

# Critics of Petaluma asphalt plant proposal seek rehearing

a three-judge panel to rehear its appeal challenging Sonoma County's approval of the Dutra Materials asphalt plant along the Petaluma River just south of city limits.

In a unanimous ruling last month, the 1st District Court of Appeal in San Francisco affirmed the 2011 judgment of Sonoma County Superior Court Judge Rene Chouteau, who found the county's air quality analysis of the project was adequate and that open meeting laws had been followed.

The plaintiffs contend that the appeals court did not properly rule on the environmental and procedural questions.

"The goal remains the same," said Joan Cooper of Friends of Shollenberger, a group that works to protect the 165-acre Shollenberger Park across the river from the proposed plant. "We still believe this is not a good landmark for Petaluma to have at the south end of the city."

Aimi Dutra said Monday that her family's company will move ahead with its plans for the asphalt plant.

"We remain confident in the strength of our legal arguments," she said. "It is unfortunate that a request for rehearing has been filed, however this does not change Dutra's plans to move forward with this project."

The appeals court has until April 1 to decide whether to rehear the appeal, said Annie Reasoner, a deputy clerk. If it declines to rehear the case, the state Supreme Court would be the last option, she said.

The Supreme Court generally only accepts cases that have had split decisions at the appellate court or that create legal uncertainties, according to legal scholars.

The court fight has extended one of the county's most high profile land-use battles over the past decade.

In 2004, Dutra Materials, based in San Rafael, proposed a plant on 38 acres just east of Highway 101 and south of the Petaluma River. The Sonoma County Board of Supervisors ultimately approved an environmental analysis, rezoning and construction of the facility in late 2010. The approval came on a closely watched 3-2 vote by the supervisors.

Opponents filed their lawsuit a month later, saying that Dutra and the county failed to address public health and environmental impacts of the facility. They also argued that the approval was rushed through the review process in violation of open meeting laws.

Although the plant is outside city limits, Petaluma joined the lawsuit as a co-plaintiff after community members pledged to donate \$10,000 to the city's general fund to help offset legal fees for continued appeals.

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