

**TESTIMONY
OF
MAYOR ROBERT KELLAR
CITY OF SANTA CLARITA, CALIFORNIA**

**SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING**

S. 771

**PROJECT HISTORY, PRIOR FEDERAL LEGISLATION,
ENVIRONMENTAL CONSIDERATIONS AND CONCERNS**

NOVEMBER 20, 2013

SUMMARY

The City of Santa Clarita, California supports S. 771, for reasons outlined in this background document and in conformance with Mayor Bob Kellar's oral testimony to be presented on November 20, 2013, which accompanies this submission.

S. 771, sponsored by Senator Barbara Boxer (D-CA) and Senator Dianne Feinstein (D-CA), provides a reasoned solution to a difficult dispute that is now in its fourteenth year. The bill ensures that the long-term needs of the community are met through elimination of mining at the site. Over the past two decades, significant growth in the community has placed the once remote proposed mining site adjacent to a vibrant, urbanizing city. An important additional value supporting enactment of S. 771 is that it facilitates preservation of irreplaceable ecological natural resources, protection of species, and creates an important urban/wildland interface balance, complementing existing federal interests in the area. Furthermore, the bill provides for fair and appropriate compensation of CEMEX for the value of their valid mining contracts with the Bureau of Land Management.

During the past five years, four resource studies participated in by the United States Forest Service, National Park Service, or Bureau of Land Management have identified important ecological natural resources within the Upper Santa Clara River watershed, where the mine is proposed to be located. The studies, developed independently by the various federal agencies, provide significant new information that was unknown at the time the Record of Decision for the project was issued in 2000.

The commonly found aggregate is readily available throughout California and can be accessed at other locations. California Natural Resources Secretary John Laird's strong support for S. 771 validates both the importance of the recent federal resources studies and the availability of sand and gravel within the State of California, exclusive of the site under the two federal contracts.

S. 771 is the product of over six years of partnership between the City of Santa Clarita and CEMEX in a mutual effort to find a responsible resolution to a seemingly intractable problem. The bill facilitates a winning scenario for the community, contract holder, and the United States government!

PROJECT HISTORY

Over the past fourteen years, the City of Santa Clarita, California and CEMEX have been in dispute over a proposed 56,000,000 ton (net) sand and gravel mine, to be located in the Soledad Canyon area, immediately east of the City of Santa Clarita. CEMEX currently holds two valid mining contracts (CA-22901 and CA-20139) issued by the United States Bureau of Land Management (BLM) on split estate; with the City of Santa Clarita owning the surface estate and the underlying mineral estate owned by BLM. The two contracts are each ten years in duration and, with consecutive application, represent twenty years of projected mining. The federal mining contracts were originally awarded almost a quarter century ago, in March 1990, with the Record of Decision for the project issued in August 2000.

It is certainly arguable that these contracts would not be issued today; in part, based upon rapid community urbanization and new information contained in recently completed and currently-in-progress federal resource studies. The studies have identified the Upper Santa Clara River area, in which the mining project is proposed to be located, as environmentally significant. The vast majority of information contained in the new studies was not known at the time the project's environmental documents were prepared and the Record of Decision issued. These new studies, coming forward within the past five years, have been conducted or participated in by the United States Forest Service, National Park Service, or Bureau of Land Management.

In addition to the new information related to the Upper Santa Clara River watershed, the project will significantly increase regional traffic congestion and negatively impact air quality. According to the environmental documents, at full operation the mine is anticipated to place 1164 additional truck trips daily onto California State Route 14, continuing south into the greater Los Angeles metropolitan freeway and arterial system. During an average day, once the project is fully online, this will mean one additional large truck on local roadways every two minutes, 24 hours per day! In addition to traffic congestion concerns, the mine is expected to negatively impact air quality within the geographically self-contained Santa Clarita Valley. According to the 2004 *South Coast Air Quality Management District Santa Clarita Valley Subregional Analysis*, while PM 10 emissions from the project would not exceed the federal standard; the more protective State of California standard would be exceeded. Furthermore, according to the study, "Santa Clarita does not meet the federal and California ozone air quality standards."

During the period from 1999 through 2006, the City of Santa Clarita and CEMEX engaged in a bitter legal and public relations battle, costing both entities several million dollars. These efforts failed to resolve the dispute and both parties ultimately came to the conclusion that a cooperative strategy was more likely to yield results acceptable to both parties. Since 2007, the City of Santa Clarita and CEMEX have been working in partnership to secure a legislative resolution to the ongoing dispute over proposed large-scale mining in Soledad Canyon.

Existing law does not provide the Department of the Interior with the necessary administrative authority to significantly modify or cancel the contracts. Federal legislation is required to provide authorization for the Secretary of the Interior to cancel the mining contracts and compensate CEMEX for the fair market value of their contracts with BLM. Enactment of federal legislation will facilitate fair compensation of CEMEX and protection of important natural resources identified by the various federal agencies through their studies.

During each of the last three sessions of Congress, Senator Boxer has introduced legislation to resolve the dispute between the City of Santa Clarita and CEMEX. Additionally, going back almost a decade, in 2004, Senator Barbara Boxer (D-CA) first addressed the dispute legislatively by introducing S. 2058, which terminated the two federal mining contracts, but did not provide compensation for CEMEX. A similar measure, H.R. 3529 had been introduced in the House of Representatives by Representative Howard P. “Buck” McKeon (R-CA-25) in late 2003.

In the 108th (S. 2058/H.R. 3529), 109th (H.R. 5471), 110th (H.R. 5887), 111th (S. 3057/H.R. 4332), 112th (S. 759/H.R. 6469) and 113th (S. 771) Congresses, there has been legislation introduced in either the Senate, House of Representatives, or both houses in an ongoing effort to bring a successful resolution to the issue. For a variety of reasons, many unrelated to the content of the measures, earlier efforts have been unsuccessful. However, each iteration of the legislation has served as a catalyst for discussion; resulting in refined language designed to meet the needs of the parties and resolve the long-term conflict in the best manner possible.

S.771 BACKGROUND

In April 18, 2013, Senator Barbara Boxer introduced S. 771, the Soledad Canyon Settlement Act. This bill was carefully crafted by Senator Boxer to incorporate three key components desired by the City of Santa Clarita and CEMEX, as central to any successful legislative effort: 1) cancellation of the two ten-year consecutive valid mining contracts between BLM and CEMEX; 2) withdrawal of the site that is the subject of the two mining contracts from further mineral entry; meaning that the Secretary of the Interior is prohibited from further contracting, leasing or other conveyance of a right to mine the property; and 3) compensation of CEMEX for the fair market value of the two contracts.

An important element to this year’s legislative effort is the addition of Senator Dianne Feinstein (D-CA) as a co-sponsor of S. 771. In addition to his long-standing leadership on the issue, United States Representative Howard P. “Buck” McKeon (R-CA-25) has expressed his personal support for enactment of S. 771, thus demonstrating strong bi-partisan support for a legislative resolution to the prolonged dispute.

The funds to fairly compensate CEMEX are derived from the sale of approximately 10,200 acres of BLM owned properties in San Bernardino County, California that have already been identified for disposal in the adopted 2006 *West Mojave Land Management Plan*. The lands are already slated to be sold by BLM and S. 771 simply establishes a specific time period in which the sales shall occur. All of the lands identified for sale have been vetted by the Sierra Club, which is in support of the bill.

In the event that the value of the lands identified for sale is less than the value of the contracts established by the Secretary of the Interior, S. 771 directs that the Secretary shall work with the City of Santa Clarita and CEMEX to financially participate in the elimination of the shortfall. Both entities have assured Senator Boxer of their good-faith commitment to evaluate financial participation, should that become necessary.

THE CHANGING DYNAMIC OF THE SANTA CLARITA AREA

At the time the original contracts were issued in 1990, the population of the City of Santa Clarita was approximately 110,000 people. Today's population is almost double that at approximately 204,000, with an additional 70,000 people residing in the adjacent unincorporated areas of the geographically self-contained Santa Clarita Valley. In terms of population, Santa Clarita is the third largest municipality of the eighty-eight cities in Los Angeles County, behind Los Angeles and Long Beach. Santa Clarita ranks, by population, in the top 5% of California's 482 incorporated municipalities. The City of Santa Clarita was recently identified as the fastest growing city in California, based upon 2012 population figures provided by the California Department of Finance.

The Santa Clarita Valley is a geographically separate area, located immediately north of the City of Los Angeles. The community is essentially surrounded on three sides by the Angeles National Forest. The Santa Clara River, the largest relatively natural, free flowing river in Southern California bisects the community; as it travels east to west from Los Angeles County, through Ventura County, and flows into the Pacific Ocean.

For a number of years, there has been significant interest in preserving the natural habitat and other important ecological resources of the Upper Santa Clara River area, which is strategically located between the northern and southern segments of the Angeles National Forest. Additionally, the Pacific Crest Trail, which runs the entire length of the west coast, traverses the area and provides important interconnectivity with regional and local trail systems (refer to map entitled *Trails and Open Spaces Parks and Recreations Planning Map*).

Four critical studies have been conducted or are being conducted that are now quantifying the importance of the Upper Santa Clara River area. Each of these studies is outlined below.

EAST SANTA CLARITA LAND CONSERVATION CONCEPT PLAN AND IMPLEMENTATION STRATEGY

In 2008, a coalition comprised of the City of Santa Clarita, County of Los Angeles, Santa Monica Mountains Conservancy, United States Forest Service, Rivers and Mountains Conservancy, and Vulcan Materials Company (a major land owner in the area), developed the *East Santa Clarita Land Conservation Concept Plan and Implementation Strategy*. This collaboration built upon a number of earlier efforts, which identified the importance of connecting the northern and southern sections of the Angeles National Forest to facilitate critical wildlife linkages and habitat preservation.

The Angeles Linkage Conceptual Area Protection Plan (CAPP) was identified and a strategic effort was set into motion to begin purchasing properties, thus implementing the long held vision of connecting critical connections between the two sections of the Angeles National Forest. The CAPP area includes approximately 26,000 acres and the proposed mining site is located within the zone.

The 2005 Land Management Plan for the Angeles National Forest states, “*Opportunities for establishment of regional wildlife linkages to improve connectivity between the San Gabriel, Castaic, and Santa Susana Mountains exist and are needed in this place. Potential threats to sensitive habitat areas include developed and dispersed recreation, mining, wildland fire, and groundwater extraction.*” The report also states that, “*The national forest will work collaboratively with others to acquire land that contains unique resources; is needed for continued public access; enhances public use; or improves habitat linkage.*”

The plan also emphasizes the importance of the Pacific Crest Trail, a portion of which is located within the identified CAPP area. The Pacific Crest Trail is a 2,663 mile trail, running the entire length of the three west coast states from Canada to Mexico. The trail was designated a National Scenic Trail under the National Trails System Act of 1968.

For further information, please reference the *East Santa Clarita Land Conservation Concept Plan and Implementation Strategy* included with this submission.

NATIONAL PARK SERVICE: RIM OF THE VALLEY CORRIDOR SPECIAL RESOURCE STUDY

The National Park Service has initiated the *Rim of the Valley Corridor Special Resource Study*, under authority granted through the Consolidated Natural Resources Act of 2008 (P.L. 110-229). The purpose of the study is to determine whether any of the evaluation area is eligible to be designated as part of the national park system or added to the Santa Monica Mountains National Recreation Area. In the event that direct federal management is not appropriate, the study contemplates alternatives for government agencies at all levels and private entities to work in partnership to protect the area’s resources and enhance outdoor recreational opportunities.

The study is currently in progress, with an anticipated completion date sometime during calendar year 2014. Although not yet complete, the study has already identified Nationally Significant Natural Resources in the Upper Santa Clara River area, in which the proposed mining site is located.

According to the National Park Service's Fall 2012 Newsletter #3 regarding the Rim of the Valley study, "*The Upper Santa Clara River contains some of the highest quality, least disturbed and biotically intact acreage of big-cone Douglas fir-canyon oak forest, riparian forest and woodland, coastal sage scrub, and alluvial fan sage scrub. Invertebrate species diversity is very high with over 2,500 species.*"

For further information, please reference the United States Department of the Interior National Park Service *Rim of the Valley Corridor Special Resource Study Newsletter #3 – Fall 2012* included with this submission.

SAN GABRIEL WATERSHED AND MOUNTAINS SPECIAL RESOURCE STUDY

The National Park Service recently completed the *San Gabriel Watershed and Mountains Special Resource Study*. The Secretary of the Interior transmitted the study to Congress on April 10, 2013. The study zone overlaps a portion of the area contained within the *Rim of the Valley Corridor Special Resource Study*, including portions of the Upper Santa Clara River watershed.

The San Gabriel study's selected alternative establishes a San Gabriel unit of the Santa Monica Mountains National Recreation Area. The report further identifies the importance of strong partnerships between the federal government, state and local governments, non-profit organizations, and landowners as being the key toward achieving the conservation, recreation, and educational goals of the new unit.

The study highlights the Santa Clara River as "*the last unchannelized riparian and wildlife corridor in the region, providing the primary remaining east-west biological connection between the San Gabriel Mountains and the Pacific Ocean.*" The study goes on to note that "*the Santa Clara River functions as an important corridor between the mountains and the ocean. Protecting this corridor is a high priority for local and state agencies as well as conservation groups.*"

For further information, please reference the United States Department of the Interior National Park Service *San Gabriel Watershed and Mountains Special Resource Study* extractions relating to Upper Santa Clara River included with this submission.

SOUTH COAST RESOURCE MANAGEMENT PLAN

The Bureau of Land Management is currently completing the *South Coast Resource Management Plan*. This study has identified a number of potential Areas of Critical Environmental Concern (ACEC) for adoption under the new management plan. According to the study, "*ACECs are areas where special management attention is needed to protect, and to*

prevent irreparable damage to important historic, cultural, and scenic values; fish or wildlife resources or other natural systems or processes; or to protect human life and safety from natural hazards.”

The current effort identifies eight existing ACECs and proposes up to eight additional environmentally critical areas be added to the updated *South Coast Resource Management Plan*. The Upper Santa Clara River ACEC is identified in Alternatives B and D in the draft environmental document. Alternative B identifies 32,368 acres and Alternative D identifies 31,713 acres that partially overlay and complement the Conceptual Area Protection Plan (CAPP) established in the *East Santa Clarita Land Conservation Concept Plan and Implementation Strategy*. There are 1,620 acres of BLM land within the proposed Upper Santa Clara River Area of Environmental Concern.

The rationale for seeking the Upper Santa Clara River ACEC designation recognizes the importance of maintaining the wildlife corridors and habitat in the area. The draft federal report underscores the important role of the Santa Clara River as a breeding ground, a wildlife travel route, for flood control, and groundwater recharge.

While the report and accompanying maps acknowledge the significant resource value of the area, the report is careful to specifically carve out the proposed CEMEX mining site from inclusion in the Area of Critical Environmental Concern under the preferred alternative (D). In reviewing the map, this is clearly a political decision vs. an objective environmental decision, as the lines eliminating the site are drawn in conformance with the mining site’s property boundaries. In its selection of the preferred alternative, it would appear that the department is concerned about not compromising its valid mining contracts. However, another alternative (B) shows that inclusion of the mining site does strongly suggest environmental value to the department. The report talks in terms of making the designated Area of Critical Environmental Concern off limits for major surface disturbance activities, while creating a specific exception for “State of California Division of Mines and Geology classified and designated sand and gravel resources in Los Angeles County.”

The draft South Coast Resource Management Plan very clearly recognizes the significant natural ecological resource value in the Upper Santa Clara River watershed and is generally consistent with the findings of the other federal and non-federal environmental resource studies.

For further information, please reference United States Department of the Interior Bureau of Land Management *South Coast Resource Management Plan*, Appendix H, relating to Areas of Critical Environmental Concern and maps for Alternative B and Alternative D, included with this submission.

SANTA CLARITA OPEN SPACE PRESERVATION DISTRICT

In 2007, the voters of Santa Clarita established an Open Space Preservation District. Santa Clarita voters realized that their personal financial participation was necessary for ensuring that local open space preservation and habitat enhancement goals are achieved. Since the City of

Santa Clarita's incorporation in December 1987, the City Council and community have been committed to establishing a green-belt around the City. This green-belt builds on existing federal land ownership, primarily in the form of the Angeles National Forest, which surrounds the City of Santa Clarita on the northern, eastern and southern sides. Complementary State of California open space and park ownerships, primarily in the form of the 4,000-acre Santa Clarita Woodlands Park and other Santa Monica Mountains Conservancy owned and managed properties, provide open space buffers and habitat linkages on the southern and western flanks of the City of Santa Clarita.

Since the City of Santa Clarita's incorporation in 1987, the Santa Clarita City Council, in partnership with the community, has made a strong commitment toward enhancing local and regional open space and parklands, in addition to building and connecting trail linkages. For example, over the past six years, Open Space Preservation District funding has been leveraged to acquire approximately 2,000 acres. Important natural resources, irreplaceable habitat, and open space are now being preserved in perpetuity.

COMPETING PRIORITIES

The current challenge is to balance the need for preserving irreplaceable natural resources in the Upper Santa Clara River watershed with the statewide need for construction aggregate. If the proposed mine moves forward, it will undoubtedly have a negative effect on open space retention, species protection, resource preservation and enhancement. The proposed CEMEX mine is located within areas identified in the four studies as important for preservation and habitat connectivity. The proposed mining site is also identified as an important, but not irreplaceable, source for construction aggregate within the San Fernando Valley-Saugus-Newhall aggregate study area, as outlined in the *Aggregate Sustainability in California 2012* report.

On October 3, 2013, California Natural Resources Agency Secretary John Laird wrote to Senator Boxer expressing "strong support" for S. 771. This statement of support is critical for two primary reasons. First, this is the only time that the State of California administration has expressed support for federal legislation relating to the proposed Soledad Canyon mining project. Second, Secretary Laird is charged, through the Department of Conservation--a constituent department of the California Natural Resources Agency, with identifying future aggregate resources in California and planning for future needs. A copy of Secretary Laird's letter in support of S. 771 is included with this submission.

Clearly, the Secretary believes that the ecological natural resources of the Upper Santa River area must be protected and that sufficient aggregate is available elsewhere in the state to meet California's future needs. S. 771 provides the legislative vehicle to facilitate realization of preservation and protection goals, which have been identified as important to the United States, State of California, City of Santa Clarita, and other public and private sector entities.

AGGREGATE AVAILABILITY IN CALIFORNIA

The California Department of Conservation, California Geological Survey's *Aggregate Sustainability in California 2012* report was made publicly available in Spring 2013. The Department of Conservation is contained within the California Natural Resources Agency, under Secretary John Laird. This report is an update of the assessment published in 2006. The 2012 report identifies the availability of aggregate in California (sand, gravel and crushed stone) over the next 50 years. The California Department of Conservation divides the state into 31 aggregate study areas. Santa Clarita is included within the San Fernando Valley-Saugus-Newhall aggregate study area.

The 2012 California aggregate report identifies a statewide 50-year anticipated demand of 12,047,000,000 tons of aggregate. Currently, 4,067,000,000 tons of aggregate are permitted; meaning that "aggregate deposits that have been determined to be acceptable for commercial use, exist within properties owned or leased by aggregate producing companies, and have permits allowing mining of aggregate materials." The permitted deposits represent just under 34% of the identified statewide need over the next half-century.

The report also identifies approximately 74 billion tons of non-permitted aggregate resources within the 31 aggregate study areas, representing six times the anticipated statewide demand! Clearly, sand and gravel aggregate is not in short supply in California!

Within the San Fernando Valley-Saugus-Newhall study area, it has been determined that the 50-year aggregate demand is 476,000,000 tons. Currently, there are 77,000,000 tons permitted, representing approximately 16% of anticipated future demand. The proposed CEMEX mining project in Soledad Canyon is considered, for purposes of the study, to be a permitted project.

The proposed CEMEX project represents approximately 11.8% of the 50 year demand total for the local study area. Furthermore, BLM has identified the proposed CEMEX mining site as having an additional 300,000,000 tons of material, which would represent approximately 75% of the long term regional need. Over the past six years, permitted reserves in the San Fernando Valley-Saugus-Newhall study area have fallen by 11,000,000 tons or 13%, while the 50-year regional demand has increased by 19,000,000 tons or 4%. While BLM and the State of California have historically viewed the Soledad Canyon site as important to meeting future regional aggregate needs, the recent support of S. 771 by Secretary Laird places a premium on the protection and preservation of the ecological natural resources in the Upper Santa Clara River area.

In 2007, the City of Santa Clarita commissioned a study conducted by The Rose Institute of State and Local Government, Claremont-McKenna College, entitled *The Economic Impact of CEMEX's Soledad Canyon Project on the Surrounding Community and Los Angeles County*. This is an update to a study conducted in 2001, also authorized and paid for by the City of Santa Clarita. While the two studies were paid for by the City of Santa Clarita, the results were independently determined, as the City needed an unbiased, authoritative assessment of the proposed mining site's sand and gravel asset scarcity and importance. The updated study

determined that there were 11,500,000,000 tons of aggregate resources in Los Angeles County. This included permitted and non-permitted sand and gravel resources.

This number has not likely changed significantly over the past six years. As noted in the state report, it is highly unlikely that all the identified resources will be mined due to a number of reasons. The Rose Institute study does make the case that aggregate materials are not scarce and potentially available to meet anticipated demand!

During the past six and one-half years, the City of Santa Clarita and CEMEX have been engaged in a highly public effort to legislatively resolve the now fourteen year old dispute over mining in Soledad Canyon and remove the site from the federal mineral portfolio. *A key question is “What sites have been identified or activities undertaken to secure additional permitted reserves within the San Fernando Valley-Saugus-Newhall study area during the past six years?”*

The state report acknowledges that while there are 74 billion tons of non-permitted aggregate resources identified within the 31 study areas throughout California, “it is unlikely that all of these resources will ever be mined because of social, environmental, or economic factors. The location of aggregate resources too close to urban or environmentally sensitive areas can limit or prevent their development.” The Soledad Canyon site is too close to urban and environmentally sensitive areas, based upon substantial growth in the community and the new federal studies coming forward. Secretary Laird’s letter of support for S. 771 appears to validate that perspective.

CONCLUSION:

The City of Santa Clarita respectfully requests that the members of the Senate Subcommittee on Public Lands, Forests and Mining support S. 771.

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