

Meeting called to order by Mayor Elliott. Meeting opened with the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Paul Barr, Reggie Olney, Bruce Roundy, Vice Mayor Jim Paschall and Mayor Wade Elliott

Councilmembers absent: None

Staff present: Robert Pasero, Paula Carr, Nancy Sailsbery, Jere Schmitke, Ken Skillman, Angela Crook, Tom Andrews, and Paul H. Poczobut Jr.

ORAL AND WRITTEN COMMUNICATIONS

Citizen Business:

Judie Noffsinger, 4261 County Road MM, questioned after the adoption of the General Plan Update, a comprehensive Zoning Ordinance will also be adopted and whether it was true that the power typically reserved for the Planning Commission will be placed single handedly upon the Community Services Director Nancy Sailsbery. Mrs. Noffsinger also asked if the City is supposed to adopt groundwater standards for wells drilled within the City. Community Services Director Sailsbery advised once City Council adopts the General Plan Update, the Zoning Ordinance will need a comprehensive update to meet new state environmental laws and regulations. The Zoning Ordinance update will be recommended by the Technical Advisory Committee (TAC) and final approval by City Council. Community Services Director Sailsbery noted Public Hearings will also take place at that time. Community Services Director Sailsbery stated she is not aware of any updates concerning groundwater standards for wells drilled within the City. Mrs. Noffsinger questioned whether the cost for mailing and preparing the Crystal Geyser Appeal report was paid by the City. Community Services Director Sailsbery advised the applicant was paying those costs.

Byron Denton, 127 Tanner, questioned the capacity limit sign inside Carnegie building. Mr. Denton advised a larger building should have been considered for the meeting that evening.

CITY COUNCIL COMMUNICATIONS AND REPORTS

Councilmember Roundy stated the Farmers Market is moving forward. A survey is available on the Glenn County Resource Conservation District website concerning where to locate the Farmers Market. The League of California Cities is recommending an initiative to save our cities budgets from being raided by the State. A resolution will be brought forward at the next regularly scheduled Council meeting.

CONSENT CALENDAR

- A. Waive reading except by title, of any ordinances under consideration at this meeting for either introduction or passage per Government Code §36934.
- B. Approve City Council minutes for January 19, 2010.
- C. Approve Warrant List.
- D. Approve six month extension request for the approved Agreement to defer building permit fees and development impacts fees for Paigewood Village Apartments project from February 15, 2010 to August 15, 2010.

E. Approve and authorize City Manager to execute contract for new Chief of Police.

Councilmember Barr moved, seconded by Councilmember Roundy to approve the consent calendar as presented. Motion carried with no abstentions.

OATH OF AFFIRMATION

Mayor Elliott introduced the new Chief of Police Paula Carr. The Oath of Affirmation was given to Ms. Carr by Assistant City Manager/City Clerk Crook and her badge pinned by her father Olaf Carr. Chief of Police Carr stated she looked forward to serving the City of Orland and working with the Orland Police Department.

Chief of Police Carr presented Police Officer Zach Lopeteguy with his Intermediate POST Certificate.

Mayor Elliott advised a public open house to meet the new Chief of Police will take place at Carnegie Center on February 11, 2010 at 6:00 p.m.

The meeting recessed at 6:45 p.m. Meeting resumed at 6:50 p.m.

PUBLIC HEARING

1. Conduct Public Hearing to receive and consider public input of Appeal of the Technical Advisory Committee's December 16, 2009, adoption of a CEQA Exemption under the "General Rule" and approval of Site Plan Review #2009-01, Crystal Geysler Water Company (Applicant).

Mayor Elliott gave an outline of the appeal hearing proceedings. A brief staff report was given by Community Services Director Nancy Sailsbery. Community Services Director Sailsbery stated that the Orland Technical Advisory Committee (TAC) at its December 16, 2009, meeting voted 5-0 to adopt the "General Rule" Exemption under CEQA and to approve Site Plan Review #2009-01 for Crystal Geysler Water Company (CGWC). On December 28, 2010, two appeals of the TAC's decision were received by the City from attorney's representing "Save Our Water Resources (SOWR)" and "Friends of Orland" (Gregory Appel and Matt Vereschagin). The following actions are before City Council:

- Motion to deny the appeals and accept the decision and findings of the TAC;
- Motion to reverse the TAC decision and deny the application as presented;
- Motion to prepare an Initial Study to determine the level of environmental review for the application and complete an environmental document; or
- Motion to refer the matter back to the TAC for further review.

Community Services Director Sailsbery advised that TAC recommends that the City Council 1) hold a public hearing on the appeals of the TAC's decision to exempt the Site Plan Review Application from CEQA under the "General Rule" Exemption and to approve Site Plan Review #2009-01, and 2) Deny the appeals and accept the decision and findings of the TAC.

City Attorney Tom Andrews advised the environmental review that has been conducted by staff is appropriate. City Attorney Andrews stated the City's decision is ministerial, not discretionary, as it is an allowed use in the "M-H" (Heavy Industrial) Zoning District and is exempt from CEQA review. City Attorney Andrews advised questions raised by the opponents of the project have been analyzed and have lead to the conclusion that the CEQA exemption has been appropriately applied.

Mayor Elliott opened the Public Hearing at 6:58 p.m.

Sabrina Teller, an attorney from the Law Offices of Remy, Thomas, Moose and Manley, LLP, representing SOWR stated the project does not qualify for the "common sense" exemption due to the City's lack of any basis that they are certain there will be no significant impacts. There are many unanswered questions concerning issues of groundwater levels, Greenhouse Gas emissions, air quality, noise and truck traffic. The City has not justified the facts of the matter or provided factual support with certainty, that there is no possibility that the activities in question will not have any significant effects to the environment. The City may not mitigate itself into qualifying the project for an exemption. Ms. Teller disagreed with the City's claim that the decision is truly ministerial, but rather a discretionary entitlement, subject to CEQA. Many conditions are standard recitals of city code requirements; several others are specific to the project, such as pumping limitations proposed as a Condition of Approval. Ms. Teller stated an Initial Study and complete Environmental Impact Report (EIR) that fully and fairly analyzes all of the potentially significant impacts of the project should be considered.

William D. Kopper, an attorney representing Friends of Orland (Gregory Appel and Matt Vereschagin), submitted for the administrative record a letter that includes a noise report from Mr. Steve Pettyjohn, Acoustics & Vibrations Group and an email from Interim Chief of Police Bob Pasero regarding speed limits where trucks would be routed. Mr. Kopper stated the action of the City is not without the potential to create environmental impacts and that the City cannot mitigate its way into qualifying for an exemption. There are a number of issues that are unresolved concerning significant noise impacts of the project; such as truck speed, loading dock noise, compressor room, cooling towers and onsite chillers. Mr. Kopper urged Council to have an EIR prepared.

Joanne Overton, 3874 County Road S, a member of SOWR, stated the CGWC is not a good fit for Orland without further study. Mrs. Overton discussed her many concerns of soil and air pollutants, water contamination, truck traffic and noise from the proposed facility. Mrs. Overton requested Council to reconsider TAC's determination and require the preparation of an EIR or forget the project entirely.

Carol Perkins, Butte County resident, a water resource advocate and member of SOWR, stated Glenn County officials have stated the eastern part of Glenn County has the lowest levels of groundwater and that no one really knows just how much groundwater is in Glenn County. Ms. Perkins stated its unknown what the potential impacts could do to our groundwater levels or the dry cleaner plume. Ms. Perkins stated CGWC will be charged a punitive amount if they exceed the annual maximum of 160-acre feet of water allowed by the City and questioned whether that was sufficient to protect this finite resource.

Tammie Stanley, 4294 County Road N, a member of SOWR, stated as a business owner she fully supports common sense growth and development in the community. She questioned

whether anyone really knows if the aquifer will have a chance to recharge after continued pumping by CGWC. Mrs. Stanley stated neighbors near the plant do not want to hear the noise of a 24-hour facility and the possibility of their wells going dry. CGWC is not a good fit for the community.

Dalene Shippelhouse, 4300 County Road N, a member of SOWR, stated CGWC is not known as good neighbors. They will cause damages to the roads, aquifer, local wells, and lower adjacent landowners property values. Mrs. Shippelhouse requested an EIR be considered. Mrs. Shippelhouse presented a letter for the record.

Tom Nickell, Vice Mayor, City of Chico, and retired California Highway Patrol, stated Council should authorize an EIR to answer all concerns. Mr. Nickell advised experts in hydrology state integration from a plume will occur.

Don Snyder, 3992 County Road M, a member of SOWR, questioned why the City is not doing an EIR.

Trish Saint-Evens, 6825 County Road 15, a member of SOWR, presented several statements made by CGWC. Mrs. Saint-Evens advised CGWC stated that PET is a terephthalate not an orthophthalate and there are no health concerns with PET because terephthalates do not leach into the rinse water. Mrs. Saint-Evens advised that according to the National Institute of Environmental Health and Human Resources that studies have shown contents of a PET bottle and the temperature at which it's stored does influence the rate and magnitude of leaching. Mrs. Saint-Evens submitted an attachment for the record.

Bob Bishop, 224 Mellane Circle, a member of SOWR, brought a tape recording of chiller noises from another CGWC site, located at the foot of Mount Shasta. Mr. Bishop stated an initial study should be done to determine if noise from the three chillers proposed at the CGWC facility would impact adjacent subdivisions.

Carmen Willingham, 6348 County Road 13 a member of SOWR, agreed with previous comments. Council needs to consider effects to the adjacent neighbors and community.

Dean Shippelhouse, 4300 County Road N, a member of SOWR, presented a picture of the proposed CGWC building, depicting the size and height of the building.

Barbara De Beaord, 4044 County Road FF, a member of SOWR, stated the CGWC will have significant environmental impacts (air pollution, greenhouse effects/gases, noise and water pollution, and dry cleaner plume). Mrs. De Beaord stated an EIR would address these concerns.

Vincent Cleek IV., 112 Guilford Circle, a member of SOWR, stated water is very important to the community. Mr. Cleek stated the water should be metered to shut off after 160 acre feet of water usage. Mr. Cleek advised an EIR should be done.

Michele Stenquist, 6826 County Road 16, a member of SOWR, questioned who will be monitoring CGWC water usage. Ms. Stenquist questioned what recourse does the landowner have if their well goes dry. Ms. Stenquist request an EIR be prepared.

Ray Collette, 6833 County Road 200, a member of SOWR, questioned flood control issues at Lely Park and why the flood control plan was not followed through and planned for onsite. Mr. Collette stated discretionary decisions when mixed with ministerial actions should require an EIR.

Sharon Ellis, 4101 County Road S, a member of SOWR, stated there were concerns of transparency at the beginning of the CGWC project. CGWC should have considered locating the facility at the airport. Mrs. Ellis requested Council to require an EIR or forget the project.

John Scott, 4370 Tau Way, Butte Valley resident, stated his concerns with the City not requiring an EIR and the ramifications it could have on the city's future generation.

Nina Bates, 7083 Highway 32, a member of SOWR, advised Council to require an EIR for the safety and well being of everyone.

Grace Marvin, Sierra Club, Yahi Group, stated her club wants a comprehensive EIR, which they believe will show the plant will do more harm than good. The club requests an EIR be done.

The meeting recessed at 8:40 p.m. Meeting resumed at 8:55 p.m.

Greg Wickert, 4438 County Road M1/2, a member of SOWR, stated its all about following the process; do an EIR, it is good business.

Ron Linzy, Orland resident, stated a company that comes in and exports our water after years of conservation efforts; he considers insulting and counterproductive.

Judy Noffsinger, 4261 County Road MM, a member of SOWR, spoke about California's water demands, drought issues and ground water rights. Mrs. Noffsinger advised a California Supreme Court case established the concept of overlying rights in which the rights of others with land overlying the aquifer must be taken into account. Later court decisions established that ground water may be appropriated for use outside the basin although appropriator's rights are subordinate to those with overlying rights. Mrs. Noffsinger stated that without an independent complete EIR Orland may become a ghost town in fifty years.

Victoria Yelland, 6726 County Road 20, submitted a copy of her letter for the record. Ms. Yelland stated concerns of false assumptions made by CGWC. Ms. Yelland questioned whether agricultural wells will be bothered; concerns of the noise level study and the PCE plume.

Aileen Porter, 17 E. Walker Street, a member of SOWR, stated an EIR needs to be done.

Donna Cook, a member of SOWR, stated an analysis of the potential impacts from heavy trucks needs to be addressed, as well as the costs for the stoplight. Ms. Cook stated failure to thoroughly analyze the impacts is improper under CEQA; therefore an EIR is required.

Ann Schunemann, 14 Country Drive, a member of SOWR, stated SOWR is not against growth and wants to see Orland prosper and be here in 50 years. Mrs. Schunemann stated if new jobs from CGWC are going to destroy the infrastructure and hurt agriculture, it is not worth it. The

only way to answer questions and concerns is with an EIR.

Robin Huffman, Butte Environmental Council, advised water is a regional issue and a major concern of this project. CGWC may plan to expand and ask for more water in the future.

John Noffsinger, 4261 County Road MM, a business on Papst Avenue, a member of SOWR, advised Council he would notify the Fire Marshall that the meeting was beyond the scope of 80 people. Mr. Noffsinger stated the decision that TAC made was over their head and they had neither the training nor knowledge to make a decision that could jeopardize the future of Orland in regards to water capacity, noise and traffic. Mr. Noffsinger requested Council to reject the entire plan.

Doris Vickers, 6235 Countryside Road #10, requests an EIR be done.

Ken Nahigian, 5956 County Road 200, advised individuals that were opposed to the project to consider fighting it statewide. Mr. Nahigian stated an EIR should be considered.

Bill Mc Eckron, 6736 County Road 19, a member of SOWR, stated this is an agricultural town. A lot of orchards in the area are dependent on the water underground and with the drought conditions, it is not a good idea to be trucking water from the community.

Angus Saint-Evens, 6825 County Road 15, a member of SOWR, stated mitigation measures are being given to CGWC due to the impacts the project will have. An EIR should clearly be done, as one expert states there are no impacts and other experts state there are impacts. Mr. Saint-Evens states its black letter law that anytime you mitigate something you cannot use a categorical exemption. The State Department of Toxic Substances Control letter neither confirms nor rejects the aquifer testing conducted by Malcolm Pirnie, Inc. regarding any effects from the PCE plume. Mr. Saint-Evens advised letters from the Glenn County Department of Health Services and County Agricultural Commissioner recommend the need for an EIR.

Ron Barnes, 6214 County Road 15, a member of SOWR, stated he has over thirty years of experience with water, hydrology and impact reports. There is a need to evaluate the impact of CGWC over the next ten to twenty years; especially, if the water table begins dropping from the heavy pumping due to city use, agricultural and industry. Mr. Barnes stated an EIR will address all concerns.

Jaime Lely, 6806 County Road 12, owner of a water pump business, stated with more homes that are built, the less flood irrigation. Ms. Lely stated there has been less groundwater recharge which has prompted more home and agricultural pumps to be lowered around the area. Ms. Lely questioned why an EIR is not being required. Community Services Director Sailsbery advised after analysis staff found no thresholds being exceeded and no impacts to the environment.

The meeting recessed at 9:55 p.m. Meeting resumed at 10:00 p.m.

David Aladjem, attorney from the Law Offices of Downey Brand, LLP, representing CGWC stated staff has done their due diligence and the "common sense" exemption is appropriate.

Janice Almond, Human Resources Director Crystal Geysers Water Company, gave a summary about the CGWC. The CGWC proposed in Orland will be a brand new sparkling beverage bottling plant and will employ 20-25 full-time employees. CGWC has a reputation for being a good member of and involved in the community.

Richard Weklych, Vice President, Crystal Geysers Water Company, gave a brief description of the project. It will be a state-of-the-art, 12,500 square-foot building, and environmentally designed sparkling beverage bottling plant. Mr. Weklych stated CGWC intends to use 160 acre-feet of groundwater annually at build out. CGWC will use the onsite well to draw mineral water to produce its product. CGWC will not truck any bulk water in or out of the facility. The facility will be designed with the latest technology to minimize noise and maximizing energy efficiency with Leadership in Energy and Environmental Design (LEED) concepts.

Jim Strandberg, Hydrogeologist, Malcolm Pirnie, Inc., discussed groundwater quantity and quality. The aquifer test had shown the test well would meet the needs of the project and would not impact private domestic wells located near the site. Based on the test results, water levels in the test well and on site monitoring wells recovered to greater than 90 percent of original levels in less than eight hours after pumping stopped. The water level in the test well recovered about 20 feet of its approximately 30 feet of total drawdown within 30 seconds of shutting off the pump. Based on the lack of response observed in the other ten (10) domestic wells and the minimal in the (1) domestic well, pumping the test well at 410 gpm or less would not negatively impact the use of the private domestic wells in the vicinity of the site and future use of the test well will not negatively impact the neighborhood wells or groundwater basin. Mr. Strandberg advised test results have determined that the proposed facility would not have an impact on the PCE plume or the groundwater table.

Jim Brennan, J.C. Brennan & Associates, noise and vibration consultants advised they completed a Noise Study which evaluated the noise sources associated with the plant and designed the plant to comply with noise levels standards of the City. Mr. Brennan advised based on the appeal, the project will also comply with the Glenn County noise standards. Noises associated with on-site truck traffic and loading dock activity will conform to the City's General Plan Noise Element criteria and Conditions of Approval. The installation of acoustical equipment to ensure that both noise from inside the building (compressor room) and from outside the building (chiller and cooling towers) will be reduced to below City standards through the use of common sound-proofing equipment.

Ben Kraemer, 103 E. Mill Street, owner of Kramer and Company Manufacturing, stated we have the opportunity to have CGWC as a part of our community. The land has been zoned properly for many years and will create 15 to 25 jobs. Mr. Kraemer requested Council to support CGWC.

Mike Vereschagin, 3625 County Road P, advised the groundwater in the Stony Creek aquifer can become quite full in the winter months and should not have an impact when CGWC is pumping during that time. Mr. Vereschagin advised the studies had shown over the long term there was actually a slight increase in groundwater levels.

Jim Pedrotti, 225 East Street, stated years ago Orland used to have several different kinds of retail stores; there are now vacant buildings. Mr. Pedrotti stated we need new business.

Christian Chaney, County Road 24, advised he works at a loading dock and does not understand all the concerns regarding the noise. Mr. Chaney stated truck noise is not deafening and truck drivers are very conscientious. Mr. Chaney advised neighbors who moved near the proposed property were aware of the Heavy Industrial zoning.

Francis Alston, Orland resident, stated there are many people in the community that support CGWC.

Nancy Kraemer, 103 E. Mill Street, stated the majority vote of Orland residents do support CGWC and would like to see new jobs in the community.

Ramon Zabala, 145 Bonnie Lane, stated he would like to see CGWC come to Orland because there is a need for new jobs.

Tim Vereschagin, 4317 County Road N, stated Orland needs to grow and this would be a nice addition to our town. There is a need for new jobs in Orland.

Vern Massatil, Chico resident, advised there needs to be more job opportunities in Orland and CGWC would be a good fit for the community.

Scott Foster, 6900 County Road 27, applauded Friends of Orland and SOWR for bringing up concerns and issues which have been addressed adequately by CGWC and staff. Mr. Foster feels CGWC is perfect for this community.

Carlos Chavez, 667 Salomon Drive, stated he has moved back to the Orland community after being gone for a few years. It is a safe community to raise your family and buy a home. CGWC would offer good job opportunities for the citizens of Orland.

Scott Madden, 850 E. Walker Street, owner of Scotty's Electric Motor repair, stated new technology have made it possible for very quiet fans and cooling towers. Mr. Madden stated he would like to see new business coming to Orland.

Byron Denton, 127 Tanner Way, stated he remains neutral on the subject but asked Council to do what's best for the City of Orland.

The Public Hearing closed for comments at 11:00 p.m.

The meeting recessed at 11:00 p.m. Meeting resumed at 11:05 p.m.

Councilmember Barr questioned if water was being imported. Staff advised no water will be imported to CGWC. Staff confirmed the property was annexed and zoned in 1982 and an environmental document was prepared at that time.

Councilmember Roundy questioned if it was possible to have additional established truck routes used by CGWC trucks to alleviate an impact to Papst Avenue. Community Services Director Sailsbery advised the County did not make any comments regarding County truck routes being used as the applicant was satisfied with using the designated City truck routes. However, Mr. Weklych advised CGWC is willing to entertain any recommendations considered by Council.

Councilmember Roundy stated Council needs to look at the facts; it is a permitted use and zoned correctly. Facts have shown it is not a significant impact to the aquifer. Test reports on the plume have shown the plume has shrunk back. Councilmember Roundy state the noise issue meets City standards.

Councilmember Olney thanked everyone for coming and appreciated the questions and answers that were given. Councilmember Olney stated new technology is available that can dramatically reduce the noise from the fans and cooling towers.

Vice Mayor Paschall advised his concern regarding the turn radius at Papst Avenue and South Street was satisfactorily answered by the City Engineer Ken Skillman. Vice Mayor Paschall asked approximately how many bottles of water can CGWC produce off one production line in a twenty-four hour period. Mr. Weklych stated approximately 24,000 to 30,000 cases could be produced, depending on size, which computes to about 120,000 gallons of water (including rinse water).

Councilmember Barr questioned at what level of LEED construction design does CGWC desire to attain. CGWC advised it would achieve the green certified level. Councilmember Barr advised the stop light has been in the planning stages for quite sometime. It currently is in the design phase with CalTrans. City Engineer Skillman stated the City has been acquiring Development Impact Fees for the stoplight since 1995. Councilmember Barr stated for the record this is the first time he has met CGWC representatives and that CGWC have not been given anymore opportunities than any other individual or group. Councilmember Barr stated in regards to the Flood Control Plan that fees have been collected since 1995 for a storm drain that would go out to the airport basin.

Mayor Elliott stated there have been many questions raised regarding CEQA Guidelines Section 15061; that there is no possibility that the activity in question may have a significant effect on the environment. City Attorney Andrews explained, as noted in the *Muzzy Ranch Co.* decision that the process begins when a developer comes in to staff with a project; then asks what needs to be done to make the project comply with the rules. The identified issues are fine tuned to meet the required guidelines of the agency and find whether there are any significant impacts. City Attorney Andrews stated CGWC has satisfied those requirements and is within the guidelines that are established through a variety of agencies.

Community Services Director Sailsbery confirmed General Rule Exemption, applicant compliance and examination of any potential impacts of the project. It was noted no potential impacts were found. Community Services Director Sailsbery stated a noise impact was remedied by the design of the building which met the City's Zoning Code and General Plan noise standards.

Mayor Elliott stated he had some concerns of the truck traffic and to consider possibilities to minimize the truck traffic on Papst Avenue.

City Attorney Andrews advised if the project is approved, he would bring forward a Monitoring Agreement at the next scheduled Council meeting.

Councilmember Barr moved , seconded by Councilmember Olney to deny the Appeals and accept the decision of findings and conditions listed from the December 16, 2009 TAC staff report to exempt Site Plan Review #2009-01 from CEQA under the "General Rule" Exemption (Section 15061 (b)(3) and to approve the Site Plan Review #2009-01 for Crystal Geyser Water Company.

REQUIRED FINDINGS FOR SITE PLAN REVIEW
(SECTION 17.82.060 OF THE ORLAND MUNICIPAL CODE)

1. That the proposed use is an allowed use in the district where located. ***The property is zoned "M-H" (Heavy Industrial) and the proposed use is allowed in this Zoning District with an approved Site Plan.***
2. That the site for the project is adequate in size, shape, location, and physical characteristic to accommodate the type of use and level of development proposed. ***The size of the parcel is 10.35± acres and is adequate for the project.***
3. That there are adequate services (water, sewer, and storm drainage) available. ***Adequate water and sewer services are available. Storm drainage will be provided by the developer as required by the City Engineer.***
4. That the project is in conformance with the applicable provisions and policies of this Title, the Orland Municipal Code and any approved zoning or land use study or plan. ***The use is allowed in the "M-H" (Heavy Industrial) Zoning District with an approved Site Plan.***
5. That the infrastructure is adequate to safely accommodate the specific proposed use. ***The existing infrastructure is adequate with Conditions of Approval in place.***
6. That no violation of the Orland Municipal Code currently exists on the property, unless the purpose of the application is to correct the violation. ***The property is not in violation of the Orland Municipal Code.***
7. That the project will not negatively affect the public health, safety or general welfare. ***The project is to construct a 112,500+ square foot building for a Sparkling Beverage Bottling Plant/Warehouse on an appropriately zoned parcel and this use would not affect the public health, safety or general welfare with an approved Site Plan and Conditions of Approval in place.***
8. That the project will be of distinct economic benefit to the community. ***The project will create jobs, increase the tax base through use of local businesses, and pay a transportation fee for the maintenance and upkeep of the roads due to additional truck traffic.***
9. That after review and evaluation of this Application, the project is found to merit an exemption under the California Environmental Quality Act (CEQA). ***The project will meet the Section 15061 (b)(3), "General Rule" Exemption under CEQA with Conditions of Approval in place.***

CONDITIONS OF APPROVAL
SITE PLAN REVIEW #2009-01

Site Plan Review #2009-01, Crystal Geyser Water Company (Applicant): Site Plan Review for a proposed sparkling beverage bottling facility and warehouse on property zoned "M-H" (Heavy Industrial) and designated "Heavy Industrial" (I-H) in the Orland General Plan on Assessor's Parcel Number 046-290-004 (10.35± acres).

General Conditions of Approval:

1. The applicant shall submit a signed copy of the Conditions of Approval to the City of Orland Planning Division (City Hall, 815 Fourth Street, Orland, CA 95963) within ten (10) days of the date of approval of this Site Plan Review (**SPR #2009-01**).
2. The applicant shall submit a check or money order in the amount of \$100.00 made payable to the **CITY OF ORLAND** for the preparation of the Notice of Exemption from the California Environmental Quality Act (CEQA) within five (5) days of the date of approval of this Site Plan Review (**SPR #2009-01**).
3. The applicant shall submit a **separate** check or money order to the City of Orland in the amount of \$50.00 made payable to the **GLENN COUNTY RECORDER'S OFFICE** for the fee to record to the Notice of Exemption from CEQA within five (5) days of the date of approval of this Site Plan Review (**SPR #2009-01**).
4. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of permit constitutes cause for the revocation of said permit. Unless otherwise provided for in a special condition to this Site Plan Review, all conditions must be completed prior to or concurrently with the establishment of the granted use.
5. **Indemnification of City of Orland.** Crystal Geyser shall indemnify the City of Orland for all costs and expenses, including but not limited to, staff time, attorneys' fees and expert consultant/witness fees, directly or indirectly incurred by the City on or after the date on which the Technical Advisory Committee (TAC) deemed the application for the project to be complete. The City shall invoice Crystal Geyser monthly in arrears and shall provide a reasonable description of the costs/expenses incurred as part of that invoice. The City and Crystal Geyser shall enter into an indemnification agreement reasonably acceptable to the City Attorney no later than the date on which the TAC approves the project.

Dispute Resolution. City and Crystal Geyser agree that resolving disputes by means of litigation is costly and time-consuming. In the event that a dispute arises relating to the construction of the project improvements or implementation of these Conditions of Approval, including but not limited to the issue of whether Crystal Geyser has exceeded the 160-acre feet per year pumping limit, the City and Crystal Geyser agree that they will not commence litigation against each other. Alternatively, the City and Crystal Geyser will either:

- (a) Retain an appropriately qualified employee of the Department of Water Resources in Redding or a member of the State Water Resources Control Board to assist the parties in voluntarily resolving the dispute through good-faith mediation. The costs of such mediation shall be split equally among the parties. Or
 - (b) Submit the dispute to JAMS (Arbitration and Mediation) in San Francisco. In this case, the costs of mediation shall be paid by the prevailing party, as determined by JAMS.
- 6. The use granted by this Permit shall be established within one (1) year of the date of approval or the permit shall become null and void.
- 7. Neither the applicant, or any agent nor representative of the applicant shall intentionally omit or misrepresent any material fact in connection with the application. Any alleged material misrepresentation shall constitute grounds for the City of Orland to commence a revocation hearing and constitute grounds to revoke the permit.
- 8. Minor changes may be approved by the Community Services Department Director upon receipt of a substantial written request by the applicant, or their respective designee, with all required fees. Prior to such approval, verification shall be made by each Department that the modification is consistent with the application, fees paid, and environmental determination as conditionally approved. Changed deemed to be major or significant in nature (excluding any changes due to code requirements, requirements to satisfy the Conditions of Approval, or City required facilities to support the operation applied for under the Site Plan Review #2009-01) shall require an application for Amendment for approval by the Orland City Council at a formal public hearing with all applicable fees paid by the applicant.
- 9. All outdoor lighting on the project site shall be directed away from the adjacent uses and shall be shielded so that, at a minimum, no light is emitted above a horizontal plane (parallel to the ground) from the base of the fixture. All exterior lighting shall be configured to prevent glare and light trespass onto neighboring properties.
- 10. Project shall obtain permits from the City of Orland and pay all appropriate fees for any required utilities modification, construction, and connections. Project shall also obtain permits from the City Building Department, and pay all appropriate fees for any construction work to be undertaken as part of the project.
- 11. The permit is only for the development and use as indicated on the final approved Site Plan. This use shall not be expanded or modified beyond the approvals detailed in this report (excluding any changes due to code requirements, requirements to satisfy the Conditions of Approval, or City required facilities to support the operation applied for under the Site Plan Review #2009-01) without applying for and receiving an approved Amendment by the Orland City Council, subsequent to a public hearing.
- 12. All signs shall comply with the City of Orland Sign Ordinance (Chapter 17.78 of the Orland Municipal Code (OMC)).

- 13. No changes shall be made to any approved plan(s), which would alter the character of the site plan or the use of the property, without prior approval of the City of Orland.
- 14. If changes are requested to the site plan, use of the building, or the Conditions of Approval, (excluding any changes due to code requirements, requirements to satisfy the Conditions of Approval, or City required facilities to support the operation applied for under the Site Plan Review #2009-01), an Amendment shall be required, with all applicable fees paid by the applicant, and approved by the Orland City Council, subsequent to a public hearing, prior to implementing any changes.
- 15. Applicant(s) shall comply with Section 17.76.100 parking requirements of the Orland Municipal Code:

Section 17.76.100 Parking and loading facilities.

A. Off-street parking and loading spaces shall be provided in conformity with the following:

- 1. Standard parking space: 10' wide x 20' long: 7' high
 Loading space: 10' wide x 25' long: 14' high
 Employee space: 9' wide x 18' long
 Compact car space: 8.5' wide x 16' long
 (Ten percent (10%) of parking spaces may be compact when ten (10) or more spaces are required).
 Truck parking space: 10' wide x 55' long: 14' high
- 2. All parking spaces and accesses shall be improved with Portland cement or asphalt concrete.
- 3. Loading areas shall be separated from pedestrian and automobile traffic.
- 4. Loading areas shall not be immediately adjacent to residential uses or visible from public rights-of-way. Loading docks shall be screened from residential uses by a ten foot (10') wide landscaped or landscaping alternatives as approved by the City.
- 5. Loading door design shall be integrated into the design of the building. High quality material and non-bright colors shall be used for loading doors.
- 6. All outdoor storage areas and loading areas shall be located in the rear of sites and screened from view with landscaping as approved by the City.

B. Parking spaces shall be provided as follows:

- 10. Wholesale, industrial and public utility buildings: one for each two employees, taking the larger number of employees on duty at any one time:

Assumptions from Site Plan Review Application:
 112,500± square foot building
 20-25 employees

Required number of parking spaces = $25/2 = 12.5$ (13 parking spaces required; one (1) may be compact; one (1) shall be ADA handicapped van accessible).

Required number of truck parking spaces = 10.

23 total parking spaces required.

11.
 - b. Sufficient room for the turning and maneuvering of vehicles shall be provided on site;
 - c. The loading area, access drives and aisles shall be paved so as to provide a durable and dustless surface, and shall be graded to drain as to dispose of surface water, with the design and specifications for such work being subject to the approval of the city engineer;
 - d. If the loading area is illuminated, lighting shall be deflected away from abutting properties so as to not cause annoying glare to such properties;
 - e. A loading area shall not be located in a required front yard, but may be located in a required side yard or rear yard.
- E. Whenever there is a change in use, parking shall be provided to meet the requirement of the new use. If only a portion of a building is altered to a new use, and such change creates a need for an increase in the number of parking spaces, such increase shall be provided for the area occupied by the new use only.
- F. Whenever there is an addition or enlargement of an existing building which may not be conforming to the parking standards provided herein, and such addition or enlargement creates a need for an increase in the number of existing parking spaces by ten percent (10%) or more, parking shall be provided based on the current standards for the entire building. In the event it creates a need for two or less additional spaces, no additional parking spaces shall be required.
16. All parking/loading/unloading for this operation shall be on-site. No off-street parking/loading/unloading shall be allowed at any time.
17. One loading space shall be provided in compliance with Section 17.76.100 of the Orland Municipal Code as listed above and as approved by the City of Orland.
18. Landscaping shall comply with Section 17.76.110 of the Orland Municipal Code. A landscaping plan shall be submitted to and approved by the Community Services Department prior to the issuance of any building permits. Please note that if the landscaping will be equal to or above 2,500 square feet, the California Department of Water Resources Updated Model Water Efficient Landscape Ordinance shall apply after January 31, 2010.
19. Applicant shall pay Cost Recovery for Staff time spent processing this Site Plan Review Application if Staff time exceeds the initial application fee (Resolution #2008-26, adopted November 16, 2008, by the Orland City Council).
20. The City of Orland shall, at the expense of the applicant, independently monitor the gallons of water used through a third party, on a quarterly basis, specifically on or during the weeks of July 1, October 1, January 1, and April 1 of each year, to ensure that the

amount of groundwater extracted does not exceed the maximum allowed use of 160-acre feet of water per year.

The applicant shall enter into an Agreement with the City of Orland to contract with an independent third party to verify on a quarterly basis that the applicant is not exceeding the annual maximum allowed 160-acre feet of water, at the expense of the applicant.

If the amount of water used exceeds the annual maximum of 160-acre feet of water allowed by the City, a Cease and Desist Order shall be issued by the City of Orland Public Works Department for the shutdown of the City's sewer and water services to the facility/operation until the aquifer has been recharged by the amount of the exceedence, to the City's satisfaction.

The applicant shall then be required to purchase water from a third party to recharge the aquifer by the amount of the exceedence by placing water into the pond at Lely Aquatic Park or other alternative as approved by the City of Orland for recharge as approved by the City of Orland Technical Advisory Committee. The sewer and water services would then be reconnected once the aquifer is recharged by the amount of the exceedence, to the City's satisfaction.

The applicant shall also be required to pay a monetary penalty of \$325,850 per acre-foot of water exceeded to be deposited into the City of Orland General Fund, prior to the reconnection of water and sewer services and the recharge of the aquifer to the City's satisfaction.

21. If in the future, Crystal Geysers requests additional acre-feet of water from the aquifer or any building footprint expansion of the existing operation that requires a Building Permit (excluding any changes due to code requirements, requirements to satisfy the Conditions of Approval, or City required facilities to support the operation applied for under the Site Plan Review #2009-01), a formal Amendment of the Site Plan shall be required with all applicable fees paid to the City of Orland, and a formal Public Hearing before the Orland City Council shall be required to make a final determination on the request.
22. The required front yard shall be landscaped and not used for parking at any time. The only area not landscaped within the required front yard is the driveway access to the required parking area, which shall not exceed thirty-five feet (35') in width.
23. A solid six-foot high masonry wall shall be constructed/placed along the north property line at the applicant's expense as a buffer to the future planned residential property to the north.
24. The style, material and color of accessory buildings visible from public streets shall be the same as those of the main building.
25. Accessory buildings shall be proportional to the main structures in size and bulk. Accessory buildings shall not dominate any site areas.
26. Mechanical equipment shall not be located in any front setback area between the public street and building.

27. Mechanical equipment shall be located far enough from adjacent properties to not cause noise impacts. Noise level at property lines may not exceed 50 dBA in or adjacent to residential areas and 75 dBA in all commercial and industrial zones.
28. Applicant shall provide for adequate storage of trash and recyclable materials in containers in enclosed areas.
29. Trash enclosures shall be conveniently accessible by collection trucks. Access driveways shall be a minimum of sixteen feet (16') in width.
30. Enclosures shall not be located in setback, landscaped, or parking areas.
31. Adequate turn-around areas for collection trucks shall be provided.
32. A concrete pad in front of and within enclosures to prevent damage to pavement is required.
33. Trash enclosures shall screen trash containers on all four sides. The height of enclosures shall fully screen the containers.
34. The style, material, and color of enclosures shall be similar to those of the main structure.
35. Enclosures shall be made of masonry or wood and match the main building, or alternative as approved by the City.
36. Steel enclosure gates are required as a minimum standard.
37. Barbed wire fencing may be used for security purposes only. All chain link fencing requires slats.
38. Screening devices shall be made of opaque (solid) materials such as wood or masonry blocks.
39. Fences and walls used for noise control shall be made of materials most suited for noise reduction, and which minimize reflective sound, based on the recommendations from the Noise Study.
40. Setbacks are as follows:
 - Front: 15 feet
 - Rear: 50 feet (north property line)
 - Side: None
41. Maximum height in the "M-H" Zone is seventy-five feet (75').
42. Only the finished bottled water product may leave the site. Under no circumstances shall raw water be transported off-site. No water tanker trucks shall be allowed on-site at any time.

43. Construction activities shall be limited to the hours of 7:00 a.m. to 5:00 p.m., unless an exemption is received from the City to cover special circumstances (General Plan Noise Element Policy 5.1.K).
44. All internal combustion engines used in conjunction with construction activities shall be muffled according to the equipment manufacturer's requirements (General Plan Noise Element Policy 5.1.I).
45. Operator shall submit a copy of all State inspection reports to the City of Orland within ten (10) business days of receipt of the information.

PG&E Conditions of Approval:

1. Any relocation or rearrangement of any existing PG&E facilities to accommodate this project will be at the developer's/applicant's expense.
2. There shall be no building of structures, or the storage of any materials allowed over or under any existing PG&E facilities, or inside any PG&E easements that exist which infringe on PG&E's easement rights.

Orland Fire Department Conditions of Approval:

1. Sprinklers shall be required in accordance with the City Engineer, Orland Fire Department, and State Fire Marshall, at the expense of the developer.
2. Fire hydrants are not shown on the Site Plan. Hydrants will be required at entrance, and around the perimeter of the building with flows to meet Code as required by the City Engineer, Orland Fire Department, and the State Fire Marshall.
3. The current driveway entrance near the southeast corner of the proposed building does not allow adequate turn radius for trucks to make the transition from the entrance, around parked cars, and the proceed northbound along the east wall.
4. The current Site Plan shows 20' wide paved drive around the perimeter. The Fire Department would prefer that this be set away from the building by 12' with paved access to building doors if space allows.

Glenn County Air Pollution Control District Conditions of Approval:

1. All stationary diesel equipment located at the facility (such as emergency and stand-by generators) may require a District Permit to Operate.
2. All natural gas fueled equipment located at the facility (such as boilers) may require a District Permit to Operate.
3. Limit fugitive dust from leaving the site during construction activities.
4. Prevent fugitive dust from interfering with traffic conditions.

5. Suspend grading and excavation activities during construction when wind gusts exceed 15 miles per hour.
6. Limit the speeds at which vehicles/equipment travel on unpaved surfaces to 15 miles per hour.
7. Limit the trackout onto local streets by installing wheelwashers at all exits and entrances during construction.
8. A functioning water truck shall be on site and used when necessary during construction activities.

Glenn County Certified Unified Program Agency (CUPA) Conditions of Approval:

1. The applicant shall submit a Completed Hazardous Materials Questionnaire at the applicant's expense including a list of all hazardous materials that plan to be stored on-site over 55 gallons, 500 lbs., or 200 cubic feet (including Carbon Dioxide) to the Glenn County Air Pollution Control District, Certified Unified Program Agency.
2. The applicant shall submit information regarding the 50 ton Liquid Carbon Dioxide Tank (i.e., type and size of tank, spec sheets, etc.) at the applicant's expense to the Glenn County Air Pollution Control District, Certified Unified Program Agency.
3. A Hazardous Materials Business Plan (HMBP) shall be completed at the applicant's expense, and approved by the Glenn County Air Pollution Control District, Certified Unified Program Agency, prior to the issuance of a Certificate of Occupancy by the City of Orland.
4. Copies of all approvals/permits issued by the Glenn County Agriculture Department, Air Pollution Control District and the Certified Unified Program Agency (CUPA) shall be submitted to the City of Orland within ten (10) days of receipt by the applicant.

City of Orland Engineering Conditions of Approval:

1. Dedicate a 10-foot wide Public Service Easement (PSE) adjacent to all public right-of-way frontages.
2. Abandon any and all septic tanks on the site in accordance with the requirements of the Glenn County Environmental Health Department. This project shall connect to the City of Orland gravity sanitary sewer main located north of the Orland Unit Water Users Association/Bureau of Reclamation Lateral 37 Canal, and shall prepare the License Agreement Application to cross this Lateral and shall pay all associated fees for review and processing of same.
3. Abandon any and all existing unused water wells on the site in accordance with the requirements of the Glenn County Environmental Health Department.

4. All infrastructure improvements shall be designed and constructed in conformance with the City of Orland "Land Division Standards and Improvement Standards". The developer shall have a registered engineer prepare and submit construction details, plans and profiles, typical sections, specifications, and cost estimates to the Department of Public Works for review and approval prior to the commencement of construction.
5. Install street name signs, traffic control signs and pavement markings as required by the City Engineer.
6. Street lights shall be installed at the locations designated or approved by the City Engineer and constructed per PG&E standards.
7. Fire hydrant locations shall be approved by the Orland Fire Department and the City Engineer.
8. Based on the square footage of the building, a fire flow of 1,250 gallons per minute (gpm) shall be required.
9. Prior to approval of the Improvement Plans, a registered engineer or geologist shall prepare a soils report or geotechnical report for this project. The report shall be prepared in a manner consistent with standard engineering practices and shall be reviewed for acceptability by the City Engineer.
10. Prior to grading and site work, a Construction Activity Stormwater Permit must be obtained from the Regional Water Quality Control Board (RWQCB). A copy of this project's "Receipt of Your Notice of Intent" bearing the Waste Discharge Identification Number (WDIN) shall be forwarded to the City Engineer along with a copy of the Stormwater Pollution Prevention Plan (SWPPP). In addition, the developer's engineer shall determine whether a construction de-watering permit shall also be required from the RWQCB, and if so, provide a copy of same to the City Engineer prior to trenching and excavation operations.
11. Public and private improvements constructed as a result of approval of this project shall not result in the increase in the rate of peak stormwater runoff from the gross area of the pre-developed site during a one-hundred year design storm event. A Master Design and Maintenance Plan for construction of improvements to comply with this requirement shall be reviewed and approved by the City Engineer prior to commencement of construction.
12. Should the project be built in phases, the City Engineer shall review each phase prior to commencement of construction to assure adequate access for emergency vehicles and to facilitate the orderly progression of construction.
13. Developer shall pay all City of Orland Impact Fees with the issuance of Building Permits.
14. Developer shall pay all actual City Attorney and City Engineer fees incurred in the review of this process.
15. All conflicting existing utilities shall be relocated at the developer's expense.

16. In the event that an elevation difference exceeding 12 inches arises between contiguous lots during design of the comprehensive grading plan, a masonry or concrete retaining wall shall be utilized.
17. Applicant shall utilize carbon-filter drainage inlets, as approved by the City Engineer, at all storm water drainage infiltration locations.
18. The developer shall extend an 8-inch diameter water main southeasterly to this site from its current terminus along County Road 200/East South Street.
19. This project shall comply with Title 24 Accessibility requirements. The grading plan for this project shall be approved by the City Engineer prior to commencement of construction.
20. The Developer shall enter into a Deferred Improvement Agreement with the City of Orland for the streets fronting this project site for improvements to meet City Standards, including pavement widening, curb, gutter, and sidewalk.
21. Truck loading and unloading shall not exceed 50 dBA during the hours of 10:00 p.m. to 7:00 a.m. as required by Table 5-3, Note 7 (Noise Standards for New Uses Affected by Non-Transportation Noise), of the City of Orland General Plan Noise Element (City of Orland General Plan, March 2003, PMC).
22. Applicant shall pay to the City of Orland a quarterly transportation fee of \$10.71 **per truckload of finished product shipped**, adjusted yearly according to the Consumer Price Index (CPI), for the maintenance, upkeep, and repair of Papst Avenue and County Road 200/East South Street. Due to the volume of trucks proposed to use these roads, the City estimates that repairs, upkeep, and maintenance would be needed every three (3) to five (5) years.

Applicant shall enter into an Agreement with the City of Orland to require an independent third party, at the applicant's expense, to verify the payment made based on the number of truck trips for the previous quarter to the City of Orland Public Works Department, along with the amount due, during the weeks of January 1, April 1, July 1, and October 1 of each year, for the life of the facility/operation.
23. Applicant shall pay a fair share portion toward the cost of the back-up generator for the lift station located on County Road "N", as determined by the City Engineer and the Public Works Director.
24. All trucks driving to the site and exiting the site shall be required to use the City of Orland designated Truck Route(s) as shown on the City of Orland General Plan Circulation Element Diagram Figure 2-1 (City of Orland General Plan, March 2003, PMC).

Caltrans Conditions of Approval:

1. Caltrans: No comments for re-submittal.

Noise Conditions of Approval:

1. No trucks are allowed to idle on-site at any time.
2. The air exhaust louvered opening shall be located on the west side of the building, and facing away from the residentially zoned property to the north. The louvered opening should be fitted with a **Sono-Con Model 6R** acoustical louver, which will reduce overall noise levels at the exhaust opening by 15 dBA.
3. The air intake fan for the compressor room should be fitted on Sono-Con or similar industrial fan silencer. The intake fan specifications shall comply with a 45 dBA noise level standard at the residentially zoned property lines. This shall be determined by a qualified acoustical consultant.
4. The Reidel Blowmolder chiller and Blowmolder dehumidifier chiller shall be located along the west side of the building, at a minimum distance of 100 feet from the northwest corner of the building.
5. The Evapco cooling towers shall be shielded by extending the building façade, which is a minimum of 26 feet in height around the units. By extending the building façade around the units, the predicted noise levels would be 45 dBA at the nearest residential property line to the north. Absorptive material shall be required on the interior of the walls to prevent excessive reverberation or reflective sound. The amount of material and placement of the material shall be reviewed by a qualified acoustical consultant with approval by the acoustical consultant submitted to the City of Orland.
6. Each of the cooling towers shall be fitted with the noise reducing low sound fans.

Glenn County Environmental Health Department Conditions of Approval:

1. All future water wells shall be constructed under Glenn County Environmental Health Department Permit(s).
2. Applicant shall obtain all appropriate permits and licenses for the proposed facility from the California Department of Public Health, Food and Drug Branch with copies submitted to the Glenn County Environmental Health Department.
3. The applicant states that rinse water from the bottling line will be reused for landscape irrigation and facility cleaning. Will this water be discharged to the ground surface or subsurface? Applicant shall provide analytical results of the rinse water after start-up to the Glenn County Environmental Health Department. The Applicant shall discharge rinse water to the sanitary sewer until the Glenn County Environmental Health Department has reviewed the analytical results for suitability for use as irrigation water.
4. The applicant states that heated air from the bottle blowing process will be used to supplement the heating of the building in the winter. Applicant shall provide analytical results of the heated air to the Glenn County Environmental Health Department.
5. The applicant shall be required to address the issue of whether or not continuous pumping of groundwater at the Crystal Geyser site will affect or change the migration of the PCE Plume. This information shall be submitted to the Glenn County Environmental

Health Department and the City of Orland prior to the issuance of a Building Permit by the City of Orland.

Roll Call vote:

Ayes: Councilmembers Barr, Olney, Roundy, Vice Mayor Paschall and Mayor Elliott

Noes: None

Abstain: None

Absent: None

Motion carried 5-0.

ADMINISTRATIVE COMMUNICATIONS

None

ADJOURN

Meeting adjourned at 11:42 p.m.

The following correspondence was received at the Public Hearing and identified as Attachment A:

- Letter from William D. Copper in reference to letter from Steve Pettyjohn, Acoustics & Vibrations Group dated 1-29-10;
- Letter from Dalene Shippelhoute dated 2-1-10;
- Letter from Trish Saint-Evens;
- Letter from Sierra Club, Yahi Group dated 2-1-10;
- Letter from Victoria Yelland dated 2-1-10;
- Letter from Donna Cook

_____ Clerk

_____ Mayor