (5) the pit's reclamation and closure, and  
4 return of the financial assurance by Siskiyou County.

5 26. **John Buick.** Mr. Buick will testify as to purchases of aggregate and asphalt  
6 between 2000 to 2013. Mr. Buick will also testify as to economic conditions involving the  
7 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

8 27. **Jack Mitchell.** Mr. Mitchell will testify as to purchases of aggregate and asphalt  
9 between 2000 and 2013. Mr. Mitchell will also testify as to economic conditions involving the  
10 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

11 28. **Gerald Pelletier.** Mr. Pelletier will testify as to purchases of aggregate and asphalt  
12 between 2000 and 2013. Mr. Pelletier will also testify as to economic conditions involving the  
13 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

14 29. **David Baird.** Mr. Baird will testify as to purchases of aggregate and asphalt  
15 between 2000 and 2013. Mr. Baird will also testify as to economic conditions involving the  
16 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

17 30. **Joe Williams.** Mr. Williams will testify as to purchases of aggregate and asphalt  
18 between 2000 and 2013. Mr. Williams will also testify as to economic conditions involving the  
19 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

20 31. **Ron Rhodes.** Mr. Rhodes will testify as to purchases of aggregate and asphalt  
21 between 2000 and 2013. Mr. Rhodes will also testify as to economic conditions involving the  
22 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

23 32. **John McDowell, One-Third Owner of Pit.** Mr. McDowell will testify as to his  
24 one-third ownership of the pit, and aggregate/asphalt purchases that he speculates he would have  
25 bought from Swenson, and his agreement to recover 10% of suit.

26 33. **Jack DeGray.** Mr. DeGray will testify as to purchases of aggregate and asphalt  
27 between 2000 and 2013. Mr. DeGray will also testify as to economic conditions involving the  
28 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.



1           34.     **Roger Henry.** Mr. Henry will testify as to purchases of base rock and asphalt  
2 between 2000 and 2013. Mr. Henry will also testify as to economic conditions involving the  
3 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

4           35.     **Terry Smith.** Mr. Smith will testify as to his purchases of aggregate and asphalt  
5 between 2000 to 2013. Mr. Smith will also testify as to economic conditions involving the  
6 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

7           36.     **David Baird.** Mr. Baird will testify as to purchases of aggregate and asphalt  
8 between 2000 to 2013. Mr. Baird will also testify as to economic conditions involving the  
9 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

10          37.     **Don Loader.** Mr. Loader will testify as to purchases of aggregate and asphalt  
11 between 2000 to 2013. Mr. Loader will also testify as to economic conditions involving the  
12 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

13          38.     **David Jackson.** Mr. Jackson will testify as to purchases of aggregate and asphalt  
14 between 2000 to 2013. Mr. Jackson will also testify as to economic conditions involving the  
15 aggregate and asphalt industry in Siskiyou County and the competitiveness of the business.

16          39.     **Stephen Dean.** Mr. Dean is a Professional Land Surveyor and will testify as to his  
17 creation of a topographical map he provided to plaintiff in connection with a proposed  
18 reclamation plan.

19          40.     **Harold Knight.** Mr. Knight will testify as to his one-third ownership interest in  
20 the property, his planned uses for the property, the permit and reclamation history of the property,  
21 the re-zoning of the property, and the historical uses of the property.

22          41.     **Tony Cruse.** Mr. Cruse will testify as to his business dealings with plaintiff, as  
23 well as the alleged or proposed placement of an asphalt hot plant on plaintiff's property and  
24 payment of a royalty for said placement.

25          42.     **Paul Boerger.** Mr. Boerger will testify as to discussions with plaintiff as to  
26 opening an asphalt hot plant on the property.

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43. **David Gallo, Ph.D. Economist.** Mr. Gallo will testify as to the expert opinions he has reached in this matter, and that he previously disclosed in his expert reports as well as at deposition.

44. **Craig Enos.** Mr. Enos will testify as to the expert opinions he has reached in this matter, and that he has previously disclosed in his expert reports as well as at deposition.

45. **Stanley Swenson.** The facts underlying his claims and his claim for damages.

1 ATTACHMENT C: Plaintiff's Exhibits

2 **PLAINTIFF'S EXHIBIT LIST**

3

ID	Date	Document Description
1	8/3/66	Siskiyou County Planning Commission Permit Application
2	3/31/86	Letter From Robert Sellman (Planning Director) to Earl Campbell cc: Gene Fink, supervisor Phil Mattos re meeting
3	8/29/86	Letter From Robert Sellman (Planning Director) to Earl Campbell cc: Gene Fink, supervisor Phil Mattos re Reclamation Plan
4	9/22/86	Letter From Robert Sellman to Lela Clifton re: Reclamation Plan Application incomplete
5	04/1987	Reclamation Plan Supplementary Statements for Lela Clifton; Clifton/Campbell Ready-Mix Gravel Pit
6	5/4/87	Notarized Certificate for Lela Clifton (9/8/86), 1280 Wagstaff Rd., Paradise, CA 95569 re Suggested Model Reclamation Plan
7	6/3/87	Siskiyou County Planning Commission Regular Meeting re: Reclamation Plan – Lela Clifton For Campbell Ready Mix
8	5/4/88	Letter From Robert Sellman to Campbell Ready Mix File re: On-Site Review of Reclamation Plan
9	9/22/88	Letter From Donald E. Clifton to Robert Sellman re: Reclamation Plan
10	6/25/91	Agreement between Siskiyou County and Earl L. Campbell
11	9/9/91	Letter From Earl Campbell to Dept. of Conservation re: ceasing operations

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ID	Date	Document Description
12	9/17/91	Letter From Dennis O’Bryant to Earl Campbell re: Not required to file annual report
13	10/26/93	Siskiyou Planning Department Request for Release of Campbell ready Mix Reclamation Plan (Approved)
14	3/1/94	Rezoning Petition
15	06/1994	Siskiyou County Codes – Article 46. Light Industrial District
16	7/6/94	Siskiyou County Meeting – Negative Declaration/Zone Change
17	2/14/95	Ordinance adopted – zone change as petitioned by Earl and Fern Campbell (w/ Grant Deed attached)
18	09/1995	Ordinance of Siskiyou County reclassifying certain properties
19	4/3/96	Memo From Harry to Dave, Brian & Scott re: Mt. Shasta Gravel Pit – Conflicting Boundary with Swenson
20	05/1999	Surface Mining and Reclamation Ordinances for Siskiyou County
21	1/10/00	Siskiyou County Reclamation Plan – Mount Shasta Pit
22	1/17/00	“Can the State of California ‘Declare’ The Rivers of Siskiyou County as ‘Navigable’?”
23	1/21/00	Application Review of Reclamation Plan
24	1/26/00	Letter From Larry Evans to Doug Libby re: Siskiyou County/Stanley R. and Therese M. Swenson Reclamation Plan
25	4/25/00	Scott Timber Co. financial documents
26	3/2/00	Less Than 3 Acre Conversion Exemption for 305 butte Street
27	3/27/00	Logging Contract

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ID	Date	Document Description
28	4/23/00	Mt. Shasta Sand & Gravel Quarry Reclamation Plan
29	8/28/00	Use Permit for Stan Swenson and Mark Teague
30	9/1/00	County of Siskiyou Business License Application for Swenson Hot Mix Asphalt Plant
31	9/5/00	Staff Review From Wayne Virag to Siskiyou County Reviewing Agencies re: Stan and Therese Swenson Use Permit and Reclamation Plan
32	9/6/00	Application Review for Reclamation Plan and Use Permit
33	9/15/00	Letter From Larry Evans to Wayne Virag re: Use permit and reclamation plan
34	10/17/00	Letter From Richard Barnum to Mark Teague re: Use Permit and reclamation plan
35	10/27/00	Letter From Richard Barnum to Stan Swenson re: Cease and Desist Order – Illegal Mining Activity
36	10/31/00	Letter From Richard Barnum to Wayne Virag re: Swenson Violation
37	11/1/00	Memo From Wayne Virag re: Illegal Mining Activity – Stanley Swenson, Grenada
38	11/8/00	Letter From Richard Barnum to Stan Swenson re: Compliance Schedule for Illegal Mining Activity, Grenada
39	12/5/00	Letter From John Tannaci to Wayne Virag re: Swenson Quarry
40	12/8/00	Memo From Richard Barnum to Frank Demarco re: Closed Session – Stan Swenson Illegal Mining Activity

ID	Date	Document Description
41	12/20/00	Memo From Wayne Virag to Pete Knoll re: Illegal Quarrying Activity – Stan Swenson
42	1/19/01	Letter From Richard Barnum to Mark Teague re: Swenson Use Permit and Reclamation Plan
43	8/1/01	Letter From Scott Sumner to Wayne Virag re: Swenson Pit
44	8/27/01	Complaint For Permanent Injunction, Civil Penalties in matter of Swenson v. People
45	11/7/01	Letter From Norma Schettino to Wayne Virag re: Larry Allen’s address
46	11/13/01	Letter From Tim Pappas to Wayne Virag
47	11/13/01	Letter From Stan Swenson to Howard Moody re: Blatant Abuse of Power
48	8/6/02	Letter From Darrin Mercier to Lawrence Allen re: State of CA v. Swenson
49	8/19/02	Request For Dismissal in Swenson v. People
50	8/20/02	Technical Memorandum From Mike Winton to Brian McDermott re: Safety Study at the North Old Stage Road RR Under-crossing
51	9/5/02	Memo From Brian McDermott to Howard Moody re: Swenson Rock Pit, Railroad Undercrossing Traffic Study
52	10/31/02	Letter From Wayne Virag to Stan Swenson re: Use Permit/Reclamation Plan Application
53	12/10/02	Letter From Darrin Mercier to Rick Barnum re: Siskiyou County Use

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ID	Date	Document Description
		Permit
54	12/11/02	Fax From Buzz Knight to Wayne Virag and Rick Barnum re: Use Permit
55	12/12/02	Letter From Darrin Mercier to Rick Barnum re: Siskiyou County Use Permit
56	12/12/02	Letter From Wayne Virag to Buzz Knight re: Campbell Pit Entitlement Status
57	3/13/03	Letter From Wayne Virag to Stan Swenson re: Campbell Quarry and Hot Plant Status
58	3/6/03	Letter From Darrin Mercier to Wayne Virag re: Campbell Quarry and Hot Plant Permits
59	3/20/03	Letter From Wayne Virag to Darrin Mercier re: Campbell Quarry
60	10/27/04	Letter From Wayne Virag to Darrin Mercier re: Campbell Quarry and Batch Plant
61	2/2/05	Letter From Frank DeMarco to Darren Mercier re: Swenson – viability of use permit, determination of rights
62	2/14/05	Letter From Darren Mercier to Frank J. DeMarco re: Swenson/Siskiyou County Use Permit
63	2/15/05	Swenson’s Complaint for Declaratory Relief in Swenson v. County of Siskiyou
64	2/21/05	Letter From Darren Mercier to Frank DeMarco re: Swenson v. County of Siskiyou, et al.

ID	Date	Document Description
65	3/24/05	Letter From Darren Mercier to Philip Price to Swenson v. County of Siskiyou, et al.
66	3/25/05	Letter From Philip Price to Darren Mercier re: Swenson v. County of Siskiyou-Campbell Quarry and Hot Batch Plant
67	4/4/05	Location Map
68	4/18/05	Letter From Wayne Virag to Property Owner re: Public Hearing on Appeal of Administrative Decision for Stan Swenson
69	4/26/05	Letter From Darrin Mercier to Frank DeMarco, Wayne Virag, Philip Price re: Swenson vs. County of Siskiyou, Appeal of Administrative Decision
70	4/28/05	Letter From Frank DeMarco to Darren Mercier re: Swenson v. County of Siskiyou, Appeal of administrative decision.
71	4/28/05	Letter From Philip Price to Darren Mercier cc: Frank DeMarco re: Swenson v. County of Siskiyou, Superior Court of Siskiyou County Case
72	5/2/05	Letter From Darren Mercier to Frank DeMarco, Philip Price re: Swenson vs. County of Siskiyou, Appeal of Administrative Decision
73	5/3/05	Letter From Frank DeMarco to Darrin Mercier re: Swenson vs. County of Siskiyou, Appeal of Administrative Decision
74	5/3/05	Letter From Linda Schulken to Darren Mercier cc: Frank DeMarco re Swenson vs. County of Siskiyou
75	5/4/05	Siskiyou County Planning Commission Regular Meeting – Appeal of



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ID	Date	Document Description
		Administrative Decision for Stan Swenson
76	5/4/05	Swenson Appeal – Transcript of May 4, 2005
77	5/4/05	Staff Report – May 4, 2005 – Appeal of Administrative Decision for Stan Swenson
78	5/4/05	Appeal of the Administrative Decision by County of Siskiyou Related to Stan Swenson – Brief on Behalf of Interested Person Stan Swenson
79	5/10/05	Closed Session – Pending Litigation
80	5/10/05	Memo From Cathie McCanna to Property Owner or Affected Agency re: Public Hearing
81	5/17/05 5/24/15	Before the Board of Supervisors, County of Siskiyou – Meeting Minutes
82	5/17/15	Agenda Worksheet in Setting of Possible Appeal of Planning Commission Decision of May 4, 2005, Regarding the Swenson Matter
83	5/24/05	Agenda Worksheet in Appeal of the Planning Commission’s Decision Concerning the Status of a Use Permit to Allow an Asphalt Batch Plant for Stan Swenson
84	5/24/05	Reporter’s Transcript of Proceedings re: Board of Supervisors Meeting
85	5/25/05	Nature of Proceedings: Court’s Ruling on Demurrer of Defendant (Sustained)

ID	Date	Document Description
86	10/6/05	Plaintiff's SAC for Petition For Writ of Mandate and for Declaratory Relief
87	11/4/05	Defendant's Demurrer of County of Siskiyou to SAC for Petition for Writ of Mandate and for Declaratory Relief; MTS; RJN; Notice of Hearing; MPA
88	11/22/05	Plaintiff's Opposition to Demurrer to SAC
89	11/30/05	Defendant County of Siskiyou's Reply to Opposition to Demurrer of County of Siskiyou to SAC for Declaratory Relief; MTC Joinder of Indispensable Parties; RJN
90	12/22/05	Nature of Proceedings: Ruling on Defendant's Demurrer to and Motion to Strike and Dismiss the Second Amended Complaint and Request for Judicial Notice
91	11/06/06	Nature of Proceedings: Ruling on Petition for Writ of Mandate (Granted)
92	4/16/07	Email From Barry Shiohita to Terry Barber, Frank DeMarco, Rita Haas re: Swenson Gravel Pit
93	5/15/07	Nature of Proceedings: Decision
94	7/20/07	Judgment
95	9/14/07	Memo From Neal Scott re: Railroad Grade Separation Project, North Old Stage Road
96	10/31/07	Plaintiff's Order After Hearing on Plaintiff's Motion for Attorney's Fees and Defendant's Amended Motion to Tax Costs

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<b>ID</b>	<b>Date</b>	<b>Document Description</b>
97	8/14/08	Siskiyou County Codes re: Zoning (retrieved 8/14/2008)
98	1/28/09	Statement of Economic Interests for Siskiyou County
99	6/23/10	Declaration of Lavada Erickson in Support of MSJ or Summary Adjudication of Defendants
100	7/1/01	Declaration of Greg Plucker in Support of MSJ or Summary Adjudication of Defendants
101	7/1/10	Declaration of Marcia Armstrong in Support of MSJ or Summary Adjudication of Defendants
102	8/25/10	Declaration of Greg Plucker in Support of MSJ re: Typographical Error in Declaration
103	9/1/10	Business License Application for Swenson Hot Mix Asphalt Plant
104	10/4/10	Administrative Record Vol. 1
105	10/4/10	Administrative Record Vol. 2
106	12/17/13	Stanley Swenson's Gravel Pit – Paving and Highway Contractors' Estimated Purchases

1 ATTACHMENT D: Defendants' Exhibits

2 **DEFENDANTS' EXHIBIT LIST**

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ID	Date	Document Description
A	8/3/1966	Use Permit issued to C. O. Palmer
B	9/9/1991	Letter from Earl Campbell to Department of Conservation
C	6/25/2991	Agreement between the County of Siskiyou and Earl Campbell
D	4/1/2014	Letter from Earl Campbell to Philip Price
E	3/22/1996	Letter from Richard Barnum to Stan Swenson
F	4/14/1999	Agreement between County of Siskiyou and Stanley and Therese Swenson
G	1/10/2000	County of Siskiyou Reclamation Plan for Mt. Shasta Pit
H	8/28/2000	Use Permit Application submitted by Stanley Swenson
I	8/28/2000	Reclamation Plan Application submitted by Stanley Swenson
J	4/23/2000	Reclamation Plan submitted by Stanley Swenson
K	8/28/2000	Application Information Sheet
L	9/5/2000	Project Application Review from Wayne Virag with attached Staff Review
M	9/5/2000	Local Agency Review List
N	9/6/2000	Application Review
O	9/15/2000	Letter from Larry Evans, Siskiyou County Department of Public Works to Wayne Virag
P	9/18/2000	Letter from Wayne Virag to Mark Teague with attached responses from Mt. Shasta Fire district, Siskiyou County Public Works, CA.

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1	<b>ID</b>	<b>Date</b>	<b>Document Description</b>
2			Dept. of Forestry and Fire Protection
3 4 5	Q	9/19/2000	Letter from Richard Barnum to Stan and Therese Swenson with attached indemnification agreement
6 7	R	10/3/2000 10/11/2000	Letter from Department of Conservation attached Letter from Wayne Virag to Mark Teague
8	S	10/17/2000	Letter from Richard Barnum, Planning Director, to Mr. Mark Teague
9	T	1/19/2001	Letter from Richard Barnum to Mark Teague
10 11 12	U	2/2/2001	Letter from California Regional Water Quality Control Board to Stanley Swenson
13 14	V	9/5/2002	Letter from Brian McDermott to Richard Barnum with enclosed Omni Means Traffic Study
15	W	10/31/2002	Letter from Wayne Virag to Stanley Swenson
16	X	12/10/2002	Darrin Mercier to Rick Barnum
17	Y	12/12/2002	Wayne Virag to Buzz Knight
18	Z	2/13/2003	Letter from Wayne Virag to Stanley Swenson
19	AA	3/20/2003	Letter from Wayne Virag to Darrin Mercier
20	BB		Article 46 of the Siskiyou County Code "Light Industrial District"
21 22 23	CC		Article 25 of the Siskiyou County Code "Nonconforming Land, Buildings and Uses"
24 25 26	DD		Article 14 of the Siskiyou County Code "Expiration, Revocation and Appeals"
27 28	EE	2/14/2005	Letter from Darrin Mercier to Frank DeMarco

<b>ID</b>	<b>Date</b>	<b>Document Description</b>
FF	3/24/2005	Letter from Darrin Mercier to Philip B. Price
GG	3/25/2005	Letter from Philip Price to Darrin Mercier
HH		Public hearing notices for Planning Commission Appeal
II	4/28/2005	Letter from Philip Price to Darrin Mercier
JJ	5/2/2005	Letter from Darrin Mercier to County Counsel and Philip Price
KK	5/3/2005	Letter from Philip Price to Darrin Mercier
LL	5/4/2005	Staff Report to Planning Commission
MM	5/4/2005	Brief on behalf of Stanley Swenson
NN		Transcript of Recording of Planning Commission Hearing
OO	5/4/2005	Siskiyou County Planning Commission Meeting Minute Order and Decision
PP	5/17/2005	Agenda Worksheet
QQ	5/24/2005	Agenda Worksheet
RR	5/24/2005	Public Comments
SS	5/10/2005	Closed Session Minute Order
TT	5/10/2005	Public Notice
UU	5/16/2005	Swenson Notice of Appeal
VV	5/17/2007	Minute Order (Board of Supervisors)
WW	5/24/2005	Agenda (Board of Supervisors)
XX	5/24/2005	Reporter's Transcript of Proceedings
YY	5/24/2005	Decision by Board of Supervisors
ZZ	12/22/2005	Ruling on Demurrer to Second Amended Complaint

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ID	Date	Document Description
A-3	5/15/2007	Decision by Judge William Davis
B-3	7/20/2007	Judgment from Siskiyou County Superior Court
C-3	8/20/2007	Business License Application
D-3	8/30/2010	Amended Memorandum regarding Business License
E-3		Swenson's Responses to Requests for Admission, Set One
F-3		Swenson's Computation of Damages
G-3	1/9/2014	Expert Report of Craig Enos with attached exhibits
H-3	3/12/2014	Supplemental Expert Report of Craig Enos with attached exhibits
I-3		Expert Report of David Gallo, with attached exhibits
J-3		Supplemental Expert Report of David Gallo with attached exhibits
K-3		Emailed Supplemental Reports of David Gallo
L-3		Angela Casler CV
M-3		Expert Report of Angela Casler with attached exhibits
N-3		Supplemental Report of Angela Casler with attached exhibits
O-3		Expert Report of Thomas Chapman with attached exhibits
P-3		Supplemental Report of Thomas Chapman with attached exhibits
Q-3		Second Supplemental Report of Thomas Chapman with attached exhibits
R-3		Thomas Chapman Spreadsheets combined
S-3		California Public Resources Code Section 2770(a)-(e)