



**By Howard Huntington
of the Daily Courier**

APPLEGATE — Opponents believe Copeland Sand & Gravel may be ready to give up on mining the Hill property on the Applegate River after suffering another setback this month. Independent Jackson County Hearings Officer Donald Rubenstein concluded that John and Wesley Hill don't have a "vested right" to mine their land — zoned for farming — at 14850 Highway 238. Their hopes of selling about 1.4 million cubic yards of aggregate to Copeland first hinged on Measure 37. The measure required government to apply only land-use laws in place when the Hills acquired the property in 1981, or compensate them for the money they couldn't make on mining under current laws. Measure 49 reversed Measure 37, but waived projects

that were far enough along for landowners to establish vested right when Measure 49 took effect.

In the latest turn, Rubenstein said the Hills didn't have a vested right because Copeland had put up all the money so far — nearly \$173,000 in paperwork and site maintenance as of December 2007.

"In fact, if the waivers are not vested, the applicant (the Hills) is in the identical financial situation, with respect to the aggregate as it would have been had the waivers never been granted," Rubenstein wrote.

John Hill declined to comment. Similar efforts to mine Phil Krouse's neighboring land had come to the same end. Copeland had been counting on it to make up for a shrinking supply of round rock for concrete. Rubenstein had ruled earlier that North Applegate Road was too narrow and windy for gravel trucks. Copeland had another plan to divert trucks onto a temporary bridge over the river and plug them directly into Highway 238, but has pulled the application.

SAVE — Save our Applegate Valley Environment — and others against mining the Hill and Krouse properties hailed Rubenstein's latest decision, saying in a news release that it "may finally put an end to his seemingly never-ending story."

Dan O'Connor, attorney for Copeland, said the outcome

was predicted “just because of the way things have gone on the Measure 49 vesting decisions. Basically, it’s almost impossible.

“We waited for the decision for almost a year. Circuit courts had come out recently that were not in our favor, so we were kind of expecting it.” O’Connor declined to say whether this could be the end of Copeland’s plans. In denying vested-right to the Hills, the county said Rubenstein’s decision was not subject to review by the state Land Use Board of Appeals, but the circuit court could do so.

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