

Questions raised about Azusa mining referendum's impact

Daniel Tedford, Los Angeles Newspaper Group, 8-5-10

AZUSA - City officials and a community advocacy group disagree on whether a referendum would stop a new mining plan at the Azusa Rock Quarry or merely stop the money gained from it.

Azusa-based anti-mining group Save Our Canyon is gathering signatures in an attempt to place a referendum on the ballot.

Save Our Canyon officials hope voters will reject the mining plan's development agreement and that would nullify the City Council's recent decision to approve Vulcan Materials Co.'s amended permit.

"Our interpretation is that would invalidate the (mining permit)," Save Our Canyon member Richard Deem said.

But some experts and city officials have mixed views of what the effect of a successful referendum would be. City officials maintain it would just cost Azusa thousands of dollars in community benefits, but the new plan would proceed.

"The amended (permit) ... and the reclamation plan cannot be overturned by the voters and are not subject to referendum," City Manager Fran Delach said. "These items are not considered legislative approvals and referendum powers only apply to legislative approvals."

Language in the ordinance said the council must approve the mining permit, the environmental report and the development agreement together. Approval of one is contingent on another, according to city documents.

Based on those documents, Save Our Canyon officials said if the development agreement is overturned, it would kill the permit.

"The city's viewpoint seems to be that invalidating the development agreement will not impact the (mining permit)," Deem said. "We've talked to a couple attorneys who say otherwise."

Not so fast, said Delach. The intent of Azusa's language was for City Council approval alone, he said, and since the council already gave its approval, that language no longer applies.

Therefore, a referendum would only affect the development agreement and, if voted down, it would die alone. Vulcan would still be allowed to mine under its new plan, Delach said.

"We would not get the advanced payments from Vulcan, would not get additional taxes for overburden, for community benefit fund, nor funds for open space acquisition and maintenance," Delach said. "The city would lose all of that."

The permit would still force Vulcan to use its proposed advanced mining techniques to reshape the hillside in a more natural looking manner, which is the most important part of the plan, Delach said.

John Matsusaka, a professor who heads the Initiative and Referendum Institute at USC, said issues of interpretation in referendums are common.

"Sounds to me like one of those ones that will end up before a judge and no one can really predict what can happen there," Matsusaka said.

Vulcan has a permit from Azusa to mine 190 acres of its 270-acre property near Fish Canyon. With the council's recent approval of the company's new plan, Vulcan will be able to mine 80 acres on the western part of its property.

The new mining would cut down Van Tassel Ridge, but would spare Fish Ridge, which was part of the mining zone in the previous plan, which is on the eastern side of the Vulcan property.

Deem said he thinks the city is trying to confuse residents about the referendum.

"It seems like (a scare tactic)," Deem said.

Councilman Robert Gonzales said it was Save Our Canyon members who were misleading the public.

"To me it is not a scare tactic, it is a fact and the residents need to know this," Gonzales said. "I believe (residents) are being misled that we can overturn the mining."

Deem wouldn't comment on the status of Save Our Canyon's signature-gathering effort. He said the group will continue collecting signatures until Aug. 19. The group needs the signatures of 1,650 registered voters to put the issue on the ballot. If passed, the referendum would either be part of a special election or the regular council election in March 2011.

The one thing everyone seems to agree on - except Councilman Gonzales - is that a judge will make the ultimate decision.

"It will probably end up in the courts - that's my guess," Deem said.